



# GOVERNMENT AND CIVIL SOCIETY: INTERACTION AS PART OF CIVIL AND SOCIAL DIALOGUE



This publication was produced within the project “Support activities of UNP EaP CSF in 2021-2023” implemented by the Institute for Economic Research and Policy Consulting with the financial support of the European Union. Its contents are the sole responsibility of the authors and do not necessarily reflect the views of the European Union or the Institute for Economic Research and Policy Consulting.

The Ukrainian National Platform of the Eastern Partnership Civil Society Forum (<http://eap-csf.org.ua/>) is a network of more than 140 non-governmental organizations in Ukraine that advocates Ukrainian interests within the framework of the Eastern Partnership. The platform is part of the Eastern Partnership Civil Society Forum (EaP CSF).

The Eastern Partnership Civil Society Forum is unique multi-layered regional civil society platform aimed at promoting European integration, facilitating reforms and democratic transformations in the six Eastern Partnership countries - Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. Serving as the civil society and people-to-people dimension of the Eastern Partnership, the EaP CSF strives to strengthen civil society in the region, boost pluralism in public discourse and policy making by promoting participatory democracy and fundamental freedoms. The EaP CSF is a non-partisan bona fide non-governmental organisation.

**Viacheslav Roi** – Ukrainian Federation of Trade Unions of Workers in Small and Medium Enterprises

**Valerii Repin** - Kharkiv regional organization of the trade union of entrepreneurs

## SUMMARY

Openness and publicity of management decisions are important components of building a democratic government in which the source of power is the people. Civil society is considered an integral part of a democratic government governed by the rule of law. Civil society institutions are able to qualitatively influence government-building processes by participating in a constructive dialogue with the authorities. The success of dialogue directly depends on the joint actions of public authorities and citizens' associations and their willingness to cooperate.

There is no clear definition of the concept of “civil society institution” in the legislation of Ukraine. The list of such institutions is given in some decrees of the President of Ukraine and resolutions of the Cabinet of Ministers of Ukraine. Traditionally, civil society institutions are represented by non-governmental organizations, political parties, trade unions, employers' organizations, charities, creative unions, religious organizations, the media, self-governing territorial communities, public self-organization bodies, labour and training groups, etc. Quite often, such concepts as community dialogue, social dialogue, multilateral dialogue, civil dialogue, deliberative dialogue, intersectoral partnership, negotiations, etc. are used in one semantic sense, along with the concept of dialogue between the government and civil society. There are therefore many points of view on the formation, development, principles and mechanisms for ensuring the interaction of government and the public. In the area of management practices, one of the most common and widely used today is the approach that emphasizes two most common channels of interaction between government and civil society institutions: social and civil dialogue.

Communication between the authorities and civil society institutions in Ukraine has a long history of existence. In independent Ukraine, the history of social dialogue actually began in 1993, with the adoption of the Law of Ukraine “On Collective Bargaining and Agreements”. Already in 1993, the first General Agreement was signed. However, the legislative definition of social dialogue, outlining the principles and tools of its implementation in Ukraine took place only in 2010 with the adoption of the Law of Ukraine “On Social Dialogue in Ukraine”.

Civil dialogue emerged as a “parallel” to social dialogue and, in contrast, addresses a wide range of interactions between civil society organizations and government institutions. In Ukraine, for a sufficient period of time, the interaction between the authorities and civil society institutions took place within a framework of the legislation governing public consultations with the public on the formation and implementation of government policy. The legal implementation of civil dialogue is not yet complete. However, the Draft Law No. 5458 of 30.04.2021 provides for the definition of civil dialogue as a process of defining and converging positions, reaching joint agreements and making agreed decisions by parties to civil dialogue representing public interests

and public authorities on the formation and implementation of government social and economic policy, regulation of labour, social, economic relations<sup>1</sup>.

Today, there is a detailed system of advisory boards that ensure communication between government and civil society institutions in both civil and social dialogue. Therefore, the analysis of the activities of advisory boards in Ukraine showed that they have a detailed system, created based on national, sectoral, regional and other features.

In Ukraine, there is a National Tripartite Social and Economic Council and its territorial branches, which are the main bodies of social dialogue. As of 2020, more than 51,000 collective agreements have been concluded in Ukraine, etc.

An even greater number of advisory boards represents civil dialogue. As of the end of the 2nd quarter of 2021, public councils operated under 66 executive bodies: 11 ministries, 32 other CEAs, 22 oblast and Kyiv city government administrations; most committees of the Verkhovna Rada of Ukraine have public or expert councils, and some committees have freelance consultants. There are joint committees or councils that implement a bilateral and tripartite format of cooperation: “Government – CSOs” - Coordinating Council for Implementation in Ukraine of the “Open Government Partnership” Initiative, “Government – Parliament – CSOs” – National Reform Council, etc.

Also two civil society platforms are established and functional, which include more than 140 civil society organizations: Ukrainian National Platform of Eastern Partnership Civil Society Forum and Ukrainian side of EU-Ukraine Civil Society Platform.

However, despite the positive steps taken by the authorities and civil society institutions in Ukraine to establish a constructive dialogue, it should be noted a number of negative trends that affect the government and quality of such interaction.

*Today the main reasons that hinder the interaction of the authorities with CSOs are:*

- establishment of “puppet” civil society organizations;
- low activity and passivity of CSOs, lack of coordination and interaction between different public associations;
- incomplete legislation, laws and regulations under which civil and social dialogue is carried out;
- formalized nature and insignificant effect of the existing mechanisms of interaction between the government and CSOs;
- lack of confidence in government power by CSOs; on the other hand, civil servants share scepticism about communication with civil society organizations;
- active and strong NGOs mostly focus on writing projects for international grants, and then work on their implementation and mainly cooperate with the authorities in this context;

---

Draft Law on Legal and Organizational Principles of Public Control and Civil Dialogue in Ukraine. It is available at the following link [http://w1.c1.rada.gov.ua/pls/zweb2/webproc4\\_1?pf3511=71831](http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=71831)

- excessive politicization and engagement of social movements;
- self promotion of some CSOs, their leaders and activists on existing issues;
- insufficient information openness of public authorities;
- limited status of CSOs as a consulting subject consultations, rather than decision-making, which is already in the format of advisory cooperation.

Social transformations caused by modern development trends require building of conceptual foundations for a renewed legal understanding of the mechanisms and principles of interaction between the government and civil society institutions, its effective organizational forms. Therefore, there is an urgent need for the latest approaches to improving the functioning of civil and social dialogue, on which largely depends the stability of society, the prospects for its democratic, social and legal development.

The task of ensuring a systematic dialogue and consultation between civil society institutions and the authorities is of mutual interest for both sides, as they function to achieve a common goal in solving social issues and meeting the needs of its members.

The development of legal and democratic values in nation building requires the formation of proper and effective interaction between the authorities and civil society organizations. The preconditions for dialogue should be the legal and organizational factors required for real public participation. Quantitative indicators of established CSOs in Ukraine show a positive trend in the institutional development of civil society. However, there is low social activity of these organizations and as a result, their weak influence on government policy. It should be noted that public authorities mainly reduce interaction with the public to communication and promotion of regulatory opportunities, information coverage of bilateral relations, and less promote real interaction.

Despite the established branched system of advisory boards in Ukraine as part of both social and civil dialogue, the effectiveness of their activities remains quite low. Increasing quantitative indicators and formal statistical reports do not contribute to building effective interaction. This should occur with the efforts of both parties - both government officials and civil society institutions. This also requires a proper level of society, where there is a low manifestation of nihilistic factors, general respect for power, its legitimization by the public.

*Basic conditions for promoting the participation of CSOs in the implementation of civil and social dialogue:*

- ✓ political will that promotes the participation of civil society institutions in government decision-making processes, as well as encourages, supports and values the contribution of civil society;

- ✓ positive attitude of public authorities to the inclusion in the rhetoric of debates of criticism and differences of opinion;

- ✓ culture of dialogue between decision-makers/authorities and civil society, as well as between civil society organizations themselves, which should in turn promote mutual confidence;

✓ ability of both government institutions and CSOs to engage in informed debates, provided that the absence of such an opportunity does not constitute an obstacle or is used as a justification for refusing to involve CSOs in decision-making processes;

✓ association should be able to participate in decision-making processes at all levels (local, national, regional and international) and at all stages of these processes, from policy planning and development to decision-making, monitoring and evaluation.

*The dialogue between the government and civil society should seek to:*

- ensuring information openness on the part of public authorities, timely informing about the preparation of draft decisions;

- improving the regulatory framework, eliminating its shortcomings and gaps, which should ensure the dialogue effectiveness;

- stimulating the activity of civil society organizations, increasing civil competence, in particular special skills of interaction with public authorities and awareness of the procedures prescribed by law;

- strengthening the institutional capacity of advisory boards attached to public authorities by improving the legal status, procedure for establishing, organizing the activities of advisory boards, expanding their powers to participate in resolving issues; introducing mandatory involvement of advisory boards in assessing the needs of citizens in social and other socially significant services; clear defining the key concepts related to the activities of advisory boards, entities, objects, methods, means, forms of their activities and procedures for their implementation; taking into account by the authorities the results of public consultations during decision-making or further work, providing for certain cases of obligatory consideration of decisions of public advisory boards as is the case in international practice;

- introducing unified reporting on the activities of advisory boards and its results with mandatory disclosure of this information on the websites of the relevant authorities;

- organizing dialogue activities (such as joint trainings and distribution of best practices, can help remove barriers between stakeholders and ensure inclusive and constructive cooperation);

- changing information policy on dialogue interaction;

- introducing the categories “civil dialogue” and “social dialogue” in public discourse.

*For effective model of civil dialogue in Ukraine, it is necessary to:*

- consider: establishing a subcommittee on civil society development within the Committee on Humanitarian and Information Policy or the Committee on Organization of Government Power, Local Self-Government, Regional Development and Urban Planning or expanding the scope of civil society development to one of the existing subcommittees;

- initiate annual parliamentary hearings on the development of civil society in Ukraine together with the Secretariat of the Cabinet of Ministers of Ukraine and the Coordination Council;

- provide an opportunity to hold hearings in the specialist committee on the assessment of the implementation of the National Strategy for Civil Society Development in Ukraine;

The availability of special databases with potential stakeholders, especially CSOs, is an important functional factor of high-quality public involvement in the discussion of a policy project. For example, in the Czech Republic, the sources for the selection of consultants can be the databases of consultative organizations (DataKO1), lists of public associations and organizations available on the websites of the Ministry of the Interior, and databases of non-profit organizations, the information on which can be found on the government portal. These databases are used in other European countries.

The existing legally regulated mechanisms of social dialogue in Ukraine have failed to achieve a tripartite consensus in decision-making in the social and economic sphere. Social dialogue is in need of reform.

*The main conditions for establishing an effective social dialogue in Ukraine are:*

- need for the authorities to take into account the results of consultations with the social partners and the recommendations made during decision-making or further work, providing for certain cases of obligatory consideration of decisions of social dialogue bodies as is the case in international practice;

- political independence and ban on holding public office. According to the practice of conducting social dialogue in Ukraine it is quite difficult to talk about the social partners' political independence. Quite often, the participants simultaneously represent two parties in the process of social dialogue: trade union / employers - as the head of trade union or organization of employers and the government - as a member of parliament.

- mutual confidence and respect. Long-term internal tensions between the social partners affect the functioning of social dialogue. The numerous cases of breach of confidence between the Government and the social partners occurred in recent years. For example, the Government's failure to comply with its legal obligation to rotate the presidency of the National Tri-Council has effectively blocked its work for a long period of time.

- reduction of the number and systematization of legal provisions regulating social dialogue in Ukraine. A large number of legal provisions does not provide a guarantee for effective social dialogue, many current legal provisions do not provide an actual influence of social partners on policy-making processes. The legal framework of social dialogue is set out in the Law of Ukraine "On Social Dialogue in Ukraine". Some laws also establish the procedure regarding the collective bargaining and the conclusion of collective contracts and agreements and the procedure for resolving collective labour disputes; the Code of Labour Laws, Labour Remuneration Laws and others contain provisions on collective agreement based regulation of labour relations.

- multilevel organizational structure of social dialogue causes a number of issues in terms of coordination and overlapping activities. Overlapping of functions and tasks of advisory boards and institutions of government creates conditions when the same social partners are involved in the activities of several institutes all at once, which in turn reduces their activity and efficiency of the performed work.

- review of the current criteria of representativeness in Ukraine. The current Ukrainian criteria of representativeness act as an obstacle for most organizations and deprive them of the

opportunity to participate in social dialogue. However, those organizations that have confirmed their representativeness experience a “shortage” of social partners at the national, sectoral and especially territorial levels.

As part of the publication the following issues were investigated: civil and social dialogue: idea, history, theory and practice; forms of citizen participation in the political decision-making process; social and civil dialogue in Ukraine: common and different; institutional support for dialogue between government and society: public advisory boards. The analysis of features of civil and social dialogue implementation in Ukraine was carried out and the answer to the following question was received: what is available? what is missing? what needs to be changed?

*This publication was produced within the project “Support activities of UNP EaP CSF in 2021-2023” implemented by the Institute for Economic Research and Policy Consulting with the financial support of the European Union. Its contents are the sole responsibility of the authors and do not necessarily reflect the views of the European Union or the Institute for Economic Research and Policy Consulting.*

**The Ukrainian National Platform of  
the Eastern Partnership Civil Society Forum**

eap-csf.org.ua  
unp.eap@gmail.com  
www.facebook.com/unp.eap.csf

**Ukrainian Federation of Trade Unions of  
Workers in Small and Medium Enterprises**

<http://federation.org.ua/>  
info@federation.org.ua

**Kharkiv regional organization of the trade union of entrepreneurs**

[www.facebook.com/XOO-ПСП](http://www.facebook.com/XOO-ПСП)  
repinv@ukr.net