

# MAJALAT: The Brussels Civil Society Forum 7 - 9 July 2021, Online Concept Note: *Governance and Rule of Law*

## 1. Context

Countries of the Southern Neighbourhood face major challenges to achieve good governance and enforce the rule of law, civil liberties, media freedom, participation and transparency. As a consequence, government accountability is weak and public sector service delivery does not meet the expectations of civil society and citizens. Good governance is essential to the region and in the EU's relationship with the Southern Neighbourhood. Improved governance requires an integrated, long-term strategy built upon cooperation between formal institutions and civil society.

The Rule of Law, Accountability, and Transparency raise technical and legal issues, but are key to ensuring that government action is legitimate, effective, and widely supported by citizens. Inclusion of civil society in the monitoring and evaluation of cooperation programs has been recognised by the EU as fundamental for their successful implementation.

Two key priorities have emerged as key in the context of the governance and rule of law in the Southern Mediterranean: the **shrinking space for civil society**; and the **fight against corruption**.

The shrinking space for civil society is a concern across the Mediterranean, there is a constant crackdown on civil society regarding the following key rights: freedoms of expression, association, movement, political participation including trade unionists' rights, as well as the right to assemble peacefully both online and offline. In recent years the fight against terrorism has been used to limit dramatically the freedom of association and of expression. Other criteria can be used to evaluate the space given to civil society, including access to funding; to decision making; to information; and freedom of movement.

Infringements to these rights shrink civil society's space. In the south, infringements practiced by governments include legal restrictions, trials against CSOs and HRDs, prosecutions, judicial harassments, travel bans, freezing assets, rise of GoNGOs (Governmental NGOs), ad hoc articles published to undermine CSOs credibility, pressure on independent journalism, public defamation campaigns, infiltrations, restrictions on militancy/activism.

The fight against corruption is another key priority, linked to other issues such as security. It covers the fight against weapon deals, golden visas, money laundering, and other areas of work undertaken by the EU in the framework of counterterrorism and migration controls, public procurements through aid budget support, official European blended investments and public-private partnerships supported by the EU.

Political corruption remains a central challenge: new forms of corruption to keep the political class in power are institutionalized, preventing citizens from combating them. Political corruption destroys the political will to address the problem, which impedes a genuine breakthrough in anti-corruption efforts, despite the availability of legal corpus and anti-corruption bodies. Without strong political will

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combat corruption in the public sector, people's political rights in the region will continue to be undermined. To this regard, cross analysis with global democracy data provided by Transparency International reveals a link between corruption and the health of democracies<sup>3</sup>: the results indicate that countries with the least protection for press and civil society tend to have the worst rates of corruption.

The COVID pandemic added new legal constraints on CSO which see their space to operate in an open and enabling environment at danger. A periodic country-by-country flagship report on this issue could be an influential tool to raise the awareness in the EU as well as in the countries of the region.

## 1. Majalat activities and recommendations under Governance and the Rule of Law

This concept note on governance and the rule of law is the result of 3 annual cycles of meetings at national, regional, and European levels organized by MAJALAT with key recommendations being presented at the Brussels Civil Society Forum in 2018 and 2019, the 2020 edition being postponed due to the COVID-19 pandemic. The cycle of national workshops became a series of webinars that ran from May to September 2020. A first cycle aimed to reflect on the impact of the COVID-19 crisis in the Euro-Mediterranean region and to follow up on the recommendations made during the MAJALAT 2019 activity cycle. A second round focused on capacity building to deepen civil society's knowledge of EU policy relevance. A third round of webinars was held to discuss with EU representatives the MAJALAT recommendations and the impact of the crisis on these issues.

The South Seminar, which allows for a discussion of these policies at regional level, also took place online and provided a report on Human Rights, Governance, Rule of Law & Civil Society space based on several workshops and online activities held over the year 2020. Each recommendation was discussed and enriched with participants and by MAJALAT's members.

In May 2021, MAJALAT commissioned 6 experts to produce a research on the project's thematic areas. The research on Governance and the Rule of Law, which had a focus on the Renewed partnership with the Southern Neighbourhood by the EU, which sets a new agenda for the Mediterranean, and the ongoing COVID-19 Pandemic. The research was presented and discussed at a National Roundtable in Tunis, which civil society, EU representatives and local authorities attended. The recommendations that result from this research and national roundtable will be presented at the Civil Society Forum.

### ➤ Recommendations on the shrinking space for civil society

#### The recommendations resulting from the series of webinars:

- 1) Monitor measures taken by governments towards human rights defenders, journalists and people critical of the regime to shed light on potential or concrete abuses of power.
- 2) EU Delegations are asked to: - engage as soon as possible in discussions with genuine CSO to find concrete mechanism adapted to each national context to identify GONGOs.
- 3) The EU must reinforce its efforts to provide access and funding to local CSOs in Palestine and in Palestinian and Syrian Refugee camps wherever they are.
- 4) The EEAS and EU delegations, DG DEVCO and DG NEAR should systematically and periodically make available relevant and useful information to civil society about the process of programming.
- 5) Human rights, civil society participation and gender must be increasingly mainstreamed in each external instrument and priority of the EU under the new MFF. By extension, CSOs should be able

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to monitor the instruments and policies related to the fight against terrorism, security and export of weapons in the Neighbourhood South region on a regular and transparent basis.

- 6) Majalat proposes to look into the possibility of conducting a pilot project to assess the country by country situation regarding Shrinking Space to be drafted during a next phase of Majalat.
- 7) Majalat proposes that the EU considers and assess the feasibility of using crypto money in countries where access to funding by local CSOs is restricted due to legal provisions.
- 8) The EU should apply the same fiscal standards for grants to governments & NGOs in relation to VAT.
- 9) The EU is encouraged to use a progressive set of sanctions starting by a 'less for less approach' which includes to cut 10% of country envelopes as a political signal sent to the authorities before activating the more official 'Human rights suspension clause'.

#### The recommendations resulting from the Neighborhood South Policy Seminar:

- 1) On the issue of protection of human rights defenders and the shrinking space of civil society, to give more visibility and awareness vis-à-vis European decisions makers and media, on the critical situations in the region faced by Human rights defenders, opponents and journalist as well as on the attempts against the right of association and assembly.
- 2) Guarantying the independence of civil society actors at national level, regarding GONGOs, the easiest way to address this situation would consists in asking ALL applicants to EU funding to declare online (through the EU applicant eligibility scrutiny online system - PADOR) that there are no "conflict of interest between the leadership of the non-for-profit association and leaders of political parties and firms".

#### ➤ Recommendations on the fight against corruption

#### The recommendations resulting from the series of webinars:

- 1) Require transparency in procurement processes.
- 2) Introduce a monitoring procedure for private donations funds in order to keep track of where they are being sent, how they are being spent and on what criteria these decisions are based on.
- 3) Institutions such as the IMF, the European Bank for Reconstruction and Development and the EU should promote transparency, accountability and rule of law in coronavirus-related emergency relief programs to ensure that the billions of dollars they are disbursing help the most vulnerable.
- 4) Focus more on corruption in the military and defence sector.
- 5) The EU is asked to be more proactive in its financial and audit controls vis-à-vis public institutions in partner countries that channel funds from the EU.
- 6) Budget support is increasingly oriented to blended investments. In this evolving context, Majalat calls the EEAS and DG NEAR to create an open space for CSOs to monitor these new modalities and concrete opportunities for civil society to take part in these mechanisms as important actors for social justice.
- 7) The ongoing negotiations on instruments should be used by the EU to strengthen the implementation of monitoring tools of Neighbourhood South agreements with a specific attention to good governance of EU funds and fight against corruption.
- 8) The High Representative of the EU is asked vis-à-vis its peers in the Commissioner College to push for increased good governance and transparency in the publication of the names of citizens who obtained golden visas.

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- 9) The EEAS is invited to extend the recent EU mechanism against individuals responsible of human rights violations to persons who escape their countries for corruption.
- 10) The role of civil society is fundamental in pushing for the adoption of whistle blowers protective laws
- 11) The EU should provide technical support to partner countries when asset recovery is involved through a new EU initiative aiming at mobilizing best practices and norms existing at international level.

### The recommendations resulting from the Neighborhood South Policy Seminar:

- 1) Need to address the complex and highly specialized issues of weapons & arms exports, golden visa, assets recovery, money laundering, the several initiatives undertaken by the EU in the framework of counterterrorism and migration controls, public procurements through aid budget support, official European blended investments and public-private partnerships supported by the EU.

## 2. Conclusions & findings of the thematic research

Following a recommendation made during the series of Webinars and the South Seminar in 2020, it was decided to produce a research on the country by country situation regarding Shrinking Space, as well as the fight for corruption. These were chosen as they are both crucial regarding the Governance and Rule of Law thematic was also included. Additionally, it was decided to have a special focus on civil society organisations defending human rights. The need to create a safe space for these organisations is extremely important when it comes to the shrinking space of civil society. This study also analysed the impact of the EU's new partnership with its southern neighbourhood on human rights in the region and took into account the impact of the COVID-19 virus.

The trend throughout the region was for governments with an already authoritarian approach to take advantage of the COVID-19 to further restrict and repress civil society in the region. Freedom of association and assembly was already a challenge in countries such as Egypt, the COVID-19 provided an added excuse for the government to crackdown on these freedoms, creating a further shrinking space for civil society. The fight against corruption is a clear priority in the region. Lebanon last August 2020 showcased one of the most devastating consequences that can come from having a corrupted government, when one of the biggest nitrate bombs exploded at the port. The accountability for this crime is yet to be obtained, almost one year on.

Of course, national situations will vary, and therefore of the role of the EU representations in each of these countries, is inevitable. Indeed, it is not possible to lump together countries currently experiencing open civil wars, such as Syria and Libya, with countries awaiting territorial redefinition (Palestine and Israel) or caught in the dilemma of the temptation of modernism and the conservatism of their society (Morocco, Tunisia and Jordan), or a country such as mentioned, Lebanon, where chronic institutional corruption invalidates any democratic project, while the army authoritatively controls social peace in Algeria and the Muslim Brotherhood in Egypt.

However, the EU has the legitimate right to decide what the minimum conditions should be for a partner or partners to benefit from its development cooperation assistance. It is worth noting that for decades, international cooperation - and not only the EU - has turned a blind eye to or diminished the profound impact of corruption on the efficiency and effectiveness of its technical and financial assistance. From this point of view, the fact that MAJALAT focuses its recommendations (first webinar

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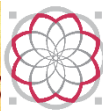
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in 2020) on the conditions of aid, based on the requirement of transparency and support for the fight against corruption, and that the EU prioritises in its latest communication on the subject (February 2021) the accountability and transparency of state administration and justice systems, are a step in the right direction.

It is the hope and aim, that the renewed partnership between the EU and the region is meant to counter these trends and contribute to the good governance and rule of law in these countries. Additionally, it is recommended to place the defence of women's rights at the heart of struggles, as well as find ways to further harmonise the EU-MAJALAT dialogue. Finally, focus MAJALAT's work on the conditions for the granting of development aid, including respect for human rights and human rights organisations by national governments, and ensuring that coercive measures are taken in cases of political or financial corruption.

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