

# **EU COUNTRY ROADMAP FOR ENGAGEMENT WITH CIVIL SOCIETY IN MALAWI**

**2021 - 2024**



Status : public

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Update of a previous RM : yes

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## **Part I – BRIEF ANALYSIS OF THE CONTEXT AND PAST EU ENGAGEMENT**

### **Background:**

In 2012, the European Commission published “The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations”, which indicated that the EU and its Member States would develop country roadmaps for engagement with CSOs to improve the impact, predictability and visibility of our actions, ensuring synergies and consistency throughout the different sectors covered by the EU's external relations. This document is an update for the period 2021-2024 of the first and second Road Maps for engagement with Civil Society in Malawi which were covering the period 2014-2020. The roadmap was developed with the Member States in consultation with local civil society and development partners.

## **A. The state of Civil Society : Brief update on recent developments**

### **1. Key Developments in the CS context over the past two/three years**

**Civil society in Malawi is relatively rich and diverse.** As of January 2021, there were a total of 1,400 CSOs registered with the Council for Non-Governmental Organisations in Malawi (CONGOMA), of which 1135 were local and 265 were international. The number of civil society organisations has continued to grow since 1994 and includes professional bodies, trade unions, gender-based groups, umbrella organisations of human rights and advocacy groups, service-oriented CSOs, faith-based organisations, international NGOs and the media.

**Generally, there is an enabling legal framework for the operation of civil society organisations in Malawi.** The 1995 Constitution guarantees the protection of Human Rights and the creation and protection of space for other development actors outside the State to take an active role in development and engaging the government on development related initiatives.

**However, during the past twenty years, there have been cyclical attempts to restrain this enabling environment.** Since 1994, with the opening up of the political system from one party regime to multiparty democracy, civil society in Malawi enjoyed a relatively conducive environment but space for civil society actors has been dependent on the prevailing political climate.

In 2018, the previous Government adopted a new NGO policy and they started the process to revise the **2001 NGO Act**. Despite the expressed desire for greater accountability provided as the primary reason for developing these documents, **there have been concerns that they may have some undesirable effects on civil society's space.** CSOs felt that the authorities prepared these documents with insufficient consultation and that the revision could increase the regulation, control and supervision of independent NGOs by government to such an extent that it could be in violation of the right to freedom of association enshrined in the Constitution (section 32).

Following the coming in of the opposition after the Fresh Presidential Elections of 23rd June 2020, the process has resumed with a new 2020 amendment Bill that now still seems restrictive. Discussions are however ongoing and seem promising.

In the meantime, **the registration process for NGOs in Malawi is not clearly defined and can be challenging for certain types of CSOs.** Multiple offices are responsible for registration, depending on the type of organisation. Most NGOs are registered under the Trustees Incorporation Act (1966), others are registered under the Companies Act. There have been some instances where the CSOs working on human rights and governance issues have faced difficulties registering. Registration for service delivery organisations is simple, as they are generally viewed as partners to the government.

**The review of the financial framework regarding annual fees to be paid by CSOs is also another major issue of concern.**<sup>1</sup> In December 2017, the government decided, without any consultation, to significantly increase annual fees for NGOs. In addition, the fees are presented as a percentage of the amount of funds received by CSOs. Consequently, some donors may consider it as a tax and therefore a non-eligible expenditure. In such cases, smaller NGOs would be obliged to halt operations.

**The entry into force of Access to Information Bill in September 2018 is a very positive development to improve the work of CSOs but it now needs to be implemented.** The Ministry of Communication and the Malawi Human Rights Commission have to take several actions before actual implementation starts (sensitisation of the public, mapping of information holders, training of information holders). CSOs will then have a crucial role to play in sensitizing the public. It will facilitate their role to demand transparency and accountability from duty bearers since all government ministries, departments and agencies will have to publish all documents of public interest.

## **2. Brief analysis of CS involvement in domestic policies**

**Malawian CSOs play a paramount governance function,** overseeing and monitoring state authorities, demanding government accountability, contesting abuse of power, and bargaining on behalf of specific groups of citizens. CSOs have been crucial participants in the democratisation processes in the country. In 2019, they played a crucial role in the Constitutional Court's historic ruling, later validated by the country's Supreme Court cancelling the 2019 Presidential Elections and calling for a rerun. The Human Rights Defenders Coalition, an influential civil society grouping, brought thousands of people to the streets on a regular basis to campaign against the outcome of the May 2019 election. In addition, CSOs create connection between the national and international communities; contribute to democratic consolidation as watchdogs in the political system, articulate demands from the grassroots to the authorities and political elites and have a critical role in civic and voters' education. By mobilising on issues and concerns among the population, CSOs are also pursuing change and reform in the political system.

**Service-providing CSOs continue to have effective communication and collaboration with the government at policy level.** District and national-level organisations collaborate and interact with both central and local government structures, although issues of information and coordination may remain. Parliamentary committees are fairly easily accessible and are utilized by the organisations focused on health, education, mining and energy, security, finance, and economic policy. To note also that the new role played by the CSOs in nurturing the dialogue and in operationalising the so-called humanitarian-development nexus and in breaking the cycle of humanitarian assistance. Recently, the National Planning Commission consulted two coalitions of CSOs, notably the National Advocacy Platform and the Council of the NGOs in Malawi (CONGOMA) to contribute to the country's new long-term development plan, Malawi 2063. However, CSO participation seems to be most of

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<sup>1</sup> CSO are also required to pay fixed registration fees of 250,000 MWK (around 276 EUR) and processing fees

the time cosmetic with government rarely taking on board civil society's inputs and contributions in its final policy documents.

**CSOs deliver also a wide range of services** in a wide array of areas: in agriculture and food security, capacity building, construction and infrastructure development, counselling, disability, resilience, disaster risk management, drug and substance abuse, education, energy, environment, land and natural resources management, gender and development, health, HIV/AIDS, media development, microcredit and finance, orphan care and children's affairs, social rehabilitation, water and sanitation, and youth empowerment. Some CSOs do charge for services, such as health or education, in order to cover administration costs. However, CSOs rarely charge their clients the actual costs of delivering their services, as they are subsidised by the government and development partners. Notably, CSOs are also contributing to the introduction of several innovations in service delivery (e.g. cash+ approaches in social protection, innovative learning approaches in education). The government generally appreciates CSOs' role in basic service delivery and cooperates with them. In general, CSOs engaged in human rights and political governance advocacy do not get government funding for their work.

### 3. Capacity

While civil society in Malawi is quite diverse, it is still relatively weak. Numerically, faith-based institutions and local traditional structures tend to predominate. Malawi civil society has a number of internally and externally driven capacity constraints that undermine its ability to effectively perform its role as a channel to advocate for citizens' rights and community interests.

The main constraints of the CSOs include:

**Legitimacy:** Many civil society organisations have failed to establish their legitimacy to engage with Government, largely because they have failed to effectively develop strong constituencies of citizens; and weak internal governance undermines their credibility; Many local CSOs suffer from "founder syndrome," in which the founders make all organisational decisions without effective supervision from their boards, and their boards are comprised of the founder's friends and associates. Such CSOs might face problems with upward accountability especially on how well they use monetary resources.

**Distrust:** Political leaders may still perceive civil society organisations as a threat to the sustenance of power to govern. In addition, probably out of fears resulting from experiences of the one party regime, people are not inclined to get involved in controversial political and economic debates. This frustrates the efforts of CSOs in advocating for changes in policies. Government also claims that CSOs, especially INGOs are competing with Government for Development Partners' resources.

**Weak Capacity:** A large number of civil society organisations are characterised by weak institutional capacity, weak linkage to reliable and credible sources of information to inform programming, poorly qualified staff and weak financial management systems. Furthermore, some civil society organisations lack expertise in project management. Civil society needs to increase its effectiveness, in particular,

capacity for evidence-based advocacy and ability to work with traditional and local authorities, if it is to contribute to improvements in service delivery and fulfil its watchdog mandate and fostering accountability from the demand side. In addition to weak capacity, there are deeper governance issues that CSOs need to address in Malawi. The “Founder Syndrome”, already raised above, brings about the ownership problem. Nearly all CSOs in Malawi, apart from some FBOs, are perceived to be owned by specific individuals, especially those that founded them. The founder tends to wield tremendous power. In a number of instances, they are sole deciders on matters of recruitment, terms and conditions of service, budget allocation and expenditure, including use of material resources and audit and finance

Furthermore, the choice of Boards is dependent on the Executive Directors. In many instances these boards are ceremonial for purposes of resource mobilisation, undifferentiated from stakeholders/trustees, provide no meaningful oversight especially on finances and have no disaggregation of duties and responsibilities e.g. Finance and audit, Appointments and remuneration. Thus the ownership syndrome and lack of proper-functioning governance mechanisms weaken prospects for funding.

**Dependence on Foreign Funding:** Almost all local civil society organisations have a weak financial base, as they are not able to generate resources locally and rely more on donor funding or membership fees. CSOs do not receive tax favours and government has not put in place any mechanisms to deliberately support and sustain their operations. This means organisations have to seek donor money to survive and raises question regarding ownership. An emerging challenge is for local organisations competing for the same resources with international organisations. This has to a certain extent strained the relationship between local and international organisations as the former feel that most donors are biased towards international organisations at their expense.

## **B. LESSONS LEARNT FROM THE PAST ENGAGEMENT WITH CSOs**

The EU is represented in Malawi by the EU Delegation, Germany and Ireland.

### **1. Key lessons, challenges and opportunities identified in the EUD engagement with CSOs**

**Dialogue between EU and CS:** Although no formal structure is in place for dialogue between CSOs and the EU, the EU engages with them frequently on general and specific issues that can then feed the political dialogue EU has with the government. In addition, the EU is part of the High Level Forum and of the Development Cooperation Group organised by Government in which CSOs are represented. However, both groups haven’t met since 2019. UN, who is currently chairing, is preparing a revised, more effective structure for donor coordination and would present it to government in the coming months. CSOs are also involved in the context of identification and formulation of new EU interventions. The EU also supports a variety of policy dialogues and knowledge dissemination events organised by CSOs, including through the Technical Cooperation Facility. CSOs are also consulted in preparation of Calls for Proposals.

**In terms of operational support**, over the last 7 years (2014-2020) around EUR 70 million have been funded through CSOs under the 11<sup>th</sup> European Development Fund (EDF) implemented jointly with Government or through direct calls for proposals in a broad set of policy areas (human rights, governance, food security, social protection). All three priority areas of the 2014-2020 National Indicative Programme include a component targeting CSOs.

Under the 11<sup>th</sup> EDF Justice and Accountability (Chilungamo) Programme, a EUR 2 million grant is awarded to a CSOs grant facility managed by “the Tilitonse Foundation” for a period of 48 months. This facility is contributing to increasing the capacity of non-state actors as a way of strengthening citizen engagement and promoting citizen's rights. Grant partners mobilise communities to participate and engage with duty bearers on prioritised issues. Overall, the support is playing a key role in mobilising but also providing platforms for citizen engagement contributing to improved governance especially accountability at local level.

## **2. Key lessons learnt from the process of implementing the previous RoadMap**

- The priorities defined in the previous Roadmaps respond to the challenges that CSOs in Malawi are facing, and are still valid for the current Roadmap.
- The present government seems to be more willing to counter the gradual deterioration of the CSOs operating environment, affecting in particular those organisations active in the fields of governance and human rights over the past few years. Close monitoring will be required during the implementation period of the roadmap to ensure that those gains achieved immediately after the one-party state era are preserved and as much as possible expanded.
- Willingness of Government of Malawi to dialogue and work with CSOs seems to be improving. However there is still no standing platform for dialogue between government and civil society. Only ad hoc, sector or project specific platforms exist. There is an ongoing discussion with the national Planning Commission to establish a Development Forum. Existing platforms are easily side-lined in different consultation processes where government has no interest to use them.
- Civil society organisations continue to struggle with capacity issues
- Weak resource mobilisation is one key capacity challenge for civil society organisations. Funding to civil society organisations, especially those working on governance and human rights is declining.

## **3. Civil Society involvement in the joint programming**

Civil society has been consulted in June and December 2020 on the priorities of the Multiannual indicative programme (MIP) for Malawi for 2021-2027; most of their suggestions and recommendations are taken on board in the drafting of the Multiannual Indicative Programme.

## **Part II – EU STRATEGY AND ACTION PLAN TO ENGAGE WITH CSOs**

### **A. THE STRATEGY FOR ENGAGEMENT WITH CSOs AND HOW IT RELATES TO THE EU COUNTRY ENGAGEMENT AND AGENDA 2030/SDG**

<b>OBJECTIVES FOR THE EU ENGAGEMENT WITH CSOs</b>	<b>RELATED SECTOR AND COMMISSION PRIORITY</b>	<b>RELATED SDG</b>
1. Support to an enabling environment for CSOs	Governance, Peace and Security, Human Development	Peace Justice and Strong Institutions
2. Support CSOs to provide greater citizen voice and participation in policy dialogue	Governance, Peace and Security, Human Development	Peace Justice and Strong Institutions
3. Support reinforcement of capacities of CSOs	Governance, Peace and Security, Human Development	Peace Justice and Strong Institutions
4. Support CSOs to play a more strategic role in promoting equity and innovation in the implementation of the Malawi growth and development agenda	Alliances for Sustainable Growth and Job	Decent Work and Economic Growth

## B. THE ACTION PLAN

OBJECTIVES FOR THE ENGAGEMENT WITH CSOs	Actions	Means
Support to an enabling environment for CSOs	<p>1.1 EUD and MS will include (i) the issue of CSOs vulnerability towards their regulator into the political and policy dialogue with the Government and ii) the implementation of the Access to Information Act</p> <p>1.2 Support CSOs initiatives to monitor the ongoing NGO policy and NGO amendment Act;</p> <p>1.3 Support CSOs initiatives to inform on the Access Information Act</p>	<p>Political dialogue</p> <p>Cooperation instrument/ Multiannual indicative programme (MIP) for Malawi for 2021-2027</p>
Support CSOs to provide greater citizen voice and participation in policy dialogue	<p>Support CSO's initiatives/projects aiming at deepening the participation of CSOs in both invited and claimed spaces at local sector and national level (CSOs participate in the High Level Forum and in Development Cooperation Group)</p> <p>Support CSOs initiatives/projects aiming at promoting social accountability at national or local level.</p>	<p>Structured dialogue between CSOs and the EUD</p> <p>Cooperation instrument/ Multiannual indicative programme (MIP) for Malawi for 2021-2027</p>



Support reinforcement of capacities of CSOs	<p>Support CSOs initiatives which include components related to:</p> <ul style="list-style-type: none"> <li>- Strengthening CSOs technical skills in order to monitor public policies and hold government accountable</li> <li>- Enhancing internal governance of CSOs (recruitment procedures for Board members, disaggregation of duties and responsibilities within boards, etc.)</li> <li>- Institutional development of CSOs (governance and management systems); establishing/strengthening internal audit and procurement procedures.</li> </ul>	<p>CSO support measures</p> <p>CSO call for proposals</p> <p>Tilitonse Foundation</p> <p>EUD training on financial procedures</p>
Support CSOs to play a more strategic role in promoting equity and innovation in the implementation of the Malawi growth and development agenda	<p>Support CSOs in filling the gaps in the provision of basic services to vulnerable and marginalized communities;</p> <p>Support the introduction and piloting of innovations/innovative approaches by CSOs across sectors in areas relevant to growth and job creation and development of human capital (with focus on service delivery);</p>	<p>Multiannual indicative programme (MIP) for Malawi for 2021-2027 via CSOs funding</p>

### PART III – FOLLOW UP OF THE RM

OBJECTIVES FOR THE ENGAGEMENT WITH CSOs	INDICATOR	TARGET	BASELINE INFORMATION	SOURCES OF VERIFICATION
Support to an enabling environment for CSOs	<p>Legal framework on CSOs revised (or legal framework amendment proposals drafted)</p> <p>Extent to which individuals can form and join independent political or civic groups; extent to which these groups operate and assemble freely</p> <p>Number of times enabling environment-related topics are discussed during EU consultations with CSOs and included in the agenda of the EU political dialogue with the Government</p>	<p>Revision of the 2001 NGO Law in line with the provisions of the Constitution of Malawi and the International Conventions ratified by Malawi</p> <p>No decrease in the score</p> <p>NGO amendment Bill revision in line with the provisions of the Constitution of Malawi and the International Conventions ratified by Malawi is kept on the the agenda of each meeting with CSOs and relevant</p>	<p>2020 NGO amendment Bill containing provisions that can potentially restrain the CSO space</p> <p>8/10 (2020 country report)</p> <p>Discussed 10 times in 2020</p>	<p>-Laws and other regulations on civil society (i.e. laws, by-laws, decrees, etc.)</p> <p>-The Bertelsmann Stiftung's Transformation Index (BTI)18</p> <p>Minutes of meeting</p>

		Government counterparts as needed		
Support CSOs to provide greater citizen voice and participation in policy dialogue	<p>Existence in practice of invited spaces of dialogue and consultation for local/national/sectoral development plan/strategy policy discussions/ laws/ sub-laws</p> <p>Number of EU (EUD/MS) funded projects which promote the inclusion of CSOs in public policy formulation and/or the establishment of a more permanent dialogue</p> <p>Number (and effectiveness) of EU and/or MS-funded initiatives aiming at supporting CSOs working on social accountability at national sectoral or local level</p>	<p>High Level Forum and of the Development Cooperation Group meet annually with CSOs participating and increase in sectoral discussion involving CSOs</p> <p>Multiannual indicative programme (MIP) for Malawi for 2021-2027 include the promotion of CSOs participation in public policy formulation</p> <p>EU support provided to CSOs in service delivery to increasingly envisage elements of social accountability.</p>	<p>High Level Forum and Development Cooperation Group, organised by Government, where CSOs are represented. However, both groups have not met since 2019</p> <p>Currently, all EU programmes include the promotion of CSOs participation in public policy formulation</p> <p>Currently social accountability not a regular component of service delivery programmes.</p>	<p>Public consultation reports and minutes of the meetings organised between the Government (national or local) and CSOs meetings/ of public hearings</p> <p>EU funded projects /programmes reports</p> <p>EU funded projects/programmes</p>
Support reinforcement of capacities of CSOs	Number of capacity development initiatives (funded by EU, EUD and MS) aimed at improving management / technical	At least 2 capacity development initiatives funded per year	Currently EU funds Tilitonse Foundation that supports strengthening of capacities of over 20 local CSOs. The EU organises	EUD and MS reports

	<p>skills within CSOs.</p> <p>Percentage of CSOs publishing their governance structure and internal documents (codes of conduct, statutes etc.), (audited) financial accounts and annual reports</p>	<p>50% of CSOs reports on their financial accounts</p>	<p>annual training for CSOs on financial management of grants</p> <p>30% of CSOs reports on their financial accounts</p>	<p>NGO Board reports</p>
<p>Support CSOs to play a more strategic role in promoting equity and innovation in the implementation of the Malawi growth and development agenda</p>	<p>Extent to which CSOs' work in relevant areas is embedded in multi-actor partnerships that recognise the primary responsibility of the state (central and local) regarding service provision</p> <p>CSOs are consistently funded by EU and/or MS in support to service delivery in rural areas particularly to women, marginalised groups and communities at risk;</p> <p>Support to CSOs in</p>	<p>Where relevant, CSOs representation is envisaged in EU funded Government led programmes steering committees</p> <p>Under the Human Development chapter of the MIP 2021-2027 at least 2 AAPs include a dedicated component for CSOs in support to equity and introduction of innovative approaches</p>	<p>MIP 2021-27 not yet under implementation</p>	<p>EUD and MS reports</p>

	improving the quality of public goods delivery, pioneering innovative/ new services is regular part of EU and MS support			
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## PART IV – ANNEXES AND REFERENCES

### ANNEX 1: THE PROCESS

The aim of this annex is to provide information about the process of the RM (i.e. how MS/EU+ were involved and will remain involved, the consultations with CSOs, links with other country processes, etc.).

How were MS/EU+ present in the country involved in the drafting of the RM?	The Roadmap was shared with the two Member States present in the country (Germany and Ireland) for comments
What mechanisms are set up to ensure the involvement of MS/EU+ in the implementation and follow up of the RM?	MS will be invited to meetings organised with CSOs and there will be annual meeting to take stock of the implementation of the RM
What consultations with CSOs were organised? What type of actors were involved? What mechanisms, if any, were used to ensure the inclusiveness of the process?	The main stakeholders involved in the CSO sector in Malawi were consulted : NGO Board (the NGO regulator), Council of Non-Governmental Organisation in Malawi (CONGOMA - main platform of CSOs in the country ), International NGO Forum (Platform of main International INGO)
What mechanisms, are set up to continue the dialogue with CSOs? What mechanisms, if any, will used to ensure the inclusiveness of the dialogue?	There is no formal mechanism but the EUD will continue to include CSOs in all the cycle of projects funded. In terms of dialogue, the EU will continue its regular consultations with CSOs either as a large group or through thematic meetings (gender, governance, education, agriculture)
How is the RM integrated /coordinated with the JP process?	The objectives of the RM are taken into account in the programming with the inclusion of CSOs at all levels of the new programming
How does the RM relate to other country processes including human rights and democracy country strategies, the gender action plan, etc.?	The objective 1 of the RM “enabling space” is also an objective of the Human Rights and democracy country strategy. Consultations with Human Rights/Governance CSOs will continue on a regular basis. In terms of gender, in line with the requirement of the Gender Action Plan III (2021-2025), at least one dialogue with CSOs on gender equality/women’s rights and empowerment per year.

## **ANNEX 2: RELEVANT REFERENCES AND SOURCES TO DEEPEN THE UNDERSTANDING ON THE STATE OF CS AND EU ENGAGEMENT WITH CS**

The aim of this annex is to provide a list of useful sources of information related to the EU engagement with CSOs (e.g. any evaluations of CS support under bilateral or thematic programmes, MS evaluations, CSO mappings/Political Economy Assessments stemming from EU-supported initiatives, etc.).

<https://monitor.civicus.org/country/malawi/>

<https://www.bti-project.org/en/reports/country-dashboard-MWI.html>

*Advancing Democratic Accountability in Challenging Environments: A study on Space for Civic Engagement in Seven Countries in East and Southern Africa*, EU funded study, 2018

*Dynamics in the space for civic engagement in Malawi*, EU funded study, 2018