

**European Center for Not-for-Profit Law
Strategic Plan
April 2003**

I. Introduction

Having been engaged in Central and Eastern Europe (CEE) for 10 years, the International Center for Not-for-Profit Law (ICNL) recognized the need to undergo strategic planning to determine the future direction of ICNL's work in CEE. This decision grew out of the recognition that in order to remain an effective leader in NGO legal reform, a carefully planned strategy for ICNL's work during the next 3-5 years was necessary. The following factors underscored the importance of a strategic planning process:

- Evolving challenges for ICNL programmatically, as those engaged in NGO law reform move beyond framework legislation to address more complex issues, such as tax, public-private partnerships, EU accession issues, etc;
- The approaching end of our USAID Cooperative Agreement on April 30, 2004 and the concomitant need to diversify our funding base;
- Our perception that ICNL still has a vital role to play in addressing NGO law reform in the CEE region.

During 2002, ICNL conducted a thorough strategic planning process to meet the challenges of this changing context. The goal of the process was to define the mission and strategy of the ICNL-CEE program over the next years, and the role of the ICNL-Budapest office in furthering that program. We have sought to clarify programmatic goals, the future role of the CEE Program and the Budapest office, and specific strategies that will help ensure the sustainability of ICNL's Budapest office as the center of a network of European NGO legal expertise.

ICNL has sought to ensure that the process throughout has been inclusive and driven by the input of ICNL's key stakeholders, rather than the perceptions of ICNL staff. The process included the following steps:

- an introductory meeting for the staff of the Budapest office;
- interviews with management and staff of ICNL, and revision of existing strategy documents and other materials;
- a two and a three day retreat in Hungary for the whole staff of the CEE program in March and September 2002;
- a thorough survey of the needs and perceptions of ICNL stakeholders (key local partners, experts and donors);
- involvement of the International Board and Supervisory Council of ICNL;
- research on the funding environment and the potential market of ICNL-CEE services.

The present document is the result of this process and contains the plan for ICNL engagement in CEE over the next few years.

II. Analysis

To properly determine ICNL's strategic direction, it was necessary to assess the NGO legal needs throughout Central and Eastern Europe, and ICNL's role in addressing those needs. We therefore solicited input from key stakeholders, including local implementing partners, regional experts, and donors, through detailed questionnaires. Responses revealed that ICNL is widely perceived as the leading regional expert organization in addressing NGO legislative issues, implementation and capacity building.

ICNL stakeholders identified **four general strengths** characterizing ICNL: (1) world-wide expertise on NGO law; (2) skilled staff familiar with local legal systems, practice, and language; (3) the ability to act as an "honest broker" and effectively cooperate with both the government and NGO sectors; and (4) support of a strong regional network of experts. ICNL is seen to be a professional organization that applies international expertise to domestic circumstances, thereby helping to develop the NGO legal framework.

More specifically, stakeholder responses recognized the evolution of NGO legal issues in the region. As basic NGO "framework" laws have been adopted in most countries, the key issues now include NGO tax exemptions, incentives for philanthropy, the legal framework for public participation, government funding, and NGO transparency. Partners identified a continued demand for technical assistance on draft laws, implementation activities, and capacity-building initiatives. Listed below are highlights identified in each program area.

Key **legislative issues** requiring technical assistance in most CEE countries are the following:

- the fiscal framework for NGOs, and more specifically tax exemptions provided for NGOs;
- the framework for social services delivery;
- governmental support (primarily grant-making) to NGOs;
- the legal framework for public benefit organizations;
- the legal framework for public participation;
- comprehensive NGO legal framework reform (Northern tier countries);
- EU accession issues.

Key **implementation** needs include the following:

- Further training of judges and registry officials on NGO registration issues in order to simplify the registration (particularly in Czech Republic, Croatia and Macedonia);
- More effective lobbying in Parliament;
- More transparent governmental financing of NGOs;
- More effective NGO-government partnerships;
- Issues of governance, codes of conduct, voluntary self-regulation among NGOs;
- Improving government oversight.

Capacity building is closely intertwined with and equally important to implementation activities:

- Need to educate both NGOs and government officials on NGO legal issues;
- Need to raise awareness of NGO legal issues and civil society more broadly;
- Need to educate state and registration officials and engage the wider public in public debates related to the NGO legal reform.
- Need to build the capacity of officials and non-profit actors to draft laws;
- Need to develop the ability of NGOs to better represent their interests vis-a-vis the government;
- Need to continue NGO law courses to broaden the number of law students exposed to NGO law.

Stakeholders also confirmed the importance of ICNL's **regional activities**, which include the distribution of comparative research information, internships and fellowships, regional workshops, study visits and other forms of cross-border networking. In addition, partners highlighted additional regional needs:

- Developing common positions towards the EU and other international and regional organizations;
- Promoting multi-cultural projects which foster understanding of the needs and potential of civil society;
- Developing cooperation between governments in unifying legislation concerning voluntary work.

Donors recognized that while several other organizations engage in ICNL's traditional activities in specific countries, ICNL is the sole organization addressing these issues on a regional level. In addition, ICNL has the following unique selling points:

- ICNL has an independent professional view, without vested interests in the local context.
- ICNL is able to facilitate participatory processes in the development of the laws and of the field.
- ICNL is able to mediate and adapt between cultures in enhancing the work of each party.
- ICNL is best positioned to collect and provide regional experience and information in the area of NGO law.
- ICNL provides *the* cutting edge expertise in NGO law.

In looking toward the future, there is considerable unanimity of opinion that ICNL should address both traditional areas of NGO law and emerging substantive areas. Based on the feedback from key stakeholders, we can affirmatively state that ICNL has a much-needed role to play in continuing to address NGO legal needs and NGO law reform. (See Appendix A for more details on the survey outcomes). ICNL's great challenge will be to build its image as a European-based regional organization, to expand ICNL expertise to address emerging issues, and to ensure the sustainability of its Budapest office as the regional center for NGO law reform.

III. Strategic Plan: Vision, Mission and Values

Societal Vision

The vision of the ICNL-CEE program encompasses pluralistic democracies in the region in which the legal environment enables people and their organizations to shape their society through voluntary action.

This vision contemplates a society in which citizens and other persons participate in public policy decisions and provide for the needs of society. NGOs will play a key role in providing a mechanism for individuals to participate through collective action. ICNL contributes to this future by ensuring an enabling legal framework for NGOs and civil society activities. An enabling legal framework embraces legislation, appropriate implementation and legal expertise.

Mission Statement

The ICNL-CEE program promotes the strengthening of a supportive legal environment for civil society in Europe, with a focus on CEE, by developing expertise and building capacity in legal issues affecting not-for-profit organisations and public participation.

In developing the mission statement, we answered the following questions:

For whom?

Our target beneficiaries include:

- Civil society organizations in general (including both informal initiatives and formally registered organizations);
- NGOs (encompassing all forms of institutionalized non-governmental, not-for-profit citizen initiatives);
- Citizens and individuals as the subjects of public participation.

Where?

Our geographic scope is broadly European, with specific focus on Central and Eastern Europe. As CEE countries seek accession to the European Union, it will be increasingly important for ICNL to address EU accession concerns. At the same time, we also recognize the importance of CEE-NIS linkages.

Through What Core Activities?

Our core activities will include the following:

- Technical Assistance, i.e., providing support and expertise to the development of NGO-related legislation and its implementation.
- Capacity Building, i.e., educating and empowering local NGO experts to carry out such core activities in the NGO law field.

As a critical part of capacity building, we will also continue to support and coordinate the ICNL network, by facilitating the flow of information, communication, and exchange among the network members.

In addition to these core activities, we will continue to be engaged in research and academic work to the extent that such activities support our mission. Policy analysis and policy development are activities likely to evolve in the longer term as well.

Values

Fundamental to ICNL's mission and ongoing work in CEE and Europe are those organizational values that are a distinguishing characteristic of ICNL. These values will continue to inform ICNL's strategic approach and guide our organizational activity. They include the following:

- Cutting-edge expertise and professionalism in the field of NGO law and its related areas;
- Professional independence which allows us to engage with both government and NGOs in the role of an "honest broker";
- Regional perspective which we can apply to domestic problems for the benefit of all partners;
- Cultural sensitivity to the needs and priorities of local partners and the realities of the concrete legal, cultural, political and social environment;
- A holistic and progressive approach reflecting the principles and value-base of the pluralistic democracies toward which CEE countries are approaching.

IV. Strategic Plan: Organizational Vision

Who? Organizational Form

To achieve the mission defined above, ICNL is committed to establishing and supporting an independent, indigenous **expert support center** in Budapest, which will strengthen the network of NGO legal experts in Europe and the CEE region. As a public benefit company ("KHT") and public benefit organization, ICNL-Budapest will soon be transformed into the **European Center for Not-for-Profit Law (ECNL)**. ECNL will remain closely affiliated with ICNL and will serve as the regional center of ICNL's European network, which also includes the Bulgarian Center for Not-for-Profit Law (BCNL) and the Kosovo Center.

ECNL will seek to position itself as a leader and key support in the development and implementation of NGO law and related areas for all countries in the CEE region and in Europe. ECNL will establish itself as the center of **cutting-edge expertise in NGO law**.

ECNL will continue to benefit from a close relationship with ICNL-Washington during its first two years. As a KHT, ECNL will remain under the governing authority of ICNL and benefit from ICNL's administrative and financial support. At the same time, ECNL

will gradually become more rooted in the region, develop its own European image and funding base, and carefully transition into an independent institution.

What? Programmatic Priorities

ECNL will address the following areas of key importance during the next 3-5 years:

A) Legal Framework for NGOs and civil society

- Enacting Progressive Framework Legislation: In many countries, there is a continuing need to ensure that the NGO framework laws ensure that the basic life-cycle of NGOs is protected. In Serbia, the enactment of basic NGO framework legislation is still pending enactment. In Croatia, revisions to the regressive Law on Funds and Foundations are greatly needed. In Romania, recent revisions to the Ordinance on Associations and Foundations have placed greater restrictions on the ability of NGOs to operate effectively. In the Czech Republic, amendments to the Civil Code have been proposed which would severely impede the activities of NGOs in a variety of ways. Thus, the challenges are dual: to support the enactment of progressive legislation and to guard against regressive retrenchment.
- Revisiting Framework Legislation: In countries where reasonably progressive NGO framework laws (laws governing the basic life-cycle of NGOs) have been in place for 2 years or more, there is a growing recognition of the need to revisit those laws to improve their compliance with international standards and regional best practices. Such efforts have already been initiated in Bulgaria, Latvia or Poland. (In Slovakia and Hungary there is also thinking of an overall “NGO-Code” to incorporate all NGO-related framework legislation.) The need for assistance in such efforts was highlighted by local partners.
- Ensuring Progressive Implementation Practices: Even where laws are compliant with best practices, implementation of those laws often fail to realize the progressive treatment envisioned in the law for NGOs. Continuing education and training of registration officials, judges and other government implementers will remain a continuing need in the countries where ECNL operates.

B) Financial Sustainability of NGOs and civil society organizations

- Enactment and Implementation of Progressive Tax Legislation Affecting NGOs: Following the enactment of basic framework legislation, enacting supportive tax laws continues to be the greatest priority and the greatest challenge for ensuring the sustainability of NGOs. Through progressive tax laws, governments can provide effective indirect support to NGOs

through exemptions on a variety of income categories. The need for assistance on a supportive fiscal framework has been continually emphasized by local partners.

- Development of Effective NGO/Government Partnerships: A supportive fiscal framework should also encourage effective NGO/Government cooperation, and provide for the possibility of direct government funding to NGOs. There is a range of legal mechanisms to promote cooperation, including NGO/Government “compacts”, such as have been adopted in Croatia and Estonia, Government grants and subsidies to NGOs, and contracting between NGOs and Government to provide services to the community. Two areas of partnership deserve particular attention: (1) transparent grant-giving to NGOs, by central ministries, by local government, and increasingly by specialized public foundations created to support civil society (in Croatia and Hungary, for example); (2) the delivery of social and health services by NGOs, made possible by contracts with local or central governments.
- Support of Civil Society through Effective Endowment Building: As foreign funding sources withdraw, and CEE governments have scarce resources to support civil society, there is a growing recognition of the need to develop innovative financial support mechanisms. One such possibility that is receiving increasing attention, especially in Northern-tier countries is the creation and strengthening of foundation endowments, which can in turn be used to support NGOs and smaller community initiatives. Endowments have developed most effectively in the Czech Republic, where the possibilities of cooperation between NGOs and the financial services sectors have been demonstrated.
- Development of Corporate Social Responsibility: Finally, through increased involvement and commitment by businesses in their local communities, there are great possibilities for financial support of NGOs and civil society. We speak of corporate social responsibility rather than philanthropy to deliberately highlight the need for partnership between NGOs and the corporate sector. Fundamental to effective cooperation is a tax framework that encourages corporate support to NGOs.

C) Legitimacy of NGOs and civil society organizations

- Enhanced Public Image: NGOs continue to struggle in most CEE countries to maintain a favorable image in the public’s eye. Revelations of financial abuse, money laundering or other illegal activity undermine the operation of the entire sector, even where only the relatively few are guilty. Laws provide critical minimal standards to ensure that NGOs operate in a transparent and accountable way, but more stringent

standards, voluntarily adopted by NGOs, will do much to improve the internal governance and accountability of NGOs.

- Enforcement and Compliance Monitoring: Even where laws support NGO transparency and accountability, government implementers are often ineffective in ensuring that NGOs comply with these laws. The challenge is to ensure that government oversight is flexible, effective, and proportional to the risk of abuse. Government efforts should complement those of the NGO sector, the donors and the beneficiaries to ensure NGOs are operating honestly and effectively.
- Participation of NGOs and the Public in Government Decision-making: Enhanced NGO legitimacy should translate into greater and more effective NGO – and public – participation in government decision-making, whether through the legislative process or the determination of policy. Again, local partners highlighted the need for both NGOs and government to develop the capacity for more substantive involvement of citizens to shape government actions which affect them.

D) European Union enlargement

Preparing and supporting CEE countries in joining the EU: there has been a clear need reflected in the survey to inform our local partners about the effects of the EU accession on the NGO legal framework, and in a more broad sense, the development of NGOs and civil society. ECNL aims to provide this information and help prepare its partners to remain sustainable and competitive in the new environment of the European Union. ECNL also believes in the importance of sharing the CEE experience in NGO law in the EU countries.

How? Engagement with Local Partners

ECNL will confront all the challenges outlined above, as in many cases it has already begun to do, through the provision of technical assistance, implementation assistance, and the development of local capacity (See “Mission: Through What Core Activities?”). In the longer term, we are also envisioning policy analysis and policy development as key methods to help achieve our mission. ECNL inherits the expertise and experience that ICNL has developed in 10 years of work in CEE. The challenge will be to continue to develop its expertise to effectively address the emerging needs of the region.

Core to ECNL’s strategic approach in responding to the identified regional needs is and will be close coordination with and support of local partners. In each CEE country, ECNL will work through local partners. ECNL’s engagement with local partners is based on the following understandings:

- Inheritance from ICNL: As support of local partners and local ownership of all legislative drafting, implementation, training and educational activities is core to ICNL, so shall it be fundamental to ECNL. Differences in relating to local partners may evolve as ECNL develops its niche as a fully European expert support center.
- Diversity of Local Partners: Like ICNL, ECNL will work with a broad and mixed array of local partners, including government officials, academics, legal practitioners and NGO representatives. In supporting civil society, ECNL will balance the sometimes competing interest of multiple stakeholders, without fully representing any single viewpoint.
- Building of Capacity: Our goal is to build capacity of these partners over time and to respond to concrete demands in a way that best supports local partners in meeting the needs. Our partners can be expected to develop greater capacity in our field of expertise. Moreover, the legal issues affecting civil society will evolve over time. As a result, the needs of the network members for ECNL services will necessarily also evolve, and if we are to continue to bring added value to the members, we will necessarily be required to develop services for the network members that meet their growing sophistication.
- Informal Network of Partners: The ICNL – or ECNL – circle of partners will continue to be an informal network of legal expertise based more on trust than formal binding agreements. Indeed, we believe that ECNL support can more effectively be provided through such an informal network than through a more constrained formal system of members.
- Country Support and Regional Support: ECNL will offer partnership-based support on a case-by-case basis. We will respond to partner needs but also proactively build relationships with a longer-term view. As most of our partners work within specific countries and seek to respond to country-specific needs, ECNL will also work to provide support on a country-specific level. The added value that ECNL will bring to country-specific issues will be a broader vision and comparative perspective, which facilitates the flow of information and expertise across borders. In addition, ECNL will support regional research and publications, regional workshops, and regional networks (such as NGO law teachers), to enhance connections and linkages between countries.

V. Strategic Plan: Development Steps

To fulfill the mission through a newly-established European entity, ICNL and ECNL must work together to (1) maintain cutting-edge expertise, (2) diversify the funding base, (3) develop core activities into marketable products and services, (4) ensure leverage with local partners, (5) ensure adequate human resources and continued leadership, and (6) project the appropriate image.

1) Maintain and expand cutting-edge expertise.

To effectively maintain and expand our expertise, we must remain engaged in our traditional areas of activity and also identify emerging areas of concern to the NGO sector. We will need to actively seek funding for investment in research and know-how development so that we can both support and directly engage in these activities. In addition, by remaining at the forefront of NGO law and expanding into related areas (such as social service delivery or public participation), we will help ensure that we will be able to engage a new set of donors or contractors (primarily European institutional donors and governments).

2) Diversify funding base

Currently, funding for the ICNL's CEE program comes predominantly from USAID. USAID support will be significantly reduced after April 30, 2004. The need to diversify our funding base is of paramount importance as the transition approaches. The goal of a diversified funding base is to reduce dependency on grant support and increase income from contracts and earned income.

To diversify the funding base, we will seek to accomplish the following:

- Maintain some level of USAID funding, whether regionally or through country-specific missions;
- Secure funding from private foundations;
- Secure funding from the EU;
- Secure agency funding through tenders;
- Generate income through the provision of services.

3) Develop marketing strategy.

The strategic planning process revealed a number of services that NGOs, governments and donor agencies would consider paying for. The challenge is to re-shape core activities into truly marketable services and products and to make available those services and products to solvent target groups, while still servicing those less solvent and in need of our support. ECNL will therefore need to increase its visibility in CEE and in Europe, and among certain target audiences. In addition, ECNL will need to cultivate a broader network of potential donors. Through a successful marketing strategy, ECNL will seek to reduce dependency on grant support and increase income from contracts and earned income.

4) Ensure leverage with local partners.

As was made clear above, ECNL's ability to achieve its mission depends to a great extent on our local partners. We need to maintain the good will and support of our partners, and more importantly, to add value through our relationship with them. Due to the differences in their level of development, as discussed above, this can be best achieved by engaging in future-oriented relationships with each partner on a case-by-case basis, and

by proactively determining the best way for partnership-based support in each case. In addition, however, we need to develop a range of subsidized support services that are provided to all (and are an integral part of our marketing strategy). A key area to be developed in this respect is the Internet service for the ECNL network of partners.

5) Ensure adequate human resources and continued leadership.

To adequately address the needs of marketing, fundraising and institutional development generally, ECNL must deliberately create additional capacity and expertise within the organization. Ideally, human resources should be developed to ensure a greater diversity in the staff, both in terms of professional backgrounds (e.g. experts in other legal areas) and work responsibilities (e.g. increased capacity in logistical support, fundraising and communications). With this in mind, the size of the organization will need to grow within the next 3-5 years. The future director of the office shall be an indigenous person (from Hungary or the region).

6) Project appropriate image.

ECNL will want to maintain the ICNL image of an independent, professional expert that acts in the interests of both the government and NGO sectors. While maintaining our status as an independent expert and honest broker, ECNL will consider how to reach out more actively to the international and regional civil society networks, with the aim of receiving wider recognition of our work internationally. At the same time, ECNL will actively project itself as a European-based organization that is affiliated with ICNL's global network.