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Needs Assessment

Report

Turkey



Updated 2016

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Technical Assistance to the Civil Society Organisations 2 (TACSO 2) from the IPA Beneficiaries; EuropeAid/133642/C/SER/Multi

Civil Society Needs Assessment Report

TACSO 2 TURKEY June 2016

(Updated 2014 NAR Report, Cut Out Date of Report Content: June 2016)

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Acronyms and Abbreviations

| | |
|--------|--|
| AI | Amnesty International |
| CEDAW | The Convention on the Elimination of all Forms of Discrimination Against Women |
| CFCU | Central Finance and Contracts Unit |
| CfP | Call for Proposals |
| CoE | Council of Europe |
| CoPROL | Cooperation with Pre-accession Countries on the Rule of Law |
| CSP | Country Strategy Paper |
| CSR | Corporate Social Responsibility |
| CSO | Civil Society Organisations |
| DGoF | General Directorate of Foundations |
| DoA | Department of Associations |
| DERBIS | Associations Information System |
| ECHR | European Convention on Human Rights |
| ECtHR | European Court of Human Rights |
| EC | European Commission |
| EIDHR | European Instrument for Democracy and Human Rights Program |
| FCO | Foreign and Commonwealth Office |
| FH | Freedom House |
| GNAT | Grand National Assembly of Turkey, Parliament of Republic of Turkey |
| ILO | International Labour Organization |
| IPA | Instrument for Pre-Accession Assistance |
| IT | Information Technologies |
| KHK | Decree in the Force of Law |
| MCFHRD | The Magna Carta Fund for Human Rights and Democracy |
| M&E | Monitoring and Evaluation |
| MIPDs | Multi-annual Indicative and Planning Documents |
| MOI | Ministry of Interior |
| MP | Member of the Parliament |
| NAR | Needs Assessment Report |
| OECD | Organization for Economic Cooperation and Development |
| PM | Prime Minister |

| | |
|--------|---|
| PRODES | Project Application System |
| RE | Reuniting Europe |
| SIDA | Swedish International Development Cooperation Agency |
| SIGMA | Support for Improvement in Governance and Management |
| SoE | State of Emergency |
| SODES | Social Support Program |
| ŞÖNİM | Centre for Monitoring and Prevention of Violence |
| TACSO | Technical Assistance to the Civil Society Organisations |
| TIHEK | Turkish Human Rights and Equality Institution |
| TIHK | National Human Rights Institution |
| TIHV | Human Rights Foundation of Turkey |
| TİKA | Turkish Development Aid Agency |
| TUIK | Turkish Statistical Institute |
| TUSEV | Third Sector Foundation of Turkey |
| UNV | United Nations Volunteers Program |

BACKGROUND

This study was conducted within the context of EC funded project Technical Assistance to Civil Society Organisations 2 (TACSO 2) in the IPA Countries (EuropeAid/133642/C/SER/Multi), implemented by a consortium led by SIPU International¹.

The general objective of the project Technical Assistance to the Civil Society Organisations 2 (TACSO 2) from the Instrument for Pre-Accession Assistance (IPA) Beneficiaries II is to strengthen the overall capacities and accountability of CSOs within the IPA beneficiaries and to guarantee the quality of services of CSOs and a sustainable role of CSOs in the democratic process. The main purposes of the project are to:

- increase and improve the capacity and actions of CSOs;
- improve the democratic role of CSOs².

The updating TACSO Turkey Needs Assessment assignment was conducted to lay down the basis for defining TACSO 2 interventions in Turkey but also for the benefit of other initiatives for civil society development. The aim of the assignment was to update the previous report done in 2014. The 2016 update of the NAR report is prepared with support from legal expert, Assistant Professor Dr. Ulaş Karan from Bilgi University Law Faculty, TACSO Turkey staff and TACSO's Resource Centre in Turkey, Civil Society Development Centre staffs' contributions. TACSO Turkey significantly benefited from outputs of the collaboration of EU Guidelines Working Group of Turkey¹ a non-formal working group composed of the representatives of key stakeholders from Public Administration specifically to gather up to date official data on civil society and specifically TACSO LAG member Third Sector Foundation of Turkey's (TÜSEV) contributions, along with other CSO monitoring reports and inputs.

The report aims to provide a comprehensive assessment of civil society in Turkey and the environment that it works in, including its strengths and weaknesses, the milestones to date and the challenges it faces to its further development.

It is important to underline that the cut-out date of TACSO Turkey NAR Report Update hereby presented is June 2016. The report does not include any further updates from given timeframe².

¹ TACSO Turkey facilitates the work of EU Guidelines Working Group, in time had included representatives from Ministry of Interior-Department of Associations, Ministry of EU <http://tacso.org/Content/Read/109?title=Izvj%C5%A1%C4%87aonadzorugodine2Affairs>, Directorate General of Foundations, Ministry of Development, Ministry of Youth and Sports, TÜSEV, STGM and Transparency Turkey; where individual representatives provided inputs with their expertise. The representatives of the working group provide expert views on TACSO's work on EU Guidelines functioning as an advisory group.

² Further read on changing environment in Turkey after July 2016 is available on official websites such as Republic of Turkey- Prime Ministry Office, Ministry of Foreign Affairs, Delegation of EU to Turkey, CoE websites.

METHODOLOGY

2016 update is a combination of desk research on enabling environment for CSOs, regional level survey and in-depth interviews along with several focus group discussions conducted on capacity needs of CSOs to gather information for the assignment.

The study conducted within the scope of the study entailed the following tasks:

- The review and analysis of existing TACSO Needs Assessment Reports (2009, 2011 and 2014) and relevant reports and documentation³ produced by TACSO;
- The review and analysis of other relevant information, reports and studies available including legal and financial legislation applicable to civil society, reports and studies conducted to assess the enabling environment for civil society in Turkey by CSOs and other institutions, civil society monitoring reports and evaluations, situation analyses, policy documents and Turkey specific academic literature;
- The analysis of the survey conducted by TACSO Regional Office with assistance of IPSOS Company (2015 research) along with in-depth interviews with key stakeholders from government and CSOs;
- The analysis of the reports of **four needs assessment workshops with local CSOs** held within the context of Resource Centre STGM's provision of Help Desk services; and incorporation of all the findings from other activities of analysis into 2015 version of NAR Turkey report for updating the information available.

The content of the report aims to respond to the result framework provided on EU Guidelines for Supporting Civil Society in Enlargement Region.

The first section provides information on enabling environment; providing information on state of play regarding fundamental rights and freedoms, current legal framework for CSOs, public administration that has responsibilities regarding civil society in Turkey, donors and funding opportunities for CSOs in Turkey and state of play in the framework and implementation of government- civil society cooperation.

The second section provides information on capacity of CSOs in Turkey, including the current size, qualifications, types of activities as such. This section also provides information on state of play for CSOs indicators that are outlined in EU Guidelines for effectiveness, efficiency and financial stability.

The last section provides conclusions and advices, not only for TACSO II in Turkey, but all initiatives for civil society development.

1. THE CIVIL SOCIETY ENVIRONMENT

1.1.1 Legal Framework – An analysis of relevant laws and financial regulations

The legislative constraints those cause bureaucratic burdens on CSOs, along with problems arising from interpretation of existing legislation that pressures CSOs to carry out role in democratic and pluralistic system that were indicated in recent EU Progress Reports for Turkey,³ have remained effective under the influence of slowing pace of reform processes and multi-faceted pressures that led to security concern dominated legal developments as Turkey remained influenced such as Syria war, refugee crisis and terrorist attacks in 2015 and 2016.

The EC Turkey Progress Report in 2015⁴ emphasized restrictions on freedom of association on various grounds despite the Turkish Constitution's articles that guarantee for Freedom of Association with EU standards: "Claims relating to national security, morality and the Turkish family structure continued to be applied by courts to restrict freedom of association in practice". The report states that the legislation and implementation of the freedom of association for national and foreign organisations should be brought in line with European standards and best practices. The report underlines that provisions restricting registrations, procedures for permissions and the function of associations need to be revised with clear criteria for implementation. The report also indicates that systemic problems, such as restrictions on registering and the procedures for the authorisation and functioning of associations, need to be addressed and that current legislation, including tax rules, is not conducive to stimulating private donations to CSOs. The report concludes that civil society remains financially vulnerable and dependent on public project grants. At the same time, public funding has not been sufficiently transparent.

Turkish Constitution covers nearly all the rights and freedoms set forth by the different international instruments explicitly or implicitly. Through the 2004 amendment to Article 90 of the Constitution that states "In the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail", international conventions can supersede and be applied instead of provisions in domestic law under certain conditions. The fact that the Constitution and international conventions supersede laws does not preclude the necessity of legal reforms. Rather than introducing a clear responsibility to the legislative branch for repealing legislation that is in violation of international conventions, the Article 90 introduces a responsibility for the judiciary and executive branches to apply international law when the international convention and national legislation are in contradiction.

The first paragraph of the Article 10 of the Constitution entitled "Equality before the Law" is as follows: "All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations." The reference in the text to "any such

³ 2013 and 2014 EU Progress Reports for Turkey

⁴ EC Progress Report: http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_turkey.pdf,

considerations” clearly indicates that the list of grounds is not exhaustive. The Article 10 of the Constitution is not limited in its material scope. Thus, it can be said that the material scope of this constitutional provision embraces also freedom of expression, association and assembly. In contrast with the Constitutional provisions, laws regarding the above-mentioned freedoms are somewhat incompatible with both the Constitution and the international law and standards which are binding and prevail over Turkish laws pursuant to Article 90 of the Constitution, in cases where a difference appears on the same matter.

The findings of the in-depth interviews conducted under the auspices of TACSO regional office for the purposes of the NAR update are mainly in line with abovementioned assessment: While the interviewees agree that the legislative framework related to freedom of assembly, freedom of speech and freedom of association is not exactly in line with international standards at different levels of legal documents in general, they do not share similar opinions on the source problem. Some of the interviewees find the absence of a framework CSO law with an inclusive framework, some finds the source problem nested in the overregulation of civil society sphere, that is in line with general mind-set of regulatory framework in Turkey. It is also underlined by interviewees that there are road maps related to this matter exists in the EU Accession Planning documents and if necessary regulations are made; the problem will be solved.

The legal framework regulating CSOs in Turkey, remained more or less the same during the reporting period. The details for current applicable framework are provided in coming section.

Fundamental Rights and Freedoms for CSOs

The legal framework that governs the civil society organizations in Turkey is quite extensive. The following table⁵ from the TÜSEV Civil Society Monitoring Report 2013-2014 provides a list of major laws concerning associations and foundations in Turkey:

| Law | Context | Foundation | Associations |
|---|---|------------|--------------|
| Constitution | Article 33-freedom of association | ↑ | ↑ |
| Civil Code | General provisions governing CSOs | ↑ | ↑ |
| Law on Associations | Specific provisions governing associations | ↑ | ↑ |
| Law on Foundations | Specific provisions governing foundations | ↑ | ↑ |
| Law on Collection of Aid | Laying down provisions for collection of aid activities other than donations and membership fees | ↑ | ↑ |
| Law on Meetings and Demonstrations | All meetings and demonstrations to take place in close or open air except the close-space meetings of associations and foundations that are in line with their statutes | ↑ | ↑ |
| Law on Relations of Associations and Foundations with Public Institutions | Governing relations of CSOs with public institutions | ↑ | ↑ |
| Press Law | Provisions regarding printed materials | ↑ | ↑ |
| Penal Code | Penalty provisions | ↑ | ↑ |
| Law on Misdemeanours | Penalty provisions | ↑ | ↑ |
| Tax Laws | Tax provisions | ↑ | ↑ |

⁵ http://tusev.org.tr/usrfiles/files/Izleme_Raporu_2013_2014.pdf

Freedom of Association

While over the past years the CSOs have been recognized as an indispensable part of democratization process by public organizations and other actors in Turkey, there's still no clear definition of the civil society and of the civil society organizations (CSO) in relevant legislation and policy documents. The legal framework only recognizes two forms of legal entities: Association and Foundation as CSOs. Furthermore, registration is mandatory by relevant laws and space for informal associational activity is not recognized. Foundations and associations are subject to different laws and are regulated by different public agencies.

With regards to the Constitution, freedom of association is regulated separately for associations and foundations (Art. 33), trade unions (Art. 51), and political parties (Art. 68). The primary provision for associations and foundations in The Constitution is the Article 33 which is almost completely in line with the relevant international standards and more particularly the European Convention on Human Rights (ECHR). However, it still has a limited approach in terms of scope. As can be seen from the text of the Constitution, freedom of association is embodied in the strict sense that covers only organizations who has a legal entity and is limited to only certain forms. According to legal experts, the article should be amended in a way to be open to other forms of freedom of association such as initiatives or platforms⁶.

The Article 33 of the Constitution states that the freedom of association may be restricted on the grounds of national security, public order, prevention of crime, public health, public morality and the protection of the rights and freedoms of others. Here, there is an overlap with the grounds of restriction listed in Article 11 of ECHR. The only difference between the Constitution and ECHR is the provision in the fifth paragraph of the Article 33 of the Constitution which reads, "Associations may be dissolved or suspended from activity by the decision of a judge in cases prescribed by law. However, where it is required for, and a delay constitutes a prejudice to, national security, public order, prevention of commission or continuation of a crime, or an arrest, an authority may be vested with power by law to suspend the association from activity. The decision of this authority shall be submitted for the approval of the judge having jurisdiction within 24 hours. The judge shall announce his/her decision within 48 hours; otherwise, this administrative decision shall be annulled automatically." This provision allows for the suspension of an association's activities without the decision of a judge. Even if such a decision is temporary and should be submitted to the judge within 24 hours and the judge is obliged to announce the decision within 48 hours; still by allowing for an arbitrary interference on the right to association, it brings forth the danger of the violation of this right. Despite this discrepancy a full compliance will be possible through a parallel interpretation of the two provisions. According to the legal experts, such an interpretation necessitates the adoption of European Court of Human Rights' approach to restriction of the freedom of association by the judicial and executive branches in Turkey⁷.

Problems and issues exist in other laws stated in the above-mentioned table, illustrating legal provisions related to CSOs in Turkey, specifically in the implementation of articles

⁶ http://tusev.org.tr/usrfiles/files/Active_Participation_in_Civil_Society.pdf

⁷ http://tusev.org.tr/usrfiles/files/Active_Participation_in_Civil_Society.pdf

on limitations put forth in the existing laws. In addition, freedom of association is further limited through the secondary legislation such as regulations, by-laws and circulars. The main approach observed in laws on associations and foundations and in their respective regulations is that rather than laying down freedoms and rights as a framework, they provide very detailed regulations that provide limitations, restrictions, penalties, fines, or bureaucratic procedures which hinder exercising freedom of association to a considerable extent.

The primary legislation concerning freedom of associations varies by the form of the organization. The fundamental legislation in this area mainly covers the **Civil Code, the Law on Associations and the Law on Foundations**. According to the Article 56 of the Civil Code and the Article 2 of the Law on Associations, in Turkey's legislation seven natural persons or legal entities have to come together to form an association. Although the required number of persons is not so high, the number of mandatory boards for associations (the General Assembly, the Executive Board and the Board of Auditors) and the minimum number of members foreseen in the Law on Associations (at least 16 in total) required for the legal organs of the association is higher than the standards proposed by the international bodies. Even if seven persons come together to form an association, Article 62 of the Civil Code that requires the first general assembly to be held and obligatory organs to be elected within six months of the foundation of the association makes it excessively hard to continue the activities of the association. According to the legal experts⁸, it would be a positive step in terms of freedom of association to extend the time frame for the holding of the first general assembly (for example to at least 18 months), to decrease the number of members for the board of directors and auditors, and allow for associations to determine the number of members to be on these boards in their statutes.

The Article 101 of the Civil Code, defines the Foundations as "charity groups in the status of a legal entity formed by real persons or legal entities dedicating their private property (assets) and rights for public use" for a specific sustained objective, they are not membership based CSOs. Therefore, there are no restrictions as to number of founders, one or more people can be founders. The Foundations are registered only by courts. The foundation is established upon publication of the court decree in the Official Gazette after completion of notary public transactions. According to the Article 5 of the Law on Foundations, the allocation of the minimum amount of assets determined by the Foundations Council each year according to its objective is sufficient for the establishment of a foundation. The minimum amount of assets value to establish a foundation for the year 2016 is 60.000 TRY⁹ (circa 17.000 Euro). In case of foundations, notary fees and court fees depend on assets of the foundation. It is common knowledge that term for foundations is three months in average.

The Civil Code Article 101 states "the formation of a foundation contrary to the characteristics of the Republic defined by the Constitution, Constitutional rules, laws, ethics, national integrity and national interest, or with the aim of supporting a distinctive race or community, is restricted." The concepts such as "morality/ethics", "national

⁸ http://tusev.org.tr/usrfiles/files/Active_Participation_in_Civil_Society.pdf

⁹ <http://www.vgm.gov.tr/sayfa.aspx?id=164>

interest” or “national integrity” which do not have concrete definitions offers an almost unlimited discretion to administrative and judicial organs in scope of the meanings they may attribute to them. Besides, the prohibition of forming a foundation with the aim of supporting a race or community prevent ethnic or religious groups from establishing foundations for even cultural purposes.

Even though the subject of the freedom of association is “everyone” in the Constitution there are several restrictions stipulated by different laws. The first paragraph of the Article 3 of the Law on Associations states “Natural persons and legal entities with capacity to act have the right to found an association without prior authorization.” On the other hand, the freedom of association of some groups such as children, “foreigners”, individuals with mental disability or disorders, security forces, and public officials are either severely limited or non-existent. The “Foreigners” without residency permits in Turkey are not allowed to become neither founding nor regular members of an association. As far as foundations are concerned, there are more restrictions for foreigners to be founders of foundations as reciprocity principle.

Pursuant to the Article 56 of the Law on Associations, associations are defined as “A non-profit group which has legal personality formed by at least seven real or legal persons in order to fulfil a certain common goal which is not illegal and enable constant exchange of knowledge and studies.” However, the Article 56 of the Civil Code prohibits the formation of associations against the law or morality. The criterion of being “against morality” is not found as a legally tangible prohibition by legal experts¹⁰.

Such an undetermined sphere of legislation creates inconsistent and arbitrary interpretation and implementation by different state institutions and it remains as such within the same public administration body. Some state authorities continue to initiate court cases for closure of Lesbian, Gay, Bisexual, Trans, and Intersex (LGBTI) CSOs basing their legal arguments on the “general morality/ethics” clause¹¹. Despite the fact that those cases ended with positive results and the closure demands were declined, and that today there are several LGBTI CSOs active in Turkey as legal entities recognized by the state, inconsistencies still continue¹². Furthermore, in the context of the above mentioned legal obstacles for freedom of association, there are some cases reported that confirms concerns: It was reported that two associations were taken to the court for closure based on limitations of legislation for incompliance with the Law on internal governance structures¹³. Another case was reported for closure of association based on “activities against its purpose” in Kırklareli based on “public morality” clauses in legislation, which was also claimed to be associated with terrorist organisation¹⁴.

10 http://tusev.org.tr/usrfiles/files/Active_Participation_in_Civil_Society.pdf

11 Youth and Ecology Association faced a court case for closure in the reporting period, http://www.tusev.org.tr/usrfiles/files/Izleme_Raporu_2013_2014.pdf. Kaos GL, Lambda İstanbul LGBTT, Siyah-Pembe Üçgen, Gökkuşuğu Associations are some of the CSOs that faced court cases opened up by state prosecutors in previous years.

12 For information regarding one such example was a new association named Youth and Ecology Association (EKOGENÇ) <http://www.yuksekovaguncel.com/guncel/van-valiliginden-homofobik-karar-h47748.html> 11. There are seven different types of mandatory books associations to keep: decision book, member registration book, record registration book (which is a book that every outgoing and incoming documents should be registered including printed copies of electronic documents), and three more books related with finances/inventory.

13 Arap Birliği Association and Süryani Association; <http://www.sabah.com.tr/diyarbakir/2015/04/01/anadolu-arap-birligi-hareketi-dernegi-mahkeme-karari-ile-kapatildi> and <http://www.radikal.com.tr/turkiye/suryani-dernegi-esbaskanliktan-kapatildi-1327576/>

14 <http://www.karar.com/gundem-haberleri/kirklarelinde-kok-der-dernegi-kapatildi-51961#>

Another case was reported in 2016 from İzmir, court closed an association based on “activities against its purpose” on the basis that the association owns chairs, tables and tea/coffee serving areas, thus concluded the association conducts economic activities without establishing an affiliated entity as a commercial enterprise, a legal provision that obligates CSOs if they want to carry out commercial activities.¹⁵

There are no costs for registering associations, however, after an association is established; the Law on Associations, Article 32, defines penalties and fines for 16 different acts or omissions. A few of the critical penalties laid down in the law are as below:

- *An administrative fine, at the amount of five hundred Turkish liras, is imposed to those who establish associations although not entitled to do so; those who become a member of an association although his/her membership in associations is prohibited by the laws; the executives of the association who purposely admit persons to membership although his/her membership is prohibited by the laws or neglect to write off registration of such persons, or others who lost the credentials of a member.*
- *The executives of the association, who do not hold the meetings of the general assembly on time, hold the meetings of the general assembly contrary to the laws and the Statute, or convene the meetings at a place other than the head office or any other place not indicated in the Statute shall be punished with an administrative fine of five hundred Turkish liras.*
- *An administrative fine corresponding to twenty five percent of the amount transferred from abroad is imposed to the executives of the association if the foreign fund in the form of aid is not received through the intermediary of the banks.*
- *Executives of the association who do not keep the statutory books or records of the association or use uncertified statutory books shall be punished by a fine of three months to one year in prison or a judicial money fine. Executives of the association and persons who are responsible for keeping the books shall be imposed an administrative fine of five hundred Turkish liras in case of not keeping these statutory books or records of the association properly. Persons who fundraise without authorization document and executives of the association who admit the person(s) to fundraise without authorization document shall be imposed to an administrative fine of one thousand Turkish liras.*
- *Unless the offenses do require heavier punishment, imprisonment from six months to two years or a punitive fine is imposed to the persons who involve in mischief during the elections and voting, counting and breakdown of votes in the general assemblies and other organs of the association; who falsify, destroy or hide the books or records.*
- *An imprisonment fine up to three months or a punitive fine is imposed to those who do not meet the obligation in subsection three of article 9 (Internal Auditing) and article 19 (Auditing and Notifications) and the persons who do not apply to get the document (indicating that the records and documents obligated to keep become unreadable or lost that should have*

¹⁵ <http://www.halkingunlugu.net/index.php/g%C3%BCncel/item/7808-suructa-katledilenlerin-anisina-acilan-dernek-kapatildi.html>

been cared for) from authorized court located in the place of centre of association within 15 days from the date of realization of this situation or present this document during the audit shall be punished with imprisonment up to three months or punitive fine. In case of contradictions to obligations in article 21 the same punishment shall be applied.

Compared to the Law on Associations, the Law on Foundations defines fewer (three) penalties with administrative fine of 500 TRY. The Regulation on Foundations¹⁶ requires foundations to keep fewer books¹⁷ than associations.

When the number of active associations is compared with the number of dissolved/terminated associations, it is clear that maintaining and sustaining an association is quite difficult in Turkey. According to statistics published by the Ministry of Interior-Department of Associations (DoA)¹⁸, as of May 2016, the number of active associations is circa 109.682 whereas the number of dissolved/terminated associations is 163.870. This means that around 60 % of any association founded was either dissolved by itself or terminated by the administration. Unfortunately, statistics are not available regarding the reasons of dissolution or termination.

In-depth interviews conducted under the auspices of TACSO regional office for the purposes of NAR Update ¹⁹ show that there's a common understanding that the financial rules and financial obligations those CSOs have to respect are arranged by the Ministry of Finance and that improvements are needed regarding CSOs' financial procedures which will reduce the workload and shorten bureaucratic transactions to enable CSOs to direct their efforts and resources towards their missions and not financial survival. It is concluded by both representatives of public institutions and of CSOs that CSOs in Turkey do not have sufficient information level regarding financial reporting as such.

The procedures and requirements as laid down in the legal framework regarding the **inspections and audits** to be conducted by state the authorities remains quite vague. Despite the existence of the Guide on Inspection of Duties and Operations of Associations published by the DoA that aims to establish a standardized frame for the role and duties of the auditors, the civil society monitoring reports reveal that inconsistent implementation continues²⁰. This is also due to the fact that the legislation does not openly formulate the criteria and timing for conducting an inspection. Furthermore, neither systematic and coordinated guidance nor effective pre-warning mechanisms those are officially adopted and monitored exist to comply with the highly bureaucratic legal requirements.

The Law on Collection of Aid is another significant regulation for CSOs that provides very detailed regulations and brings bureaucratic obligations for CSOs and it continues to be

16 <http://www.vgm.gov.tr/icerik.aspx?id=20>

17 There are two books (decision book, donation receipt registration book) that are mandatory for foundations other than the three books related with finances/inventory.

18 <https://www.dernekler.gov.tr/tr/Anasayfalinkler/derneksayilari.aspx> reached on 27 May 2016, 23:00 hrs

19 IPSOS Agency supported TACSO regional Office for this research, more information available at: www.tacso.org/ EU Guidelines

20 http://tusev.org.tr/usrfiles/files/Izleme_Raporu_2013_2014.pdf

another major obstacle for CSOs to raise funds and maintain their sustainability. The Law has been structured around restricting the activity of collecting aid, and the content of the Law has been an issue of debate for years. According to this legislation, any CSO that does not have a special permit to collect aid and contributions without prior approval has to apply for permission to raise funds by submitting various sorts of information²¹ and documentation to the authorities. There are only 20 organisations that have a special permit to collect aid without prior permission²². The law authorizes the administration, in addition to other authorities, to refuse the application for collecting aid or to decide which organisation to give the exceeding amount of aid/fund (if and once the organisation collects more than they stated in their application) collected.

Freedom of Assembly

Freedom of assembly is a critical right for CSOs to carry out their functions in participatory democracy. This right is safeguarded by the Article 34 of the Constitution and in contrast to Article 11 of the ECHR explicitly states that there is no requisite to seek prior permission to hold meetings or demonstrations. The grounds also mentioned for any restriction to this right also appears to be compatible with the ECHR, Article 11.

Regarding laws laying down the freedom of assembly in Turkey, severe obstacles remain even though their clear unconstitutionality²³. There are several articles in the legal framework (the Law on Meetings and Demonstrations that was adopted by the Military Regime during the early 1980s and still in effect with very few amendments, the Law on Police Powers and Duties and relevant regulations) which are not in line with the ECHR²⁴ and almost destroyed the essence of the freedom of assembly and turn it a major issue for Turkish democracy. Some of the obstacles in the legal framework are as below, but not limited to:

- (1) vague provisions like “national security” or “public morality” are open for interpretation of authorities;
- (2) discrimination between citizens of Republic of Turkey and non-citizens by making the meetings and demonstrations to be held by the latter subject to the prior permission of the Ministry of Interior Affairs. Children are also discriminated since the minimum age requirement sought for organizers is 18 and makes the exercise of freedom of assembly impossible for the children;
- (3) the notification requirement is implemented in a manner that it *de facto* becomes a prior permission from the administration and with the exception of indoor meetings organized by the CSOs in accordance with their statutes, all the meetings and demonstrations held indoor or in open-air necessitates prior notification regardless of its aim or form. In the notification, the organizers must provide the purpose of the meeting, the date and the place of the meeting along with the starting and ending time, the IDs of the chair and members of the organizing committee, information regarding their

21 According to Law on Collection of Aid, types of information legally required from applicant includes the total amount of funds the organisation aims to raise, the objective of the fundraising, the names and legal information of a committee responsible for the fundraising activity, time-frame and places of fundraising activity

22 According to article 6 of the Law on Collection of Aid, this permit is provided by the Council of Ministers only to the organisations having a public benefit or tax exempt status. <https://www.dernekler.gov.tr/tr/Anasayfalinkler/izin-almadan-yardim-toplama.asp>

23 http://tusev.org.tr/usrfiles/files/Active_Participation_in_Civil_Society.pdf

24 Human Rights Joint Platform indicated controversial clauses to ECtHR rulings in Law on Police Powers and Duties and called for revision in 2007: http://www.ihop.org.tr/dosya/yayin/pvsk_rapor_ihop.pdf

occupation, their residence certificate and if available the address of their work. Moreover, it has been stipulated that alongside the notification additional documents may be requested through bylaws. As a result, during implementation, all assemblies without a prior notification become illegal and security forces become authorized to intervene and disperse the demonstrators;

(4) places and venues allowed for demonstrations are very limited and restrictive and the authority to determine the venues has been given to governorships and district governorships. Meetings and demonstrations in public places, namely in general roads, intercity roads, parks, places of worship, and buildings that provide public services and their premises and the area surrounding one kilometre of the Grand National Assembly of Turkey are strictly prohibited;

(5) the law provides the administration with almost unlimited authority for intervention. While the circumstances to declare a meeting or demonstration as illegal are vague and open for interpretation, once it is declared illegal by the law enforcement officers, district governors or governors, riot police can be called in to disperse groups. Excessive use of force by the law enforcement officers is widespread and in some cases pre-emptive detentions of organizers or participants are applied as well. Representatives of human rights NGOs usually face with the same practice in a similar manner. There are cases where individuals, including CSO representatives are prosecuted and imposed a prison sentence or to a fine. Simultaneous, spontaneous and counter-assemblies cannot take place and occasionally state do not protect groups to exercise their right against people who aim to prevent or disrupt the assembly;

(6) the time frame allowed for meetings and demonstrations is very limited which makes it impossible to hold open-air meetings or demonstrations at night²⁵.

Overall, restrictions imposed by the administrative bodies to the freedom of assembly are mostly arbitrary and unlawful and theoretically there is a possibility to bring an action to administrative courts. On the other hand, the possibility to appeal against the decisions is not duly handled by the judicial authorities in due course and in practice judicial remedies are unsatisfying. The legal experts advise that, the Law on Meetings and Demonstrations should be repealed as soon as possible and a new law that safeguards rather than restricts freedom of assembly should be put in effect immediately.

With regard to freedom of association and assembly, as of the end of 2015, of the 170 decisions the ECtHR has issued on violations of the freedom of assembly and association, 70 have been against Turkey which puts again Turkey in the first place among 47 member states of the Council of Europe. As with the primary legislation, secondary legislation (statutes, bylaws, circulars etc.) can be also problematic which also poses legal and bureaucratic obstacles as well as obstructs exercising afore-mentioned rights.

In addition to the laws those are directly related with freedom of association, there are also other laws, such as the **Anti-Terror Law** or the **Law on Misdemeanours**, which have

25 Gökçeççek Ayata, Ulaş Karan, "Obstacles to Freedoms of Association and Assembly in Turkey", TÜSEV, February 2014, accessible at http://www.siviltoplum-kamu.org/usfiles/files/MevzuatRaporu_TR.pdf, English: http://tusev.org.tr/usfiles/files/Active_Participation_in_Civil_Society.pdf

indirect effects on CSOs. As in many other laws in Turkey, these two laws are also drafted in vague and broad terminology which provides both the administration and the judiciary with extensive discretionary powers over broad and negative interpretations. Such an authority granted to the administration via the laws mentioned continues to exert pressures over human rights defenders and their organisations²⁶.

One of the grounds for restrictions in the sphere of freedom of association is the concept of “combatting terrorism”. Since the date the Anti-Terror Law went into effect, the Law has been subject to countless points of criticism in terms of human rights and numerous amendments. Among others, the second paragraph of the Article 7 regulating the crime of propaganda of a terrorist organization includes the concepts of “legitimizing”, “praising” or “encouraging” which are vague and if the offense of terrorist organization propaganda “is committed within the buildings, locales, offices or their annexes belonging to associations, foundations, political parties, trade unions or professional organizations or their subsidiaries, or within educational institutions, students’ dormitories or their annexes the penalty will be doubled.” Through such a restriction the CSOs are almost forced to be as silent as possible in political matters and the vagueness of the relevant legislation leaves a room to restrict CSOs’ activities with “the purpose of combatting terrorism.”

According to TÜSEV Civil Society Monitoring Report 2013-14, “Although acquitted for lack of evidence, 10 CSOs have been tried for aiding terrorist organisations and terrorist propaganda in Van”. Furthermore, cases were reported on police intervention on CSOs’ press statements and monitoring of CSO meetings²⁷. There were cases reported on CSOs exercising freedom of assembly: In June 2015, the LGBT pride parade was interrupted by the police and police fired tear gas and used water cannons against marchers. In 2016, 8 March Women’s Rights Marches were not permitted in Ankara²⁸. Also, during 2016 critical discourse become visible as a political reaction towards freedom of expression of human rights and watchdog CSOs²⁹. It should also be noted that in 2016, the Parade Against Homophobia was not allowed due to security concerns³⁰, where the public administration failed to provide security of protestors for any threats despite the international agreements’ and Constitution’s provisions.

Overall, during the reporting period, freedom of assembly was limited with changes in primary and secondary legislation and implementation remained challenging in terms of space for freedom of assembly. The CSOs’ activities and capacity to exercise fundamental freedoms are mainly affected by the growing security measures in Turkey for the reporting period. It is noteworthy that Government statements mainly state that any

26 http://tusev.org.tr/usrfiles/files/Active_Participation_in_Civil_Society.pdf

27 References: <https://transparency.twitter.com/country/tr>, <https://cpj.org/europe/turkey/>, <https://freedomhouse.org/report/freedom-world/2015/turkey>, <http://www.cocuklaricinbaris.com/> and <http://sendika10.org/2016/02/savasta-cocuk-olmak-konulu-panele-emniyetten-izleme-karari/>, <https://bianet.org/bianet/medya/171582-2015-medya-gazetecilik-tehlikeli-ve-sakincali-bir-meslek>, <http://www.diken.com.tr/ihd-2015in-bilancosunu-acikladi-2753-kisi-hayatini-kaybetti/>, <http://www.birgun.net/haber-detay/chd-den-zorunlu-aciklama-polis-aciklama-yapmak-isterken-saldirdi-90661.html>, <https://www.hrw.org/world-report/2016/country-chapters/turkey#803bf5>, <http://freeassembly.net/reports/communications-2014-15/>, <https://www.amnesty.org/en/countries/europe-and-central-asia/turkey/report-turkey/>

28 <http://t24.com.tr/haber/ankara-emniyetinden-8-martta-yuruyus-yasagi,330785> and <http://www.haberturk.com/gundem/haber/1096375-taksimde-yogun-guvenlik-onlemi>, <http://bianet.org/bianet/siyaset/173711-erdogan-dan-stk-lara-sen-neyin-raporunu-yayinliyorsun>, <http://bianet.org/bianet/siyaset/173711-erdogan-dan-stk-lara-sen-neyin-raporunu-yayinliyorsun>, <http://www.imctv.com.tr/fatsada-maden-karsiti-yurususe-saldiri/>

29 <https://bianet.org/bianet/siyaset/173711-erdogan-dan-stk-lara-sen-neyin-raporunu-yayinliyorsun>

30 <http://www.kaosgl.com/page.php?id=21705> and <http://www.kaosgl.com/sayfa.php?id=21734>

involvement of CSOs in such matters is related to security and terrorism issues and not related to their status as non-profit organisations.

The findings of in-depth interviews conducted in coordination with TACSO regional office for the purposes of NAR Update is mainly in line with abovementioned assessment, except the difference of opinion among public officials and CSO representatives: *“Representatives of CSOs say that even though the word authorization is not written in the act, authorization is required in practice. They express that there is no freedom of assembly actually, and it is prevented based on grounds not written in the act. Even though laws only require prior notification, prior notification itself can be the reason for obstructing assembly of people by the local authority – as the enforcement body. Undertaking to provide security of assembled people within the scope of freedom of assembly, the police force itself may become a violator in terms of freedom of assembly and freedom of speech.”*

Freedom of Expression

Freedom of expression is one of the main subjects of concern in Turkey in the field of human rights for the reporting period, although it has been protected through numerous provisions of Turkish Constitution. Protection provided is not limited to traditional media and similar protection is ensured for the internet. Different provisions set forth in the Constitution provide protection to speeches regardless of the content of the speech, expressed by a natural person or a legal entity, or expressed individually or collectively. Thus, there exists no legal barrier arising from the Constitution.

When it comes to **hate speech**, although there is no explicit reference to the hate speech in the Constitution, Article 14 which prohibits abusing rights and freedoms set forth in the Constitution, makes it possible to exclude hate speech from the material scope of freedom of expression. Prohibiting hate speech will also be in compliance with Article 13 of the Constitution in the framework of protecting the rights and freedoms of others. Apart from the Constitution, there are also provisions prohibiting hate speech in Turkish Criminal Code and the Law on Television and Radio Broadcasting. The former and new version of the Turkish Criminal Code Article 216, which makes it a criminal offence to incite enmity and hatred among the people, mostly is not used to protect the disadvantaged groups against hate speech but to the opposite effect. This provision also does not include ethnic origin, language etc. in the list of grounds set out in the Article, and makes the penalization more difficult by stipulating that an offence will constitute incitement only if it involves “a clear and imminent danger” to the public order.

As regards to freedom of expression, there are numerous laws such as Turkish Criminal Code, Law on Internet etc. which encapsulate a vast number of provisions those can be problematical in many different ways. Under these circumstances, as of the end of 2015, of the 619 decisions the European Court of Human Rights (ECtHR) has issued on violations of freedom of expression, 258 have been delivered against Turkey which puts Turkey on the top of the list. **Hence, when taking into consideration of reports issued by relevant international and national human rights bodies and CSOs, it is not possible to say that all individuals and legal entities can express themselves freely.**

The Constitution guarantees freedom and privacy of communication for all. However, there are regulations granting public institutions the authority to restrict the right to an extent that is not in line with the international standards. According to Freedom House

ratings in 2015, internet freedom continues to be “partly free” in Turkey. Internet censorship by the government is common and has increased in the last couple of years. An amendment to the internet law in March 2015 allowed the Presidency of Telecommunication and Communication to remove or block access to content within four hours **without a court order**. In April and May, respectively, the Constitutional Court ruled the bans as unconstitutional. However, the government used special courts to press Twitter to block accounts of critical writers and journalists. In April 2015, the government blocked access to Facebook, Twitter and YouTube via the court order until these sites removed images of a prosecutor who was held hostage before being killed in the Palace of Justice in Istanbul. **In September 2015, a new law giving the Telecommunications Directorate more authority to block websites and collect individuals’ browsing histories was passed.** The government continues blocking advanced web content and applications and prohibits access to websites with opposing views. According to data of “Engelli Web” [Database on blocked Websites in Turkey] over 110.903 websites are blocked as of May 2016³¹. Blocking websites with or without a court order continues to be implemented. Turkey has made more requests to Twitter to delete content or suspend accounts than any other country in the world. Twitter Transparency Report of second half of 2015³² reveals that Turkish **courts** asked for content removal 450 times, Turkish **public administration bodies** requested content removal 1761 times; as a result, %23 of requests for blocking the content was carried out, the number of the mentioned accounts in requests were 8092 but the number of blocked accounts remained 414. It was stated that Turkey ranked 10 times higher for blocking requests from other countries using Twitter.

In 2015 Report of Freedom House (FH), Turkey remained partly free in terms of general freedoms and not free in press freedom. Also, within the FH report, the status of Associational and Organizational Rights were 5 over 12 points. By May 2016, Freedom House ratings for 2016 show a downward trend for Turkey³³. In the 2015 report of Reporters without Borders, Turkey ranked 149 among 180 countries³⁴. Committee to Protect Journalists³⁵ in 2015 reported that space is shrinking tremendously for journalists in Turkey. In 2016, the Ministry of Justice declared that 1.846 court cases were opened on the charge of insulting President, in 2015, 28 individuals were sentenced in courts, 19 of them were journalists³⁶.

The findings of in-depth interviews conducted in coordination of TACSO regional office for the purposes of NAR Update indicates that some of the interviewees, especially, representatives of CSOs expressed that they severely try to apply self-censorship because both CSOs and individuals face punitive sanctions due to restricting interpretation of the legislation related to freedom of speech by public authority.

31 <https://engelliweb.com/> reached on 27 May 2016-05-27 13:36

32 <http://www.hurriyet.com.tr/twitter-2015in-ikinci-yarisi-icin-seffaflik-raporunu-acikladi-40057969>

33 <https://freedomhouse.org/report/freedom-world/2016/turkey>, reached at 27 May 2016, 13:51 hrs.

34 <https://rsf.org/en/turkey>

35 <https://cpj.org/europe/turkey/>

36 <http://www.gercekgundem.com/siyaset/193545/erdogana-hakarete-rekor-sayida-dava>

Registration Processes for CSOs

The relevant laws concerning the registration of associations and foundations are the Civil Code, Law on Associations and Law on Foundations. As mentioned above, registration is mandatory in Turkey for CSOs. The legally recognized forms of CSOs in Turkey are associations and foundations³⁷. This means that organizations other than associations and foundations are unable to register and freely implement their activities. Although platforms are also recognized by the Law on Associations, platforms cannot be registered as separate legal entities. The requirement of registration may lead to the violation of the freedom of association in cases where public authorities arbitrarily complicate the registration procedure, deny the application for registration, delay the response to the application or never respond to the application.

According to Turkish law with the condition of not sharing profit, associations or foundations can be established to implement any objective that is not illegal; however legal framework excludes certain objectives. Article 47 of the Civil Code set forth that groups comprising persons or properties whose aims are against the law or morality cannot become legal entities. The criterion of being “against morality” is vague and it is not a legally tangible prohibition which leaves almost unlimited discretion to administrative and judicial organs. Thus, as mentioned above, LGBTI organisations have been facing several court cases opened up to terminate their activities. As stated in the Article 101 of the Civil Code, forming a foundation contrary to the characteristics of the Republic defined by the Constitution, Constitutional rules, laws, ethics, national integrity and national interest, or with the aim of supporting a distinctive race or community is restricted. Hence, freedom of association, in the form of foundations, to support an ethnic or religious group and/or identity is restricted which means that people from certain ethnic backgrounds or religious or faith groups cannot establish foundations to support people of the same groups. This restriction was also criticized by Human Rights Committee in 2012: “The State party should guarantee the right of all persons to manifest their religion or belief in community with others through the recognition of their right to organize themselves in the form of associations or foundations, as provided for example by the Turkish Civil Code.”³⁸ In addition, the concepts of “the characteristics of the Republic defined by the Constitution”, “Constitutional rules”, “national integrity” and “national interest” are far from being definable by law and foreseeable by individuals who want to establish foundations.

Registration of an association being subject to notification is only broadly in line with EU standards and seems to be smoothly implemented by the DoA. However, various bureaucratic requirements are still in place that cannot be accepted as encouraging for associational activity³⁹. The existing laws require at least seven founding members to be able to found a new association. Following the registration, Article 62 of the Civil Code requires the first general assembly to be held and obligatory organs to be elected within six months of the foundation of the association. Therefore, within six months, the

37 Other forms of CSOs as recognized in other countries such as workers and employers unions, and professional organisations having a public nature such as bar associations, doctors’ unions, architects’ unions are each governed by separate individual laws and are not examined in this report.

38 The Human Rights Committee, Concluding observations on the initial report of Turkey adopted by the Committee at its 106th session, 15 October to 2 November, 30.10.2012, para 21

39 http://tusev.org.tr/usrfiles/files/Active_Participation_in_Civil_Society.pdf

association should reach to at least 16 members which will enable to fulfil the required number of members in the two legally required boards of the association. As the foundations are not membership based CSOs, minimum number of founding members is not sought for them. However, foundations need to own assets of a total of minimum 60.000 TRY (approximately 17,500 EUR), which is determined by Assembly of Foundations each year, to be able to be founded and they need to continue having the necessary assets every year to be able to continue their legal entity.

With regards to who can be the founding members of an association, there are several discriminatory restrictions. First of all, both the Civil Code and the Law on Associations requires natural persons or legal entities have “capacity to act”, referring to individuals who are at least 18 years of age with capacity to discern and not to be interdicted. Individuals who do not have the “discernment capability” meaning that individuals with mental disabilities, mental disorders, in state of intoxication or in a similar mental situation cannot become founding members of associations. The requirements are also valid for founding members of foundations. In addition, the legal framework discriminates foreign individuals by requiring a residency permit from foreign founding members of an association. The Article 5 of the Law on Foundations further restricts the right of foreigners to become founding members in foundations by requiring condition of *de jure* and *de facto* reciprocity which should be removed.

The Law on Associations has made a distinction based on age and established a separate category under the title of “children’s associations” According to paragraph 3 of Article 3, children who are over the age of 15 but under the age of 18 and who have the capacity to discern “may either found child associations or be a member with a written permission given by their legal guardians. Children between the ages 12 and 15 cannot become founding members but can become members to a children’s association with the consent of their legal guardians. Children under 18 years of age cannot become members to an association other than children’s associations. TÜSEV’s study on Freedom of Association states that “*The provisions in the Law on Associations related with children do not seem to be coherent with Article 15 of the Convention on the Rights of the Child*”⁴⁰.” In its 2012 review of Turkey, the Committee on the Rights of the Child has stated that while the freedom of children to form and be members of associations is recognized in Turkey, there are extensive bureaucratic procedures for exercising these rights and the relevant provisions in legislation should be amended⁴¹.

Another set of legal provisions in the relevant legal framework also restricts the rights of civil servants, members of military and security forces at different levels. Furthermore, the legal framework regulates civil servants’ rights and responsibilities with specific respective laws at institutional level⁴²: The provisions related with the freedom of association of other civil servants and accordingly, various laws of public institutions restrict this right at varying degrees.

The necessary information and documentation that is required to found an association are quite comprehensive and for many groups they are difficult to comply with. One such

40 Gökçeççek Ayata, Ulaş Karan, “Obstacles to Freedoms of Association and Assembly in Turkey”, TÜSEV, February 2014, accessible at http://www.siviltoplum-kamu.org/usrfiles/files/MevzuatRaporu_TR.pdf

41 Turkey, CRC, CRC/C/TUR/CO/2-3, para. 38

42 See, Civil Servants Law, Turkish Armed Forces Internal Service Law, Law on Law Enforcement Organization

requirement is the **address of the association** to be provided at the founding stage. The first obstacle lies with a provision which requires the approval of all flat proprietors of the building in which the headquarters is situated at, if the building is a residential building. In addition, the DoA publicized a legal opinion, which is not binding, however influential, on its website stating that an association cannot share the same address/premises with another legal or private entity.⁴³ This means that each association should either own its residence or rent one just by itself. Considering the financial capacities of the majority of associations in Turkey, such a requirement is a very important obstacle to the freedom of association.

According to the Article 4 of the Law on Associations, each association has to have a statute. The statute should include the name and headquarters of the association; its objective; their field of work and methods for pursuing their objective and field of activity; ways and principles for membership and exclusion from association; meeting procedures and dates of the general assembly; duties and authorities of general assembly, ways and principles for voting and decision making; duties and authorities of executive and auditing boards; conditions for being elected to these boards, the number of original and substitute board members; whether the association will have branches, if so the necessary details about how to open a branch and how it will be represented in the general assembly of the association with all its duties and authorities; the ways of determining the amount of membership and annual fees; ways of borrowing; ways of internal auditing; the conditions for changing the statute; in case of the dissolution of the association the liquidation ways of its properties. While these mandatory provisions required in association statutes do not appear to be in line with the freedom of association; there are fewer provisions for foundation deeds.

Last, but not least, the legal framework is highly restrictive towards foreign CSOs. The Ministry of Internal Affairs, in consultation with the Ministry of Foreign Affairs, is authorized to grant a permit for a foreign CSO to establish a branch or a representation in Turkey⁴⁴. The restriction set forth in the Article 5 of the Law on Associations gives the public administration unlimited discretion. The fact that there are no exceptions included on this matter in the law, restrictions for foreign CSOs obstruct organizations such as human rights or environmentalist organizations, which indisputable work for public interest, from undertaking activities without permission in Turkey. The same restrictions are also valid for foundations due to provision in Civil Code Article 117. The difficulties and restrictions brought against the freedom of association of foreign CSOs were also highlighted in the 2013 EC Turkey Progress Report⁴⁵: *“a German political association was refused the right of establishment in Turkey. A court case is continuing regarding the rejection of establishment of an UK based charity organisation as an association. International NGOs providing relief to the Syrian refugees and displaced were investigated. A number were closed down by the authorities”*. The total number of foreign CSOs that received the permit to found associations, branches or representations in Turkey is 122. As most of the CSOs that received the permit between 2013 and 2015 were relief and emergency organisations indicating to the fact that the relatively high numbers of permits provided in 2013 were due to the Syrian refugee crisis. By May

43 Dernek Adresleri (29/04/2013) at <http://www.dernekle.gov.tr/tr/Mevzuat/hukuki-gorusler.aspx>

44 <https://www.dernekle.gov.tr/media/templates/dernekler/images/folder/izin-verilen-listesi-04.01.2015.xls>

45 <http://www.tusev.org.tr/en/civil-society-law-reform/other/highlights-on-civil-society-in-european-unions-2013-progress-report>

2016, the number of foreign CSOs those are either permitted to have branch/representative offices (122) or have temporary working permits (16) total to 138⁴⁶.

According to the findings of the in-depth interviews carried out by TACSO regional office, both representatives of the CSOs and of the public institutions stated that there is no definition for grass-roots and unregistered organizations in Turkey. As formation, initiative, network, etc. organizations are not set forth in the laws, they cannot be registered as legal entities. The platforms can be subject of notification to the Directorate of Associations. However, platforms as structures are not defined as a legal entity type. The joint opinion of interviewees is that the basic problem is the unsettled concepts in the regulations, therefore exclusion of some CSO forms/types from regulation. Furthermore, representatives of CSOs underlined that unregistered organizations and grass-roots organizations may have preferred not to register. Even if not registered, it is thought that there are no obstacles against activities of civic formations. However, the representatives of public institutions have underlined that as these formations are not registered, they are not addressed by public institutions, and they cannot benefit from public funds and cannot open bank accounts in name of their organizations. However, it is said that they can benefit from some part of international funds even if at a very low rate. Even though it is expressed by all interviewees that unregistered civil organizations may have difficulty in terms of financing, representatives of CSOs say that as unregistered organizations are not under control of public sector, they act more freely. In terms of financing, it is expressed that there are successful civil organization examples overcoming problems by collective work and solidarity with other CSOs through non-cash items such as in-kind supports or volunteer support.

Some of the interviewees indicated that even though federations and confederations formed by associations coming together are defined as independent legal entities as umbrella structures, problems are rising from incapability of forming such legal entity by associations and foundations. The most vital problem among these is the decisions made within the structure are binding on CSOs forming that structure and CSOs having higher financial power are more dominant and effective within the structure.

Progress With The Adoption And Implementation Of Relevant Legislation

There was no significant progress on adoption of the legislation regarding improvement of enabling environment for CSOs in Turkey since 2013, the previous update of TACSO Turkey Needs Assessment Report. Also, since 2011, some minor directives have been published regarding the implementation of the Law on Associations and the Law on Foundations. These were following:

On January 2013, the Ministry of Internal Affairs published a directive on the Law on Associations simplifying the bookkeeping procedures for associations. The Department of Associations (DoA) launched the Associations Information System (DERBIS) web site in 2013. The system enables online submission of reports and updates, but it does not allow online founding of associations. By 2016, the number of associations using DERBIS is 167.187. The number of users in 2014 was 124.675. With this system, DoA aims to

46 <https://www.dernekler.gov.tr/media/templates/dernekler/images/folder/izin-verilen-listesi-26.02.2016.xls> , reached at 28 May 2016, 00:20 hrs.

collect and combine the data gathered from associations and share all the available information publicly. In 2015, DoA opened the database of Associations to public, listing the Associations in a database where users can download the lists based on province, working area (general) and detailed working area (specific). The data DoA publicly shared on associations were also diversified and extended. DoA also developed mobile applications (IOS and Android) for its website, including access to DERBIS and statistical information.

Via some amendments made in 2012, on the Regulation on Associations, associations having an annual gross income above 500.000 TL were held responsible to publish their financial accounts on their web site. Furthermore, the amended regulation allows DoA to publish financial and other information on its web site via DERBIS. In April 2013, DoA published the **Guide on Inspection of Duties and Operations of Associations** with an objective to set the frame for the role and duties of the auditors.

With regards to foundations, some minor directives have been published regarding the implementation of the Law on Foundations. These directives paved the way for re-establishment of foundations in cases where they were previously dispersed by the Directorate General of Foundations. Furthermore, foundation executives are no longer removed from their offices for getting fined more than two times.

The most significant improvement since 2011 has been the addition of temporary Clause 11 of the Foundations Law no: 5737 via Clause 17 of the 651 Statutory Decrees. This amendment defined the application requirements for the registration of immovable properties, and the conditions for compensation payments of the immovable properties entered in the 1936 declarations of the non-Muslim community foundations. According to EU Progress Report 2013, *“the authorities made significant efforts to implement the 2011 legislation revising the 2008 Law on Foundations. Under the revised legislation, 116 minority community foundations applied for the restitution of a total of 1.560 properties. By August 2013, the Foundations Council had approved the return of 253 properties and the payment of compensation for 18 properties, and decided that 878 applications were not eligible”*. With regards to the ineligible applications, Laki Vingas, the elected representative of non-Muslim foundations at the Foundation Council of the Directorate of Foundations, stated in July 2013 that *“rejected applications were mostly due to missing documents and failure to determine the exact location of the property”*⁴⁷. DG Foundations has the mandate to manage the properties of “mülhak” foundations, including those belonging to minorities from Ottoman Era. In scope of this mandate, in 2015, in Edirne, DG Foundations had finalised restoration efforts of Great Edirne Synagogue and opened for service. It was a welcomed initiative for Jewish Community in Turkey by non-Muslim (cemaat) foundations⁴⁸.

Another important forecast regarding the legal framework for associations and foundations has been the initiative taken by the Department of Associations (DoA) to **reform the Law on Collection of Aid**. The DoA has conducted a consultation process on a draft Law on Collection of Aid between December 2012 and June 2013 via its web site. The initial draft published in December 2012, following the first phase of consultation,

47 <http://www.taraf.com.tr/haber/azinliklara-yuzde-16-lik-adalet.htm>

48 <http://www.worldreligionnews.com/religion-news/judaism/great-synagogue-of-edirne-in-turkey-reopens-after-20-years-of-neglect> and <http://www.reuters.com/article/us-turkey-jews-idUSKBN0ML1LH20150325>

was revised by DoA and a new draft was published on the web site in April 2013. While the first draft included amendments only to the Law on Collection of Aid, the second draft, in addition to this Law, also contained a series of amendments to the Law on Associations and the Civil Code, various provisions regarding the establishment of new institutions such as the Civil Society Council, the Civil Society Board, and the General Directorate of Civil Society Organizations. Both drafts were announced by DoA via its website and DERBIS system, inviting CSOs to provide written opinions, however, additional measures were not made available for wider consultations with CSOs. Hence, several CSOs initiated a consultation process via holding meetings, announcing and promoting the consultation process among a wider group of CSOs. It was found to be relatively positive that the draft proposed amendments to decrease the number of founding members and board members of associations, easing the membership of foreigners to associations, authorizing the Ministry of Interior rather than the Council of Ministers to give public benefit/tax exempt status or decreasing the number of issues required to be covered by associations' charters. However, some of the major criticisms brought by CSOs on the draft(s) were: (1) the draft continues to have the restrictive approach by not annulling the requirement to get permissions for fundraising activities; (2) violating the equality principle by bringing in exemptions only to public benefit/tax exempt CSOs and to the CSOs aiming to build and perpetuate places of worship; (3) the draft still contains extensive discretionary authority provided to the administration; (4) the registration of a CSO continuing to be mandatory, interventions in the autonomy of associations by bringing in restrictions to personnel expenses, salaries and remunerations; broadening the scope of supervision and introducing new fines maintaining the same repressive and retributory approach.⁴⁹

By May 2016, there were no progress regarding the adoption of the draft law. Nevertheless, the Ministry of Interior Affairs already published two circulars (type of regulation) on the issues that were included in the draft law and transferred the authority of the police department to DoA (previously being the only responsible from associations) for recording and keeping the registers of the unions (10/10/2013) and the political parties (03/01/2014)⁵⁰

Also, it should be noted that by June 2016, the declaration of 65th Government in GNAT does not include any indications of the civil society related legislation⁵¹. It should be noted that "Turkey's New EU Accession Strategy"⁵² refers to foreseen legislative changes and states that freedom of association will be improved based on ECtHR rulings: *"Freedom of organisation and the right to peaceful assembly will be further improved by considering the related decisions of the ECtHR. Thanks to the liberal discussion climate that emerged in Turkey over the past 12 years, civil society is free to express its opinion. The continuation of this free and transparent discussion climate facilitates the social integration and solution process, which will help strengthen the pluralistic democracy that is based on the principle of non-discriminative citizenship. This process will pave the*

49 TÜSEV Opinions on the Collection of Aid Law Draft, 16 May 2013, Istanbul, accessible at & TACSO Turkey Information and Consultation Meeting: Law on Collection of Aid, 15 May 2013, Ankara, accessible at http://www.tusev.org.tr/usrfiles/files/YardimToplamaKanunuTasarisi_TUSEV_Onerileri_16mayis.pdf

50 <https://www.dernekler.gov.tr/tr/Mevzuat/genelgeler.aspx>

51 http://www.basbakanlik.gov.tr/Forms/_Global/_Government/pg_GovernmentProgram.aspx

52 http://www.ab.gov.tr/files/5%20Ekim/turkeys_new_eu_strategy.pdf

way for internalisation of the achievements that political reforms brought about, by all segments of society, without any discrimination.”

Turkey EU Accession Action Plan for 2016-2019⁵³ adopted during 62. Government’s term foresees changes in legislation related to civil society and refers to improving the legislation to EU standards under Chapter 23 Judiciary and Fundamental Rights. The changes foreseen for 2016 and 2017 are namely changes in the Law on Associations, the Civil Code, Decree on Tasks and Responsibilities of the Department of Associations under the Ministry of Interior and the Law on Collection of Aid and all related by-laws. There were no official consultations after the declaration of EU Action Plan thus it is assumed the mentioned legal changes are those undertaken during 2012 by MOI DoA. Another important issue foreseen in EU Action Plan 2016-2019 is related to the Public Administration Reform: Chapter 22: Under Regional Policy and Coordination of Structural Instruments, under structural changes and reforms, it is mentioned that the Ministry of Development will undertake preparation of a guideline for public administration bodies on inclusion of stakeholders during strategic planning processes.

Despite the issues that remain problematic regarding freedom of assembly mentioned above, no improvement was made on the relevant laws. One such initiative has been the latest amendments adopted by the Parliament on 13 March 2014 on the Law on Meetings⁵⁴ and Demonstrations which will have very limited effects on this freedom and covers: (1) one hour extension of durations allowed for meetings and demonstrations; (2) city governors to decide which places and routes are suitable for demonstrations in a city after consulting to the political parties represented in the Parliament, branches of three unions that have the highest number of members and professional organizations having a public institution character; (3) police commissioner position who defined as being in charge during demonstrations according to previous article is replaced with the “organizing committee of the demonstration” to be held responsible instead for the duties of the commissioner. The organizing committee of the demonstration will dissolve the meeting if the gathering deviates from the purpose and becomes unlawful. If the committee fails to do this, the highest authority of the district will make this decision.

“Action Plan for the Prevention of Violations of European Convention on Human Rights” which was adopted by the Council of Ministers on 24 February, 2014, covers 46 goals to harmonize the Turkish laws with the ECHR standards. The contradiction with the ECHR in terms of freedom of assembly is also among the goals mentioned in the Action Plan. The Plan briefly states that, within one to three years, the Law on Meetings and Demonstrations will be reviewed and if necessary it will be brought in compliance with the judgments of ECtHR.

The findings of the in-depth interviews conducted in coordination of TACSO regional office for the purposes of NAR Update is mainly in line with abovementioned assessment, except the difference of opinion among interviewees: “Representatives of the CSOs and of the public institutions agree that there are gaps in implementation of relevant laws in regard to the legislation and policy framework related to the civil society organizations. While representatives of public institutions say these gaps can be eliminated by setting out new constitutional, primary and secondary legislation, for

53 <http://www.ab.gov.tr/files/5%20Ekim/uepkitapcik2016-2019.pdf>

54 Draft available in Turkish: <http://www2.tbmm.gov.tr/d24/1/1-0869.pdf>

representatives of CSOs there should be no more regulations regarding the civil society organizations, even some of the existing laws should be revoked.”

1.1.2 Public Institutions relevant to the Civil Society

Public Institutions Directly Related with Associations and Foundations

The modality and elements of public administration related to the civil society in Turkey remained the same since 2014. However, it is important to note that the Ministry of EU Affairs Project Implementation Unit was assigned as the Civil Society Sub Sector as indicated in Country Strategy Paper for Turkey in the scope of IPA II Programming and played an active role for stipulating initiatives in public institutions for civil society development and dialogue⁵⁵.

However, overall, the institutional set up related to the civil society in Turkey remains complex and scattered without efficient coordination among public institutions. The major public institutions directly related with different aspects of the civil society enabling environment are as follows:

The Department of Associations (DoA): DoA is a department operating under the Ministry of Internal Affairs and has the following duties⁵⁶:

- Monitoring, recording and archiving establishment procedures, work and operations of associations; monitoring and carrying out work and procedures regarding assigning generation numbers to associations and unions or erasing these numbers; and
- Carrying out work and procedures (of associations) which are subject to permission; regarding
 - losing legal personality, dissolution and prohibition of activities;
 - in kind assistance and cash that associations receive from abroad;
 - charity collecting activities; and
 - annulment of the activities of associations in line with relevant legislation until a court order is issued.
- Collecting and evaluating denouncements and inspection requests about associations and unions; and
- Ensuring that CSO auditors inspect all administrative offices belonging to associations and unions, any sort of additional buildings as well as their accounts and operations when necessary.

Finally, as mentioned above, the DoA started to be responsible for the tasks previously given to the Department of Security regarding unions and political parties.

55 http://ec.europa.eu/enlargement/pdf/key_documents/2014/20140919-csp-turkey.pdf

56 <http://www.dernekler.gov.tr/en/Organization/Our-duties.aspx>

The General Directorate of Foundations (DGoF): The DGoF is a legal entity operating under the Prime Minister Office with the following tasks and responsibilities⁵⁷:

- To supervise the new foundations founded under the Civil Code in terms of conformity to deed of foundation; to inspect authority controls whether rules of deed of foundations are implemented or not or whether real estates of foundation are conducted and used in accordance with allocated purpose or not; to audit annexed (mülhak), community, artisans' and new foundations;
- To fulfil and carry out charitable, social, cultural and economic terms and services set out in the charters of fused (mazbut) foundations or, where there is no charter, in its “*firman*”, deed or title of privilege that substitutes the charter; to exploit and invest funds and goods of the Directorate General and the fused (mazbut) foundations and to invest them in those investments that bring higher yields; to establish companies, to participate in already-active companies and to decide on any capital increases of these companies with the funds of the Directorate General and the fused (mazbut) foundations;
- To carry out training, research, development, cultural and publication activities on the issues related to the foundations; to maintain national and international coordination;
- To conserve or restore the cultural assets of foundations located at home or abroad; to make up collections comprising foundations' cultural assets; to establish museums, libraries and cultural centres.⁵⁸

Public Institutions with CSO Departments/Units/Contact Points

In recent years several public institutions started with establishment of the civil society departments, units or appointment of civil society contact persons. These are as follows:

The Ministry of EU Affairs Directorate for Civil Society, Communications and Culture:

One of the responsibilities outlined for the Directorate is “*cooperating with the private sector, local authorities, non-governmental organizations and universities and helping with the coordination of their activities*⁵⁹”. The Directorate organizes meetings with the CSOs with the aim to improve consultation channels with the CSOs regarding the EU accession process. Between 2009 and 2014, the Directorate has held five “Dialogue with Civil Society” meetings. In 2016, the Directorate organised seven such meetings with participation of nearly 10.000 representatives from CSOs and related stakeholders⁶⁰.

The Ministry of Youth and Sports, Department of Civil Society Organisations: It has been established in 2013 under the Directorate of Youth Services. The Directorate started to conduct project cycle management trainings towards CSOs working on youth

57 <http://www.vgm.gov.tr/sayfa.aspx?id=90>

58 <http://www.vgm.gov.tr/sayfa.aspx?id=80>

59 http://www.ab.gov.tr/44387_en.html

60 <http://www.ab.gov.tr/index.php?p=50318&l=1>, <http://www.ab.gov.tr/index.php?p=50297&l=1>, <http://www.ab.gov.tr/index.php?p=50217&l=1>

<http://www.ab.gov.tr/index.php?p=50238&l=1>, <http://www.ab.gov.tr/index.php?p=50163&l=1>, <http://www.ab.gov.tr/index.php?p=50181&l=1>

<http://www.ab.gov.tr/index.php?p=50157&l=1>

issues in line with the Strategic Plan adopted by the Ministry of Youth and Sports (2013-2017).

The Ministry of Family and Social Policy: The Ministry has opened up 14 Violence Prevention and Monitoring Centres (ŞÖNİM) in 2012 and 2013 and is continuing to increase the number of such centres. These centres have a room which is named as “Civil Society Organisations and Vocational Organisations’ Office”. By 2016, the number of ŞÖNİMs has increased to 22⁶¹. There is also a database of CSOs in the Ministry’s web site, listing 109 CSOs; without any guidelines for registering to database or what the database is deployed for⁶². The Ministry carried out a project under IPA II for increasing involvement of CSOs in its operations, supported by a technical assistance team⁶³. The project has not been concluded by May 2016.

The Ministry of Development: The Ministry carried out 10t Development Planning process in a participatory way, to include the CSOs in every special commission that are organized for each chapter under development plan accordingly with an internal regulation⁶⁴.

Ombudspersons’ Institution: As mentioned in the EC Turkey Progress Report 2015, “The Ombudsman was active and has built up its capacity of handling ordinary cases of maladministration. In 2014, it took decisions on 89% of 7.167 complaints received. In 2015, the caseload increased sharply, reaching 25.000 by the end of August.⁶⁵” The ombudsperson responsible for women, children and people with disabilities assigned an expert to the position of CSO Liaison Officer. The fact that this person took the initiative to introduce himself and his position to the CSOs (via e-mail) and that he provides his contact information can be accepted as a pro-active communication style that is not common within public institutions in Turkey.

1.1.3 Financial Environment for CSOs

Public Benefit Status

Being entitled to receive the public benefit (for associations) and tax exemption (for foundations) statuses are very difficult and perceived as highly politicized. The Council of Ministers has the authority to grant these statuses. As of May 15, 2016, the number of associations having a public benefit status is only 395 (0.036%)⁶⁶ and the number of foundations who have tax exemption, as of August 2016, is only 268 (5%).⁶⁷ These numbers were 404 associations (0.41%) and 241 foundations (5.09%)⁶⁸ respectively in the TACSO Turkey Needs Assessment Report 2013. As it can be seen, the percentage for the associations decreased since 2011. The situation seems to be more critical for associations, not only because the percentage of associations with public benefit status is

61 <http://kadininstatusu.aile.gov.tr/sikca-sorulan-sorular>

62 <http://www.aile.gov.tr/stk/>

63 <http://abdisdb.aile.gov.tr/projeler/sosyal-politika-alaninda-sivil-toplum-kuruluslarinin-politika-yapma-uygulama-izleme-ve-degerlendirme-mekanizmalarina-aktif-katilimi-projesi>

64 <http://www.onuncuplan.gov.tr/Belgeler/Onuncu%20Kalk%C4%B1nma%20Plan%C4%B1%20C3%96%C4%B0K%20Ei%20Kitab%C4%B1.pdf>

65 EC Turkey Progress Report 2015, p. 9.

66 <https://www.dernekler.gov.tr/tr/Anasayfalinkler/kamu-yararına-calisan-dernekler.aspx>

67 www.vgm.gov.tr and <http://www.gib.gov.tr/yardim-ve-kaynaklar/yararli-bilgiler/vergi-muafiyeti-taninan-vakiflarin-listesi>

68 TACSO Turkey Needs Assessment Report, November 2013, p.17

not even one percent as a whole, but also because both the number and the percentage has decreased.

The number of associations exempted from getting permission to collect aid in 2015 is 20 in addition to those holding public benefit status.

In the EC Progress Report 2012, the problem was stated as “There are numerous complaints of discrimination when applying for public benefit status for associations and in getting permission to raise funds”. Due to the fact that no improvement was made with regards to the status of public benefit (for associations) and tax exempt (for foundations), a similar criticism was also made in the EC Progress Report 2013 as follows: “There were complaints of discrimination against associations applying for public benefit status and permission to raise funds”.

According to findings of the in-depth interviews, some of representatives of the public institutions indicate that the Ministry of Finance has a resistant and rigid policy on this matter; therefore, stimulating tax incentives for donations are very limited. Even so, representatives of the CSOs say that donations to the CSOs having the status of public benefit can be deducted from tax, but the number of such associations is very low, due to the fact that this status depends on the decision of the Council of Ministers. As content of public benefit association concept is determined by the Council of Ministers without clear criteria, this practice is commonly perceived as discriminative and unequal.

Voluntarism

In Turkey, there is no specific reference for voluntarism or volunteers and the scope of these concepts still remain undefined. The provisions do not exist for the promotion of volunteering or a policy document. There is no public institution directly responsible for volunteering. This situation continues to cause an obstacle for the development of volunteerism infrastructure. In 2013, the Social Security Institution fined the Association for Supporting Contemporary Life – an organization with public benefit status – arguing that the volunteers of the organization are employed as “uninsured employees.”⁶⁹ Also, a court case opened by the Social Security Institution against Human Rights Foundation of Turkey (TİHV) related to its medical doctor volunteers providing medical support to protestors during Gezi Protests concluded in 2014. The claim of the court case based on the inconsistencies between volunteer/part time and full-time engagement of said medical doctors. The court case resulted in a fine of 83.329 TRY for TİHV⁷⁰.

In the public policy realm, apart from some initiatives taken recently to promote volunteerism in Turkey, there are no holistic approaches for further actions to be taken in this field. A recent discussion on legal aspect of volunteerism also reflects upon the possible impacts from the adoption of a volunteering law in the long run. Some experts stated that the CSOs may face possible restrictions those may occur due to having a national and legally binding definition of voluntarism once and if a volunteering law is adopted. The legal basis defining the contractual relationship between volunteers and CSOs is not defined or regulated and thus lacking. Based on the set of criterion determined by International Labour Organization’s (ILO) Manual on the measurement of volunteer work, there are no attempts to collect data on “volunteer supplement” to

69 http://www.cumhuriyet.com.tr/haber/turkiye/18395/CYDD_ye_bir_kiskac_da_SGK_dan_.html

70 <http://bianet.org/bianet/insan-haklari/155629-sgk-dan-yari-zamanli-cezasi-83-bin-tl>

national labour force surveys on a periodic basis. A definition of a volunteer work, a measurement methodology to identify volunteer workers and their characteristics, and an estimation methodology to value their work are not available.⁷¹ Under these conditions, CSOs working with volunteers can easily be charged with illicit employment.

Volunteerism in Turkey: Discovering the Role and Contributions of Volunteerism⁷² published by United Nations Volunteers Programme in Turkey states that “there is no healthy and comprehensive formal or informal data on volunteering activities in Turkey and therefore it is not possible to analyse the most popular thematic areas of volunteer work.”

The data on the number of volunteers in the CSO is available on the annual level. The number of volunteers is based on declarations from CSOs, however there’s no legal definition of volunteer, so CSOs interpretation of volunteerism may vary.

In 2014, new foundations declared they had 1.021.801 volunteers and associations declared they had 14.954 volunteers. The number of volunteers, for new foundations decreased for 80.022 individuals between 2013 and 2014. For associations, the decrease was 60.654 individuals.

Total number of volunteers in associations for 2015 is 14.263. In 2015 new foundations declared they had 1.021.681 volunteers. For associations, number of volunteers dropped by 684 in 2015. The number has dropped by 167 persons for new foundations (Data declared by July 2016).

According to the statements provided in in-depth interviews for this study, when the number of volunteers is considered, a serious decrease in number of volunteers especially in associations is seen in 2014, compared to 2013. Representatives of CSOs list the reasons which prevent the number of volunteers to increase as: mistrust towards civil society organizations and apparent restriction of freedom of speech in the recent period accompanying with punishments applied and poverty. The reasons for the same given by representatives of public institutions are; underdevelopment of volunteering culture in Turkey, harsh attitude of the Ministry of Finance against the civil society organizations in issues like taxes, lack of simulative regulations for promotion of volunteering. In addition, it is seen that there is no regulation enabling tax-free reimbursement of travel expenses of volunteers. It is observed that representatives of public institutions have general information regarding tax exemption of CSOs; however, they do not have information regarding tax-free reimbursement of volunteer expenses and tax-free per diems for volunteers. Most of the representatives of CSOs express that per diems for employees in CSOs are tax-free, but there is no regulation for volunteers on this matter. They also say that this situation has caused a mechanism excluding young people, and creates an obstacle against volunteering. Additionally, granting status of public benefit association or foundation upon decision of the Council of Ministers is criticised as it is far away from objectivity. An interviewee among representatives of CSOs say that there is a regulation specifying that tax-free per diem for volunteers is 50 TL

71 Manual on the measurement of volunteer work. International Labour Organization (ILO). http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_167639.pdf

72 Volunteerism in Turkey: Discovering the Role and Contributions of Volunteerism, UNV <http://www.tusev.org.tr/usrfiles/files/Gonulluluk.pdf>

daily, and per diems exceeding 50 TL are subject to 25% of tax. And this interviewee expresses the opinion that the state has a control mechanism to put pressure on CSOs.

According to 2015 TACSO survey results, 86.5% of CSOs those were surveyed stated that they engaged volunteers with average working hours of 22.4 weekly in 2015, with more or less the same number of volunteers compared to 2014. On the other hand, the population survey results indicate that 15% of respondents engaged in volunteer work with a weekly average of 15.5 hours⁷³.

In the findings of the in-depth interviews, it is stated that even if some data on volunteers are published by the Directorate of Associations and the General Directorate of Foundations based on CSO declarations, bringing these two directorates together for a joint study is a challenge, interviewees recommend that data studies related to volunteer number to be carried out by the Turkish Statistical Institute. Some representatives also stated that such effort would work better if it was facilitated via one governmental agency with clear mandate on data on CSOs as a sector.

CSOs benefit from the support of volunteers in various areas such as administrative duties, educational activities, promotional and communication activities, field support, project management and advocacy activities. Due to the lack of a common approach and practice, CSOs develop their own volunteering policies in line with their goals and principles.⁷⁴ These policies differ between CSOs and in some cases include issues such as working hours, per diems and involvement of volunteers in the decision-making processes of the organization.

With the rise of civic awareness and active citizenship in Turkey especially after 2000s, volunteerism became a more visible and common practice as well as a highly debated issue.⁷⁵ To this end, in recent years different actors focusing on various aspects of volunteerism such as role of volunteering, development of volunteering and creating an enabling environment for volunteerism emerged. Istanbul Bilgi University NGO Training Centre⁷⁶ and the Civil Society Development Center⁵⁴ are among the organizations those focused on the role of volunteers and volunteer management aspect through several publications. An important initiative established in the area of volunteerism in 2012 was the National Volunteerism Committee. The United Nations Volunteers Program (UNV) with the participation of various CSOs and public institutions established the Committee. The Committee is a joint initiative bringing together public, private and the non-profit sectors with an aim to promote volunteerism and to raise awareness on the issue.

Online activism also emerges as a growing trend in Turkey. As seen in the 2013 Gezi Park protests, social platforms and social media became important tools for engaging volunteers with the CSOs as well as enabling individuals to set-up their own forms of association.⁷⁷ Furthermore, online platforms such as Change.org and imza.la enabling citizens to start online petitions and campaigns emerged as important tools.

73 www.tacso.org

74 <http://www.tusev.org.tr/usrfiles/files/Gonulluluk.pdf>

75 *Laden Yurttaşgüleri, Gönüllülük Ve Vatandaşlık Kavramı*, p.27. <http://www.tusev.org.tr/usrfiles/files/Gonulluluk.pdf>

76 <http://stk.bilgi.edu.tr/>

77 *Uygar Özemesi, Gönüllülük Ve Vatandaşlık Kavramı*, p.97. <http://www.tusev.org.tr/usrfiles/files/Gonulluluk.pdf>

Despite the lack of an enabling legal environment, there are initiatives to promote volunteerism in Turkey. The National Youth and Sports Policy Document (No 4242, 2012) undertakes to: 1) increase the participation of young people in volunteering activities and removing obstacles for volunteering engagement; 2) raise awareness of young people about the participation in voluntary activities for disadvantaged people; and 3) support voluntary activities of young people and non-governmental organizations and inform young people about non-governmental organizations and volunteering.

The stakeholders of these objectives are determined as: The Ministry of Youth and Sports, the Ministry of Family and Social Policies, the Ministry of Development and non-governmental organizations.⁷⁸

In the in-depth interviews for this report, the most critical point to be underlined occurred as the lack of a legislative framework defining volunteering in the civil society organizations and all interviewees had a joint opinion on this matter. The volunteering is an area mentioned in some laws but not defined. In general, representatives of the public institutions think that existence of legislative framework will eliminate difficult situations for CSOs such as to be reported to the Social Security Institution because of employing unregistered personnel. Conversely, representatives of the CSOs think that volunteering definition should not be made by legislation or enacting as this may put the issue under the control of the state, all volunteering forms may not be included, and may exclude volunteering from field of the civil society. Additionally, when it comes to the point of implementation of labour laws, there is a concern that such law will narrow the meaning of volunteering and leave it out of horizontal plane and may cause hierarchical relationships.

Tax incentives & Deductibility of Charitable Contributions

As discussed in the EC Turkey Progress Report 2015, “Current legislation, including tax rules, is not conducive to stimulating private donations to CSOs. The civil society remains financially vulnerable and dependent on public project grants. At the same time, public funding has not been sufficiently transparent”.⁷⁹

The CSOs are exempt from the profit/income tax on their ordinary fundraising activities, although tax is incurred on all economic activities. Economic enterprises of CSOs are considered as businesses by the Ministry of Finance and hence are subjected to pay the same utility rates defined by the Corporate Tax Law. This creates a heavy burden on the CSOs as they implement economic activities with an aim to create social benefit.

In Turkey, the 5% tax deduction (10% in development priority regions) for the donations of legal entities is only applicable for foundations with tax exemption status and associations with public benefit status.⁸⁰ As described above, only limited numbers of CSOs are granted the tax exemption and public benefit status by the Council of Ministers. These figures establish the above-mentioned conclusion that CSOs’ economic activities are seen as commercial activities by the State. Considering the hardship of obtaining the

78 TÜSEV Report: The National Youth and Sports Policy Document (2012/4242). Ministry of Youth and Sports.

[http://www.gsb.gov.tr/public/edit/files/Mevzuat/TheNationalYouthandSportsPolicyDocument\(1\).pdf](http://www.gsb.gov.tr/public/edit/files/Mevzuat/TheNationalYouthandSportsPolicyDocument(1).pdf)
Access Date: December 12, 2014.

79 http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_turkey.pdf, p. 10.

80 TÜSEV, Tax Guidelines for Individual and Corporate Donors: [http://www.degisimicinbagis.org/usrfiles/vergiselkonularrehberi_02_12_13\(1\).pdf](http://www.degisimicinbagis.org/usrfiles/vergiselkonularrehberi_02_12_13(1).pdf)

status, the advantages are quite limited when compared with the 10% average of the EU member countries.⁵⁸ There is no tax deduction mechanism defined for payroll giving (from salaries).

The foundations and the associations in Turkey are exempt from the Corporate (Profit) Tax unless they deal with economic activities. The Associations and the foundations must establish a separate commercial enterprise to carry out economic activities. In terms of taxation, all economic entities of CSOs are treated as profit businesses. Economic activities of CSOs are permitted, only if they set up a separate economic entity. When they set up such entities, there is no tax exemption for economic activities they carry out. According to the data provided by the DoA and DGoF, the total number of associations and foundations is 109.074 and only 3.290 of them (3%) have formed economic entities.⁸¹ In 2015, the number of new foundations those have economic enterprises are 1615 according to 2015 data on DGoF web site on new foundations.

Despite the fact that there are some tax exemptions for the CSOs defined and provided in the legal framework, they are very limited. This is a highly bureaucratic, political and non-transparent process and the privileges provided with these statuses are very limited. Although there is a special regulation on tax exempt foundations in the Tax Laws, these are only related to exemption from the Corporate Tax. The foundations, tax-exempt or not, are subject to all other taxes. Those taxes include income tax applicable to their earnings including rent, interest and dividends. The tax-exempt status grants foundations an opportunity to provide their donors tax deductions from their taxable income.

The foundations and the associations may obtain rent from their real estate, dividend from contribution shares and share certificates, interest over bonds, Turkish Lira and foreign currency investments. Pursuant to the Income Tax Law all of the foregoing revenues are subject to withholding tax to be paid by the payer of the relevant revenue item. The legislation allows the establishment of endowments. The CSOs are exempt from the Inheritance and Transfer and Corporate Taxes in connection with donations made to their endowments. It is allowed for CSOs to make passive investments; however, there are different tax treatments applicable.

The tax-exempt status grants donors the opportunity to deduct their donations to tax exempt foundations, to an extent, from their taxable income. In order to receive the tax exemption, the activity's purpose must fall within the areas of health, social aid, education, scientific research and development, culture and environmental protection and/or forestation. The foundations serving a specific region or group cannot get tax exemptions. Although there is a special regulation on tax exempt foundations in the tax laws, benefits of having these statuses are only limited to exemption from the Corporate Tax. All foundations, tax-exempt or not, are subject to all other taxes. Those taxes include income tax applicable to their earnings including rent, interest and dividends.

The Law on Collection of Aid with heavy limitations, bureaucratic rules and procedures creates obstacles for financial viability of CSOs. Associations' and foundations' donation collection outside of their centre and income generating activities are regulated under

81 TUSEV Report: New Foundations Statistics. General Directorate of Foundations (GDoF). <http://www.vgm.gov.tr/db/dosyalar/webicerik205.pdf>. Access Date: November 25, 2015

the Law on Collection of Aid. The aforementioned law subject donation collection to heavy bureaucratic rules and does not promote CSOs' financial sustainability.

The legal framework provides only two types of accounting rules and specific nature of grassroots and smaller CSOs are not taken into account. Financial reporting and accounting rules for businesses take into account the specific nature of the sector and are proportionate to the size of the organization and its type/scope of activities. For instance, there is a very simple accounting system that can be applied by shopkeepers.

There are, some standard forms that CSOs must complete each year which can be cumbersome and time consuming for some organizations. Associations and foundations must complete annual statements which are submitted either to the Ministry of Interior Department of Associations or to the General Directorate of Foundations. Additionally, unlike businesses, CSOs must complete standard forms before receiving and/or utilizing foreign funding.

In Turkey's National Action Plan for Phase-II, June 2015-June 2019, Turkish Public Oversight, Accounting and Auditing Standards Authority proposes to align "the financial reporting of undertakings that are not within the scope of the Turkish Accounting Standards with the EU legislation, following completion of the legal gap analysis with respective to Directive 2013/34/EU." The legislation to be amended is the "Communiqué on accounting standards for different sizes of enterprises, sectors and non-profit organizations." It was proposed that this amendment would be made in the first half of 2016.⁸²

According to TACSO 2015 Survey; when asked about how clear and understandable are (by legal framework) prescribed financial rules, obligation of bookkeeping and accounting those refer to your organization: 89% responded clear and understandable. Whereas, when asked about "How simple it is to implement (by legal framework) prescribed financial rules, obligation of bookkeeping and accounting, that refer to your organization": 74% of respondents said it was simple to implement and 88% finds the financial rules reasonable. When it comes to implementation of financial (including tax) rules – there is an efficient support system within the institutions that CSOs are obliged to report to – 66% finds the institutions support system as efficient while 29% does not. 63% of respondents believes the support system within these institutions provides clear instructions regarding implementation of financial (including tax) rules and 63% of respondents find that these institutions are providing support services in a standardised manner with competent and knowledgeable staff on the matter in hand.

Contrary to survey findings, the legal framework lays down a long list of bureaucratic requirements, which pose obstacles for exercising freedom of association, since CSOs have to spend considerable time and resources to comply with them. Furthermore, the fees for breaching these requirements are disproportionately high, for CSOs in Turkey those operate under a rather disabling financial environment. CSOs frequently are fined for "improper" record keeping. For instance, failing to record an administrative change (such as a change in the board leadership or official address) in due time (15 days) in the official records/books may result with a fine of 835 TL (approximately 300 Euros with Euro/TL 3,5).

It is important to underline that CSO representatives participated in the in-depth interviews stated that the exemption from tax liability for donations can be subject to changes: Interviewees from CSOs indicated that being exempt from tax for donations is not clearly defined in regulation as “being exempt but being responsible for %0” and if the context changes existing article can be interpreted otherwise.

According to findings of in depth interviews, representatives of the CSOs underlined that CSOs in Turkey has to pay 18% VAT for all their expenses, this rate is 20% in case of service procurement, especially withholding tax payments are burden for CSOs and their income other than donations and funds are subject to income tax. In case of the EU projects, it is indicated that tax deduction is made separately upon issue of a special document for VAT exemption. Regarding individual and corporate giving, it is thought that deduction from income tax of donors in order to encourage donors will be effective on development of donation culture. However, if subjectivity is involved on this matter, it is indicated that donations cannot be encouraged. It is underlined that the transparency in public institutions and CSOs will contribute to donation culture. Donation culture is seen as giving directly to poor around the donating individuals, instead of making donation to entities due to mistrust in these entities. Both representatives of CSOs and public institution draw attention to the prevention of tax evasion of companies by establishing their own foundations as corporate donors deduct their donations from tax.

1.1.4. Donors and Funding Opportunities (local and international) Present and as Predicted in the Future

Government and Public Funding

There is no standardized and holistic approach with respect to the regulation of the public funds granted to CSOs⁸³, neither any legislation specifies state institution to coordinate, monitor and facilitate public funding. Public funding is not decided on the basis of policy papers on a general policy level. There is no systematic inclusion of beneficiaries in programming of the open calls. Only DoA has online consultations for determining program priorities. Other initiatives are not known. Public funds allocated to CSOs are not systematically planned in the state budget, and the Ministries or the Municipalities may set aside a budget for allocation to CSOs. Although there is a budget line in the State budget (Budget no. 5.3.1.1: transfers to organizations such as associations, unions, funds, and etc.) dedicated to public funds provided to not-for-profit organizations, it lacks information to show the total amount provided to associations or foundations. Furthermore, despite the fact that there is a regulation (No. 26231), which holds public institutions accountable to annually publicize the list of organizations, amount and aim of financial support, other than a few Ministries, the majority of public institutions do not comply with this regulation.

There is no standardized approach or legislation with respect to regulation of the public funds granted to CSO and there are no defined rules setting out CSO involvement. General principles regarding distribution of public funds, financial accountability, monitoring and evaluation are regulated under the Law No. 5018 on the Public Finance

⁸³ There is no holistic approach or legislation with the exception of EU funds distributed by the Central Finance and Contracts Unit (CFCU).

Management and Control. There were instances where the line Ministries (the examples are limited) have issued directives and regulations based on the decision of the Council of Ministers on the regulation of funding of associations and foundations from public administrations' budgets. These ministries have also published application guidelines, announced application criteria and publicized the amount of support provided in the last years and the names of the projects they have supported. There is no coordination structure in place to monitor and report the planning and implementation of the public funding for CSOs.

There's no overall coordination that includes all public agencies providing support to CSOs from public budget. For individual public agencies, such as the Ministry of Youth and Sports, the Ministry of Development, the DoA, the Presidency for Turks Abroad and Related Communities, the criteria for funding for CSOs are published in advance. In these programs, there are deadlines declared beforehand for decision. There's no official statement on the criteria for evaluations or feedback publicly shared on merit decision with arguments. There is no publicly shared evaluation of achieved outputs and outcomes on the project and program level. In abovementioned individual programs, there is possibility of prepayments and there is a possibility of multi-annual contracts.

The Law on the Relations of Associations and Foundations with Public Institutions (No 5072) prohibits state authorities granting in-kind support to CSOs other than pre-determined funding. The Law does not allow CSOs to use equipment that belongs to state authorities; however, some exceptions are specified in the secondary legislation. The Municipality Law enables granting of non-financial supports to associations with public benefit status and foundations with tax exemption status. Also, cooperation between municipalities and CSOs is based on protocols. The Municipality Law (Article 75), which is the basis for allocation of non-financial support, does not specify the forms of the support or the criteria for obtaining this support for associations and foundations.

The Associations Aid Program of the DoA under the Ministry of Interior has been implementing the grants named "support programme" for the associations since 2011. In 2015 through budget of the Ministry of Interior, the DoA set aside 6.44 million Euros (21.200.000 TL, exchange rate 3,5 Euro/TL) to support projects of associations implemented via automated online facility (PRODES) providing independent evaluators and good implementation according to standards. In 2015, 362 associations were supported with the Associations Support Program of DoA. Despite the increase comparing to previous year (6.08 million Euros (20.000.000 TL), when compared with the number of associations (108.651), this amount can be considered as inadequate.

The Ministry of Development has a funding scheme named the Social Support Program (SODES) that has been operating since 2008. In 2012, over 30% of total budget of SODES had been allocated to the CSOs with the total budget of 20.4 million euros (66.505.583 TL) with the rest being allocated to universities, local governments, professional organizations and other public institutions. According to the project application toolkit of SODES, in 2015, the minimum amount of public funding was 30.700 euros (100.000 TL) and the maximum amount was determined at 153.500 euros (500.000 TL). As a result of the coordination meeting among public agencies to gather information, the Ministry of EU Affairs provided some data for public funding programs by different agencies for 2015 as following: The Ministry of Development provided 90 million TL, during 2008-2014, for the use of CSOs via Regional Development Agencies. The SODES provided 350 million TL

for 2.534 CSO Projects during the same period, which corresponds to a total of 33% of total supports used by CSOs. The Ministry of Culture provided 2.6 Million TL for CSOs' projects during 2015. TİKA (Turkish Development Aid Agency) provided in kind contribution for Turkish CSOs working abroad; during 2015, 65 Turkish CSO was supported. Annual allocation was declared as between five to 10 million TL. The Prime Ministry Presidency for Turks Abroad and Related Communities provided 72 Million TL for 271 CSO projects since 2011.

During in depth interviews, both representatives of the CSOs and of the public institutions agree that providing funding to CSOs by the public administration is necessary. According to representatives of public institutions, transfer of funds is mainly possible on project basis otherwise legislation is not suitable for such arrangement. For enhancing the institutional capacity in the area of civil society, public funding is perceived as a solution in Turkey. According to the representatives of CSOs, the state should provide support to CSO. However, such support should only be provided to CSOs by public agencies if it will be distributed justly and based on pre-set certain specific and objective criteria.

EU Pre-Accession Funds

The EU continues to be the most important and biggest international source of funding for CSOs in Turkey.

The **Instrument for Pre-Accession Assistance (IPA)** is the main financial instrument via which the EU manages financial assistance in Turkey as well as other candidate countries for building up the capacities throughout the accession process. The second implementation term of IPA (IPA II) covers the period from 2012 to 2020 and foresees a more strategic approach towards the implementation of pre-accession funds. Specific objectives of IPA II are laid down as follows: (a) support for political reforms; (b) support for economic, social and territorial development; (c) strengthening the ability of the beneficiary country to fulfil the (future) obligations stemming from membership in the EU by supporting progressive alignment with the Union *acquis*; and (d) strengthening regional integration and territorial cooperation.

In order to set the priorities for EU financial assistance for Turkey for this period, an indicative **Country Strategy Paper (CSP)** for Turkey⁸⁴ is prepared and published in partnership with relevant state authorities. The CSPs are the overarching strategy planning documents setting the priorities for each candidate country and replacing the Multi-Annual Indicative and Planning Documents (MIPDs) used until 2013.

Within **IPA II framework**, the civil society as a sub-sector will be supported under Sector I - Democracy and Governance. In CSP, the objectives are laid down as supporting civil society development through more active democratic participation in policy and decision making processes, promote a culture of fundamental rights and dialogue, enhance civil society dialogue and inter-cultural exchange between civil societies in Turkey and Europe. To achieve these, three priority areas are specified: improving legislative environment for active citizenship; strengthening cooperation between public sector (at

⁸⁴ http://ec.europa.eu/enlargement/pdf/key_documents/2014/20140919-csp-turkey.pdf

local, regional and national level) and CSOs; and strengthening the capacities of and networking among organised active citizens/CSOs. It is also underlined that since support to civil society constitutes a strategic priority for pre-accession assistance to Turkey, allocations for the civil society are envisaged to substantially increase as compared to the IPA 2007-13 framework.

For IPA II 2014-2020 period, a total budget of 190 million euro is foreseen for civil society and another 435 million euro is foreseen for education, social policies, improvement of gender equality and employment.

Other EU Programs

In scope of European Instrument for Democracy and Human Rights Country Program, for 2007-2013 the EIDHR had a budget of 1.104 million euros world-wide. Projects and organisations in Turkey are eligible through global and country schemes (see below "What can be funded by EIDHR in Turkey"). The allocation for Turkey since 2011 has increased to over €3 million. 2014 and 2015 CfPs also provided €3 million budget for the projects in Turkey. In 2016 CfPs, EIDHR provided €6 million for human rights and refugee rights projects.

In the scope of the Civil Society Facility Turkey Program, CfPs for Networks were launched in 2013⁸⁵, with the allocation of 1.750.000 euros and in 2014⁸⁶ the allocated budget was 1.000.000 euros.

Other International Donors

Netherlands

MATRA Social Transformation Program in Turkey

Matra⁸⁷ is a bilateral assistance program of the Netherlands that aims to support social transformation in countries neighbouring the European Union. It focuses on activities that contribute to the further development of an open, pluralist, democratic society, firmly embedded in the rule of law. The Matra program has been active in Turkey since 2000. Through this program, the Netherlands help Turkey to manage its transformation in order to meet the EU accession criteria. Matra works with country specific priority areas. Priority areas for Turkey are: legislation and law; governance, public order and police; human rights and minorities. Matra in Turkey is open for applications by local CSOs, non-profit educational institutions, lower governments and semi-governmental

85 <https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?ADSSChck=1470319650091&do=publi.detPUB&searchtype=AS&zgeo=35624&aoet=36537&ccnt=7573876&debpub=&orderby=upd&orderbyad=Desc&nbPubliList=50&page=3&aoref=134367>

86 <https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?ADSSChck=1470319551609&do=publi.detPUB&searchtype=AS&zgeo=35624&aoet=36537&ccnt=7573876&debpub=&orderby=upd&orderbyad=Desc&nbPubliList=50&page=2&aoref=135836>

87 <http://turkey.nlembassy.org/key-topics/civil-society/matra-social-transformation-programme>

organisations. Within the scope of the program, twinning with Dutch organisations and with partners from other Matra countries or new member states is possible.

MATRA- CoPROL (Cooperation with Pre-accession Countries on the Rule of Law)

Started in 2012, Matra CoPROL's⁸⁸ policy objective is to strengthen the capacity of government institutions in those countries with the EU accession prospects to meet the political (Copenhagen) criteria by means of partnerships with Dutch governmental and semi-governmental institutions on negotiation chapters 23 (Judiciary and fundamental rights) and 24 (Justice, freedom and security) of the EU Acquis. The second phase of MATRA CoPROL was implemented during 2014-2015. Eligible applicants were NGOs based in the Netherlands or Dutch branches of international NGOs that are registered at a Chamber of Commerce in Netherlands with activity proposals on which Dutch governmental and semi-governmental institutions worked in cooperation with their counterparts in the target countries. Participation of local CSOs in target countries were also promoted since they play a major role in attaining the overall objectives of the programme. The grant amount applied for is at least 500.000 euros and no more than four million euros, and the duration of the activities for which grant funding is sought is at least 12 months and no more than 24 months. For the period from 1 January 2013 to 31 December 2015, the Minister of Foreign Affairs of Netherlands has made 12 million euros available for Matra CoPROL grants covering all pre-accession countries.

Human Rights Fund⁸⁹:

Human rights policy of the Netherlands aims to strengthen human resistance to injustice and repression. The Netherlands focuses in particular on aspects of human rights where freedom, security and prosperity are mutually reinforcing. Special attention is given to five themes in Turkey: Women's rights; LGBT rights; Support to Human Rights Activists; Promoting Corporate Social Responsibility; Freedom of information and Freedom of Belief.

Sweden

Swedish International Development Cooperation Agency (SIDA)

SIDA is a government organization under the Swedish Ministry for Foreign Affairs working with the mission to reduce poverty in the world by implementing Swedish development policy. Swedish development aid follows three thematic priorities: democracy and human rights, environment and climate change and gender equality and women's role. A "Results Strategy for Sweden's reform cooperation with Eastern Europe, the Western Balkans and Turkey for 2014-2020" was prepared and published⁹⁰. For this period of cooperation, expected results in Turkey are laid down as strengthened democracy, greater respect for human rights and a more fully developed state under the rule of law. The strategy is to focus on strengthening public administration and

88 <http://turkey.nlembassy.org>

89 <http://turkey.nlembassy.org>

90 <http://www.sida.se/English>

judicial system, including a reduction in gender-based violence, increased enjoyment of rights and greater opportunities to exercise democratic influence and a more pluralistic civil society with strengthened popular support. During the whole period, cooperation with Turkey totals about SEK 610 million. According to the data obtained from Openaid.se⁹¹, total amount of funding from SIDA to NGOs and civil society in Turkey was about 11.4 million USD in 2014 and 2015⁹².

UK

The United Kingdom provides a significant contribution to Turkey's accession process by financing projects in various fields such as freedom of expression, human rights and fight against corruption. Available funding varies yearly, however the British Embassy funds projects to a value of around £1.000.000 to 1.500.000 annually in Turkey through the programmes mentioned below:

The Bilateral Programme Fund

This Fund allocates funds for small projects (up to a value of £10.000) that contribute to achieving Foreign and Commonwealth Office's (FCO) strategic priorities and Country Business Plan objectives. For the latest program implemented in 2015, priority objectives were set as conflict resolution, gender equality and education⁹³.

The Reuniting Europe (RE) Programme

Programme helps drive reform and maintain Britain's influence in the Western Balkans (Serbia, Bosnia and Herzegovina, Albania, former Yugoslav Republic of Macedonia, Montenegro and Kosovo) and Turkey, by promoting British values and diplomatic influence. It supports reforms identified by the European Commission's annual progress reports on the Western Balkans and Turkey, thereby promoting further conditions-based EU enlargement. The programme is also an important tool in influencing and leveraging EU Twinning and TAIEX programmes in the Western Balkans and Turkey through the EU IPA II fund. The latest bidding round for project proposals was closed in March 2015, and priority themes were laid down as rule of law and fundamental rights, democratic institutions and processes⁹⁴.

The Prosperity Fund

The Fund is mainly established to promote the economic reform and development needed for growth in partner countries by the FCO. The priorities include improving the business climate, competitiveness and operation of markets, energy and financial sector reform, and increasing the ability of partner countries to tackle corruption, as well as contributing to a reduction in poverty in recipient countries. Turkey is one of the priority countries, where the FCO aims to develop projects under three main strands:

91 Openaid.se is created by Sida, Swedish International Development Cooperation Agency by request of the Government of Sweden. It is a web-based information service about Swedish aid built on open government data

92 <http://openaid.se/aid/sweden/turkey/all-organisations/2015/>

93 <https://www.gov.uk/guidance/bilateral-programme-fund-turkey>

94 For more detailed information on priority objectives and indicators for Turkey, see revised strategy plan 2015-2016 at <https://www.gov.uk/guidance/reuniting-europe-programme-turkey>.

open economy; energy security and efficiency; and climate change⁹⁵. Each project proposal must have a government agency as the final beneficiary and an implementing agency, like civil society, commercial organisations, and think-thanks. Latest call for proposals within Turkey Prosperity Fund (2016-2017) was closed in April 2016.

The Magna Carta Fund for Human Rights and Democracy (MCFHRD)

The Fund⁹⁶ is the FCO's dedicated strategic programme fund supporting global human rights and democracy work. In 2016, the FCO has reconfigured its human rights work around three interconnected themes: democratic values and the rule of law; the rules-based international order and human rights for a stable world.

Germany

German Foundations (Friedrich Ebert Stiftung; Heinrich Böll Stiftung; Konrad Adenauer Stiftung; Friedrich Naumann Stiftung, Berghof, Robert Bosh Stiftung) also offer small grants for CSO projects promoting democracy and human rights. They each have their focus themes and tend not to overlap thematic areas they support. Their financial contributions come from state budget of Germany.

Other Embassies and Consulate-Generals

Finnish, Norwegian, Canadian, American, Japanese, Australian, and Belgium embassies as well their consulate-generals offer small grants and civil society support for CSOs.

Community Support and Business Contributions

As stated in the previous NAR report, although corporate social responsibility has already become a rising concept, it still needs to be further promoted and developed in order to make corporate sector funds available for the civil society as a stable source for a more sustainable civil society. According to the TACSO 2016 CSO survey results, main sources of CSOs' income are member fees and donations, citizen's donations and CSOs' own economic activities. Only 21% of respondent CSOs stated that they had received income from private companies operating in the country⁹⁷.

TUSEV's report titled "Community Investment Programmes of Companies: Innovative Methods, Best Practices and Areas of Development" states that more companies started to partner with CSOs in implementing their CSR activities. However, in many instances, companies lack a strategic CSR approach that is based on sound needs analysis reports and social impact evaluation. Furthermore, the research shows that companies continue to support a limited number of professionalized CSOs that mostly focus on education, health and children.

Online giving and crowdfunding emerges as a new trend in Turkey. At the time of reporting, Fongogo and C@rma, Biayda are among the organizations that provide

95 <https://www.gov.uk/guidance/uk-prosperity-fund-turkey#turkey-bidding-timeline>

96 <https://www.gov.uk/guidance/magna-carta-fund-for-human-rights-and-democracy>

97 See IPSOS Comparative Report Presentation at: <http://tacso.org>

online donation opportunities. However, the Law on Collection of Aid constitutes as a great obstacle for these online tools.

TUSEV has been carrying out Değişim için Bağış⁹⁸ (Donations for Change) project since 2011 to encourage organized philanthropy, developing a “mass” giving culture for social good and generate support mechanisms for philanthropy in Turkey. The project is considered as an important initiative since it promotes philanthropy by raising awareness and providing tools to encourage individual and corporate giving as well as the grant making foundation model in Turkey.

CSOs View on Donor Supports in Turkey

Based on several inputs from CSOs during TACSO Turkey’s information and consultation events, along with those carried out in cooperation with stakeholders, it was revealed that many of CSOs’ concerns regarding EU Programs implemented via CFCU remains problematic as revealed in consultations of EU Delegation to Turkey during 2010⁹⁹ which constituted basis for Guiding Principles for Supporting Civil Society in Turkey¹⁰⁰. To summarise, the main issues arising from donor support to civil society can be described as following:

- CSOs working on human rights and democratization should be supported via decentralized programs with frequent call for proposals and larger budgets as they have to maintain and ensure independence from public institutions to monitor public administrations’ conduct;
- While this is the case for CSOs working on democracy and human rights, when it comes to working to improve social policies or cooperation between public and CSO sector, the programs may be implemented via decentralized system for EU Funds; however, it is essential to overcome the bureaucracy arising from implementation of projects since most of the time administrative requirements overthrow the essence of the projects interventions;
- It was strongly underlined by representatives of CSOs that “smooth implementation of EU supports to CSOs are only realized when the Program is implemented in **decentralised system** by EU bodies, as very well documented concerns and negative experiences of CSOs on working with Turkish Public Administration and CFCU as Contracting Authority from 2010 by EU Delegation’s consultations with CSOs still remain valid and for some cases more hardship has been experienced. CSOs also stated the challenges to make an official complaint about these hardships with EU Programs implemented via decentralized system, and that the fear to be “unofficially blacklisted” for EU supports implemented via CFCU is not affordable for any CSO in Turkey.
- It is essential to structure and ensure CSOs’ participation in EU Programming for civil society development¹⁰¹, and to ensure CSOs’ effective participation in projects of Public Administration via EU funds to create room for policy dialogue;

98 <http://www.degisimicinbagis.org/>

99 <http://avrupa.info.tr/resource-centre/news-archive/news-single-view/article/electronic-consultation-on-european-commissions-support-for-civil-society-development-in-turkey.html>

100 http://avrupa.info.tr/fileadmin/Content/Files/File/CSD/Guiding_Principles_for_EC.pdf

101 Ministry of EU Affairs carrying out a study to increase CSO participation in programming of Civil Society Sub Sector by the reporting date.

- It is essential for the public administration and the EU to publicize the impact assessment of EU Programs for the civil society and for sectors in which CSOs are stakeholders;
- Support for connecting civil society in Turkey to EU and IPA region is essential. TACSO P2P Program and Sivil Düşün EU Program's mobility supports exist but finding new instruments is needed. The regional support programs should take into consideration the extent and diversity of civil society in Turkey during the designing phase;
- Flexible and diversified tools should be made available by donors to support civil society as the needs of civil society changes depending on the mission, size, location, target group etc. Support to new organizations shall be maintained as a high turnover is in place among CSOs in Turkey;
- Donors should be aware of the challenging circumstances for sustainability of CSOs in Turkey, reference to obstacles of the Law on Collection of Aid, limitations to donations from corporations and individuals, lack of promotion for volunteerism and other issues arising from limitations of conducive environment for CSOs, and should provide operational and core grants for ensuring functioning of rights based CSOs. Also, it is critical for donors to be flexible when expecting cooperation with public institutions when granting projects, as there is no framework for CSO-government cooperation and changes in the policy environment have impact on CSOs' access to public administration for dialogue and cooperation;
- Obstacles arising from legislation including accounting should be removed in order to enable CSO run grant programs. But at the same time, programs for CSOs should not provide only one modality for beneficiaries e.g. sub-granting but a wide variety of modalities.
- Cooperation modalities of CSOs should be supported via flexible programs as the CSOs' availability, needs and performance for joint actions and need to respond to fast pace of changing policy environment is burdensome in standard action grant supports; and
- It is essential to overcome the prejudices against cooperation of private sector and right based CSOs by increasing mutual understanding for both sectors, and enable coordination of support to CSOs in the context of philanthropy in a way to ensure independency and impartiality of supported CSOs.

1.1.5 Government Mechanisms for Civil Society – Government Cooperation, Institutional Capacity to Engage Civil Society and the Policy Framework

In 2015, the state of CSO and Government relations has not improved in terms of adopting new strategies and policies. Contrary to the Western Balkan countries where the majority has concluded or started the process of adoption of strategic documents those regulate the standards and mechanisms for CSOs and Government cooperation, an overarching national strategic document creating mechanisms for CSO and Government

cooperation is still missing in 2015.¹⁰² In Turkey, public sector and CSO relations are not continuous and are left to the discretion of the public institutions' decision makers. CSOs' involvement in decision-making processes in Turkey is not obligatory and can only be done through invitation with limited possibility to comment on draft legislation. There is neither a binding legislative framework nor a national level institution or mechanism to govern the relationship between CSOs and public institutions.

There are still no concrete government structures or other institutional mechanisms in Turkey to facilitate regular contact and coordination with the civil society. Despite the expectations voiced by the CSOs and standards provided by international good practices, there is also no overarching legal framework defining the possible forms, principles and methods that cooperation between the government and civil society might take, as well as the broad roles and responsibilities both sectors should fulfil vis-à-vis each other. In a similar way, the central government has not developed a policy or a strategic approach to its relations with CSOs and to its possible role in supporting the strengthening of civil society. The lack of a legal framework to regulate this issue is the most important problem in this field. However, to pave the way for such participation, albeit limited, the issue should not be left to solely decisions of public institutions and a legislation that will clearly regulate and safeguard such a cooperation should be put into effect.

Turkey is a part of SIGMA Program¹⁰³; Support for Improvement in Governance and Management (SIGMA) is a joint initiative of the European Union (EU) and the Organization for Economic Cooperation and Development (OECD), principally financed by the EU. SIGMA supports EU candidate countries in their public administration reforms. Turkey has participated in this program since 2014. The reports prepared as a result of the studies in the framework of this program contribute to the progress reports published by the European Commission. SIGMA Program 2015 Baseline Measurement Report for Turkey¹⁰⁴ provides Turkey's baseline situation regarding Principle 11 "Policies and legislation are designed in an inclusive manner that enables the active participation of society and allows for co-ordinating perspectives within the Government" and provides the assessment as following: *"General principles for consultation with external stakeholders are embedded in the rules that set out steps for drafting proposals to place on the Government's agenda. While ministries often conduct stakeholder consultation, they tend to focus on a limited number of key stakeholders. External stakeholders can be involved in the policy making process through the Scientific Committees. Public consultation of stakeholders varies in quality. Some proposals are opened to wide consultation during the development process, while others are only submitted for consultation at the end of the process. No institution is following the unified application of the envisaged requirements for public consultation."*

SIGMA Baseline Report for Turkey 2015 indicates the situation in Turkey for "Principle 12: Legislation is consistent in structure, style and language; legal drafting requirements are applied consistently across ministries; legislation is made publicly available" as following, *"Both the administration of the GNAT and non-governmental organisations*

102 Monitoring Matrix on Enabling Environment for Civil Society Development. Regional Report for 2014. Balkan Civil Society Development Network (BCSDN). http://monitoringmatrix.net/wp-content/uploads/2015/06/MM-Regional-Report-2014-final_web.pdf Access date: December 25, 2015.

103 <http://www.ab.gov.tr/index.php?p=5942&l=2>

104 <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-Turkey.pdf>

(NGOs) raised concerns about the recent emergence of omnibus laws, which include changes to a series of laws in force in one decision making cycle, covering issues those are not linked to each other in any other way. Out of the 71 new Government-sponsored laws adopted by the GNAT in 2014, seven were counted as omnibus laws. According to interviewees, this practice can make it very difficult to understand important legislation and can hamper the efficiency of legislative scrutiny. All primary and secondary legislation is available electronically in consolidated versions¹⁰⁵[Once adopted, See Footnote].

Some of key recommendations outlined in SIGMA Baseline report for legislation process is relevant to civil society participation. Short term recommendations related to civil society participation are:

- The Government should evaluate its approach to stakeholder consultation and assess how to obtain the views of stakeholders earlier in the policy and legislative development process. The Government should ensure consistent approach and execution for public consultation, including publication of consultation outcomes. The Government should submit consultation reports to the GNAT together with the relevant proposals.
- The Government should ensure the clarity of new legislation and easy access to it is not hampered by merging unrelated legislative matters into a single omnibus legislative draft.

Medium term recommendation related to civil society participation to legislative processes is:

- The General Directorate of Laws and Decrees should establish a RIA process in which all relevant proposals are supported by high-quality *ex ante* analysis.

Another important challenge regarding CSOs and public sector relations is the low level of awareness and experience of public servants regarding the important role of CSOs in democracies. A research study conducted by Yaşama Dair Vakıf (YADA Foundation), within the context of an EU financed project, with more than 120 central level decision-makers from 21 Ministries presents important findings regarding the approach and understanding of public servants towards civil society. The study revealed that the central-level administrators have a general notion of civil society which is broadly in line with standards, they have considerable contacts and experience with CSOs and that CSOs participation in the work and decisions of public institutions has become a norm.¹⁰³ 66% of the administrators interviewed within the context of the research by YADA were members of a CSO. Furthermore, 32% of these members were founding members of an organisation. However, when the types of CSOs of which they had been members were analysed, the study revealed that 43,4% of their membership were in vocational/professional, 15,8% in socializing (e.g. alumni, friendship) organisations and

¹⁰⁵ Website of the official register of laws once they are adopted is <http://mevzuat.basbakanlik.gov.tr/>, but legislation is also easily accessible through the websites of ministries.

14,5% in hometown associations. Thereby, it can be argued that the central-level administrators' perceptions and approaches towards CSOs, to a great extent, are based on their individual experience and close encounters with vocational/professional, socializing and hometown organisations.

Some of the notable critiques of the central-level public administrators towards CSOs mentioned in the research were: (1) they have political motivations and not scientific or analytic; (2) their approach is not towards negotiation but confrontation; (3) their communication and language are excluding and harsh based on prejudices; (4) they are only criticising (even the works towards public benefit) and not proposing solutions; and (5) they advocate from away (via media) but not seek for dialogue with public institutions¹⁰⁵. Last, but not the least, the YADA Foundation research revealed that the central-level public administrators believe that there are some challenges within the public institutions and CSOs hindering cooperation. The factors¹⁰⁶ outlined by the YADA Foundation research were provided below.

According to findings of in-depth interviews within TACSO research, it is understood that there is no adequate access to information when it comes to consultations with civil society organizations regarding draft laws/bylaws/strategies and policy reforms. All interviewees express that there is no legal obligation to publish draft laws on the Internet unless they are in the legislative process in GNAT.

Still, it is noteworthy that one of the main strands for IPA II Civil Society Sub Sector programming focuses on interventions for achieving progress on public-civil society dialogue and initiatives are foreseen to tackle the remaining challenges since 2014.

2. ORGANISATIONAL CAPACITIES OF CSOs

2.1.1 Overview of the Civil Society in Turkey

Types of Organisations, Size and Presence on the Ground & Types of Activity and Sector of Operation

As mentioned in the section 1.1 of the report, definitions of "civil society" and "civil society organization" are still absent in the relevant legislation and policy documents. In Turkey, the only legal entities recognized as CSOs are associations and foundations. However, other models of association such as initiatives, platforms, etc. continue to be important actors in the civic space. Despite their growing role, since these models of association are not recognized as separate legal entities, it is not possible to find any data regarding their size and capacity.

Foundations and associations are subject to different legislations and they are regulated by different public agencies. Along with their administrative duties and guidance role, Department of Associations and General Directorate of Foundations are the two public authorities responsible for collecting CSO data and keeping the statistics. Despite some recent attempts to openly share general statistics on associations and foundations, CSO statistics are still not integrated to the official statistical programme kept by the Turkish Statistical Institute. Associations and foundations are obliged by the law to provide up to date data in their annual notifications to DoA and DGoF.

According to data provided by the Department of Associations, there are 109.642 associations active in Turkey as of May 25, 2016 whereas the number of new foundations provided by the General Directorate of Foundations as of January 2016 is 5.014.¹⁰⁶

Geographical Distribution of Associations and New Foundations in Turkey

Despite the uneven distribution, civil society organizations are active in all of Turkey's provinces. There is a marked concentration of CSOs in the urban areas. According to data provided by the Department of Associations, 34.16% of associations are established in Marmara region. Central Anatolia (18.15%) and Aegean (13.64%) regions are among the regions with highest association numbers.¹⁰⁷ To this end, the largest numbers of associations exist in İstanbul (21.857), Ankara (10.404) and İzmir (6.211).¹⁰⁸ Foundations are similarly concentrated. According to the data provided by DGoF, 39% of the foundations is located in Marmara region (1.983 foundations), 25% is located in Central Anatolia (1.261 foundations) and 10% located in Aegean region (513 foundations).¹⁰⁹

Number of Members

Member based entities as CSOs are associations and below data showing gender distribution for the members of bodies of the associations is provided by DoA¹¹⁰:

| Gender | 2014 | 2015 |
|---------------|---------------------|---------------------|
| Woman: | 19.32 % - 1.957.682 | 18.94 % - 2.206.206 |
| Man: | 80.68 % - 8.174.701 | 81.06 % - 8.718.655 |

According to DoA data, total population in Turkey is 76.667.864 individuals. The percentage of women those are members of associations compared to general public is 2.83% and men those are members of associations are 11.21%. The percentage of individuals who are not a members to any of associations in general population is 85.95 %. The number of citizens those are members of associations is 10.768.408, among these 2.172.543 are women and 8.595.865 are men.¹¹¹ The number of individuals those are members of associations was 9.402.908 in 2014 and by May 2016, the number increased to 10.981.141.¹¹²

106 <https://www.dernekler.gov.tr/tr/AnasayfaLinkler/derneksayilari.aspx> and <http://www.vgm.gov.tr/db/dosyalar/webicerik193.pdf> (This information is accessed in May 2016 and the links may provide up to date data). New Foundations are established after the Republican period. There are 279 old foundations and 166 religious-minority foundations and one artisan foundation established during the Ottoman period.

107 Department of Associations, May 15 2016. <https://www.dernekler.gov.tr/tr/AnasayfaLinkler/derneklerin-bolgelere-gore.aspx> (This information is accessed in May 2016 and the link may provide up to date data).

108 Department of Associations, May 15 2016. <https://www.dernekler.gov.tr/tr/AnasayfaLinkler/IlkereGoreIstatistik.aspx> (This information is accessed in May 2016 and the link may provide up to date data).

109 General Directorate of Foundations. 15 May 2016. <http://www.vgm.gov.tr/db/dosyalar/webicerik265.pdf> (This information is accessed in May 2016 and the link may provide up to date data).

110 <https://www.dernekler.gov.tr/tr/AnasayfaLinkler/organ-uye-cinsiyet.aspx> (This information is accessed in May 2016 and the link may provide up to date data).

111 <https://www.dernekler.gov.tr/tr/AnasayfaLinkler/dernek-uye-sayilarinin-turkiye-nufusu.aspx> (This information is accessed in May 2016 and the link may provide up to date data).

112 <https://www.dernekler.gov.tr/tr/AnasayfaLinkler/derneklerin-yillara-gore-uye.aspx> (This information is accessed in May 2016 and the link may provide up to date data).

The number of new foundations having either individuals or entities as members was 3.097 in 2015 and the membership structure is 1.138.319 of individuals and 31.323 entities.¹¹³

Types of Activity

The activity types of CSOs differ. According to data provided by the Department of Associations, 30,73% of the associations in Turkey are occupational and solidarity associations whereas 18,81% of associations are sports associations and 16,33% deliver religious services. 5,75% of associations are humanitarian aid associations; 5,73% are education and research associations and 5,12% of the associations focus on culture, art and tourism issues. According to this data, more than 65% of associations in Turkey concentrate on solidarity, social services and service delivery activities. The number of rights based associations (1.681) is relatively low.¹¹⁴ The detailed table shows the working area of associations by May 2016:

| Area of Focus | Percentage/ Number of associations compared to all associations |
|---|--|
| Professional solidarity | 30,73% - 33.694 |
| Sport related associations | 18,82% - 20.632 |
| Religious association | 16,34% - 17.918 |
| Humanitarian aid | 5,74% - 6.295 |
| Training and research | 5,72% - 6.275 |
| Culture, art, tourism | 5,12% - 5.617 |
| Individual doctrine and social development | 2,36% - 2.584 |
| Health | 2,29% -2.514 |
| Environment, protecting animals and wildlife | 2,06% - 2.253 |
| Social Values | 1,75% - 1.920 |
| Reconstruction, urbanism, development | 1,60% - 1.757 |
| Rights based | 1,53% - 1.677 |
| Disability | 1,30% - 1.423 |
| Supporting public institutions and staff | 1,14% - 1.254 |
| Doctrine Based Associations | 1,08% - 1.186 |
| International organization and | 0,61% - 673 |

113 <http://www.vgm.gov.tr/db/dosyalar/webicerik205.pdf> (This information is accessed in May 2016 and the link may provide up to date data).

114 <https://www.dernekler.gov.tr/tr/AnasayfaLinkler/derneklerin-faaliyet-alanina-gore.aspx>

| | |
|---|-------------|
| collaboration | |
| Food, agriculture, farming | 0,61% - 673 |
| Solidarity with abroad Turkish Communities | 0,57% - 623 |
| Elderly and children | 0,30% - 331 |
| Martyr and veteran | 0,29% - 314 |
| Children | 0,01% - 16 |

Foundations show a similar pattern in terms of types of activity. According to the data of the General Directorate of Foundations as of December 31, 2014, 13.628 activities reported by foundations are in social aid and development (42,8%) issues. Reported activities on education and culture (38,9%) are also high. Only 4,55% of the foundation activities in 2014 focus on rights based areas and environment (GDF, 2014).¹¹⁵

Human Resources

According to TACSO 2015 Survey, 66% of respondent CSOs have already developed or were developing their human resources plan and over 70% of respondents said they have plans for attracting new employees and keeping the talented ones.

Associations those implement simple accounting reported their annual spending for 2014 as 4.423.843.736,59 TL where the staff costs were equal to 319.044.036,26 TL; the staff costs in general spending is 7,211%. Associations implementing balance sheet account reported their annual spending in 2014 as 5.415.685.783,70 TL where the staff Costs were 1.109.051.701,75 TL; the staff costs in general spending is 20,478%.

There are accurate data on the number of full-time employees in CSO. For associations, the number of employees reported in 2014 was 35.581 and for the new foundations number of employees in 2014 was 16.773, totalling to 52.354 employees reported. Segregated data for foundations is not available. In 2014, 4185 part-time employees were reported in associations.

Based on the annual declarations of CSOs; the number of volunteers for associations and new foundations are available. Associations had 14.954 volunteers (2014) and new foundations had 1.021.801 volunteers (2014), totalling to 1.036.755.

DoA made 2015 figures available by May 2016 as following¹¹⁶:

| Associations | 2014 | 2015 |
|---------------------------|-------------|-------------|
| Full-time employee | 35.344 | 37.629 |

¹¹⁵ <http://www.vgm.gov.tr/db/dosyalar/webicerik199.pdf> and <https://www.dernekler.gov.tr/tr/AnasayfaLinkler/calisan-sayisi.aspx> (This information is accessed in May 2016 and the links may provide up to date data).

¹¹⁶ <https://www.dernekler.gov.tr/tr/AnasayfaLinkler/calisan-sayisi.aspx>, by 27 May 2016 (This information is accessed in May 2016 and the link may provide up to date data).

| | | |
|----------------------|--------|--------|
| Part-time | 4.151 | 3.754 |
| Project based | 9.960 | 8.816 |
| Volunteers | 14.931 | 14.265 |
| Paid | 34.524 | 35.934 |

Total number of volunteers in associations for 2015 is 14.265. In 2015, new foundations declared that they had 1.021.681 volunteers. There is a decrease in the number of volunteers in CSOs. Number of volunteers in associations decreased in 2015. The number has dropped by 167 persons for new foundations (Data declared by DGoF July 2016).

According to interviewees, while the number of CSOs with 10 employees or more is very low, all CSOs adapting human resource development planning as a progress indicator would not be realistic. Despite this, it is believed that only one to two percent of CSOs have human resource development planning, these are part of an umbrella organization with a strong capital and working on certain issues in metropolises or having sufficient human resources.

Technological Skills

Number of users of DERBIS online database for associations has increased significantly in the last five years. In 2013 number of DERBIS users was 56.456, by 2016 the number of DERBIS users increased to 166.805. This can be interpreted as an indication of increased IT literacy for associations.¹¹⁷

According to TACSO 2015 survey; interviewed CSOs possess below facilities:

| | |
|---|------|
| Business premises, office - ownership of organization | 77.4 |
| Computers | 01.9 |
| Access to Internet | 04.3 |
| Telephone connection | 05.8 |
| Web page (Internet address - organization's website) | 12.0 |
| Facebook page (social media) | 14.9 |
| Official car | 85.6 |

According to the declarations of associations shared by DoA, below are the numbers of associations that declared to have a web page:

| Year | #of Associations that have web page |
|-------------|--|
|-------------|--|

117 <https://www.dernekler.gov.tr/tr/AnasayfaLinkler/dernekler-bilgi-sistemi-kullanici.aspx>

| | |
|-------------|--------|
| 2013 | 11.071 |
| 2014 | 12.763 |
| 2015 | 13.641 |

Governance

According to TACSO 2015 Survey when the CSO representatives were asked about the management of the civil society organizations in their country and how the decision making in the CSOs is done, 88.9% consider that in majority of cases decision making is in compliance with prescribed rules and procedures of the CSOs and 11.1% believe otherwise. 63.8% believe in majority of cases that the decisions are made by the key individuals in CSOs while 2% believe the decisions are made by the key management. Only 11.5% believe that decisions are made together with the key management and staff.

Among interviewed CSOs, 79% positively answered when asked if their organization has any internal act prescribing a defined obligation to inform the members, or Managerial or Supervisory Board, customers or general public about the results of their work while 20.7% responded negatively. It should be noted that legal obligations require associations and foundations to have regular general assembly meetings with its members where the Board members declare activity and financial report audited by supervisory board. Thus, when CSO interviewees were asked if they were informing their members about their work, 96.6% responded positively. When asked the same about the beneficiaries of the organisation 85.1% responded positively and when asked about general public 76.4% responded positively. Only around 73% of CSOs participated in survey declared that they had an internal code of conduct of organisation, a rulebook as the question states while 11.1% said that they did not have such document.

According to TACSO 2015 Survey results; over 90% of respondents declared they informed managerial board, assembly, and supervisory board on their activities. Despite survey results, a huge need for capacity development on transparency, accountability and good governance in Turkey is deemed essential by experts, reflecting the fact that the EU IPA funds are extensively used for building capacity in this regard.

According to in-depth interviews:

- Interviewees do not have clear information regarding number of the civil society organizations publishing their internal documents. Regarding publishing of financial accounts and annual reports, obligations are different based on method of account keeping. Existing regulations enable public access to the CSOs statutes, activity reports and financial reports.
- The representatives of CSOs express that the ideal thing in this respect is to publish all mentioned documents by CSOs for ensuring transparency. However, it is observed that such transparency would cause negative consequences for organizations in terms of violation of freedoms.

Monitoring and Evaluation (M&E) Capacities of CSOs

General data on the monitoring and evaluation capacities of CSOs do not exist. However, it is possible to argue that, CSOs in Turkey implement M&E activities on a project basis more often than on institutional basis.

When asked about the systems for assessing efficiency, CSO survey interviewees responded that 88.2% have a system for implementation of the projects, 84.7% for strategic plan of organisation and 80% have a staff performance appraisal. The perception of interviewees is not in line with findings of previous researches in Turkey nor the experiences of several capacity building initiatives, thus it should be interpreted that CSOs believe provided terminology refers to common tools or general concepts. When asked about how they initiate evaluating their efficiency; CSOs responded as below:

| | |
|---|------|
| Implementation of conducted projects | 45.9 |
| Implementation of organization's strategic plan | 34.7 |
| Staff performance appraisal | 37.6 |

According to the in-depth interviews, there are scarcely any CSOs those have an established system for efficiency assessment, and it is determined that efficiency assessment concept has become familiar by Turkish civil society as a result of studies conducted with EU. The CSOs which have sufficient self-funding, institutionalized and unitized structure have an established system for evaluation of efficiency. It is also indicated that the number of CSOs having a strategic plan and making performance appraisal is rather low.

Strategic and Analytical Capacities of CSOs in Turkey

Accordingly, in TACSO 2015 survey, when asked about the sources of information they deploy, participating 208 CSOs from Turkey responded as below:

| | |
|--|------|
| Official data of national statistical offices, ministries... | 42.3 |
| Domestic CSOs | 44.7 |
| Studies conducted by CSOs | 74.0 |
| International institutions | 14.9 |

| | |
|--|------|
| such as the World Bank, UN agencies | |
| International CSOs (Civicus, Oxfam, ICNL, Frontline, etc.) | 21.2 |
| Academic studies | 34.6 |
| Studies commissioned by CSOs | 12.0 |
| Other | 1.9 |

When asked if their organization is active in the area of public advocacy and how frequently they use analysis and/or research results for advocacy activities, 33% responded always or frequently while 22.6% responded “rarely” or “never”.

According to the in-depth interviews, while the share of CSOs active in the area of public advocacy is estimated as 5%, it is thought that this activeness depends on content of public advocacy issues. Activeness of CSOs does not mean they are always effective. It is defended that while effectiveness of organizations which are politically opponent is prevented, effectiveness of organizations which are close to the political authority is increased. Use of argumentation and analysis is effective in terms of both policy development and enhancing legitimacy of civil society, and also increase possibility of success of CSOs.

Relationships with Other Actors – Networking and Partnerships

Although Article 2 of the Law on Associations asserts that associations can form temporary unions with each other or with foundations, unions and similar CSOs to achieve a common goal by adopting names such as initiative, movement, etc. These unions have no legal personality. That said, having no legal personality, platforms are not accorded the safeguards availed to federations and confederations, which stands out as a shortcoming. Other than associations and foundations, the only organizations that are exceptions and recognized as legal entities by law are federations and confederations which can only be established by at least three or five CSOs for the implementation of the same objective. However, restrictions to form a federation or confederation, such as same founding objective and relatively high minimum number of CSOs to be gathered discourage CSOs to establish them.

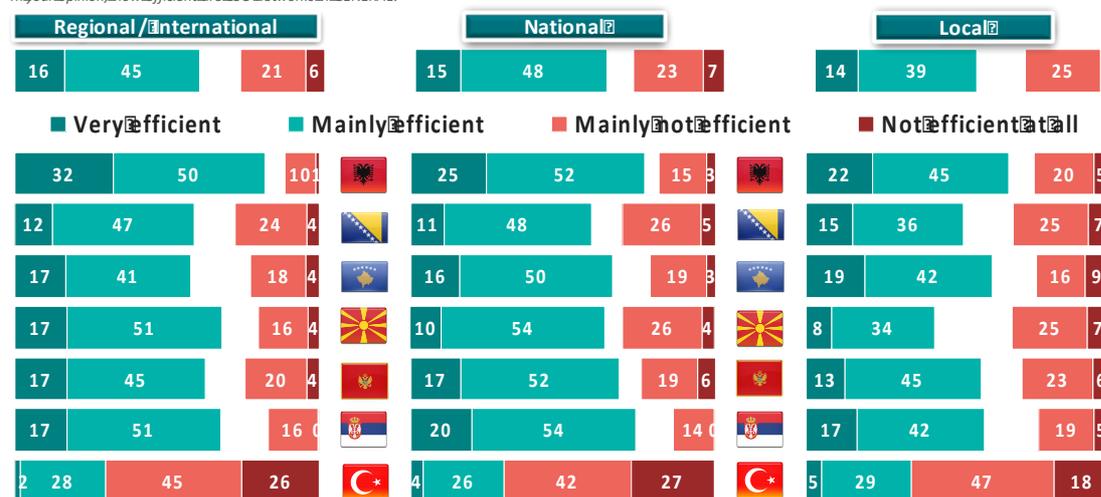
The CSO representatives participating in the focus groups and in the in-depth interviews reported that CSOs are becoming more aware on the importance of networking and partnerships and their ability to work together is rapidly developing. The increase in the number and visibility of initiatives and platforms can be used as an example to show this growing trend.

According to the TACSO 2015 research, respondents from Turkey consider efficiency of networking in the sector as below:

Effectiveness of CSO networks

Ipsos Public Affairs

In your opinion, how efficient are CSO networks in GENERAL?



56

Base: Total target population

GAME CHANGERS



16,417 associations are members of federations or confederations. 1,159 associations were members of platforms in 2014. There were 2,084 active CSO networks in Turkey according to the DoA data from 2014.

The data provided by the DoA for TACSO NAR indicates that 15,737 associations were member of federations or confederations in 2015. There were 1,786 platforms in 2015 and 1,242 associations were members of platforms.

According to the in-depth interviews, even though it is known that there are CSOs which are members of international and national networks, both representatives of CSOs and of public institutions do not have any numeric data regarding number of civil society organizations in such networks. Interviewees express that taking part in networks is rather important in terms of developing culture of information exchange and performing tasks jointly. However, it is indicated that situations requiring mobilization and foreign language in taking part in international networks constitute a problem for most of CSOs except for large CSOs located in big and central cities.

As universality concept is at the forefront in international networks, a more effective ground beyond producing daily policies can be found. The CSOs attach importance to take part in international networks in terms of showing the existing situation in Turkey and providing lobbying capacity. Additionally, it is expressed that such participation is also important in terms of transfer of international experience and universal concepts to CSOs in Turkey. Interviewees indicate that structures like federations and confederations established especially in limited and thematic areas such as fellow countrymen and business people are effective in national networks. Regarding emotional aspects, activists become familiar with people with similar experiences through these networks and according to representatives of CSOs, this instils power, confidence and morale to people working in this area.

Despite all their advantageous features, representatives of CSOs also have concerns regarding networks. It is expressed that opportunity for effective and equal participation should be ensured for all CSOs taking part in networks without causing hierarchic relationships and organizations having stronger labour force and economic funding should be prevented from becoming more effective within the network. In addition, there are also concerns that becoming member of numerous networks by CSOs having limited number of employees will cause conversion of task of those employees to just representation and will cause bureaucracy within them. Within this framework, taking part in networks requires new human resources for CSOs. Another concern is the lifetime of networks other than federations, confederations and platforms in terms of sustainability and ensuring effectiveness.

Material and Financial Stability, Resilience and Organisational Sustainability

According to 2015 TACSO research findings, 62% of organisations claim that they stick to the strategic plan when fundraising for their organisations, while 27% of them stated that they mainly stick to the organisation's mission. Nevertheless, they believe that 51% of CSOs stick to the organisation's strategic plan when fundraising for their organisation, 37% stick to the organisation mission, and 12% of CSOs believe that CSOs mainly adapt to the donors' priority. 50% of CSOs those have strategic plans acquire funds in accordance

According to official data provided by the DoA for associations in 2015, the total income of associations was 9.955.897.834. No public information was available on sources of income.

New foundations 2015 data for annual income: 18.737.000 TL/5.854.375 EUR and annual spending: 7.447.000 TL/ 2.327.187 EUR (EUR/TRY=3.2).

Sources of income for new foundations in 2015:

| <i>Source of Income</i> | <i>TL</i> | <i>EUR (3 TL/EUR)</i> |
|--|------------------|-----------------------|
| <i>Member Fees</i> | <i>3.437.000</i> | <i>1.145.000</i> |
| <i>Support from Foreign Institutions</i> | <i>213.000</i> | <i>71.000</i> |
| <i>Support from Public Institutions</i> | <i>3.116.000</i> | <i>11.038.666</i> |
| <i>Donations</i> | <i>5.385.000</i> | <i>1.795.000</i> |
| <i>Commercial Enterprise Income</i> | <i>173.000</i> | <i>57.666</i> |
| <i>Financial Income</i> | <i>2.541.000</i> | <i>847.000</i> |
| <i>Other income</i> | <i>3.419.000</i> | <i>1.139.666</i> |

According to in-depth interviews, interviewees' estimate, with an optimistic approach, the number of CSOs having a strategic plan in Turkey as around 5%. While representatives of CSOs have a critical approach regarding strategic plan in general, representatives of public institutions express that the main subject of this issue is associations, not foundations. Because it is stated that developing strategic plans is a

practice aimed at enhancing capacity of associations; foundations generally have financial power to enhance their capacity. It is determined that having a strategic plan is reflected at the civil society as a prerequisite for benefiting from international funding. The representatives of CSOs have brought three criticisms to strategic plan and development of it. The first one is that things written in the strategic plan should already be included in the statute as activities and missions. Second criticism is that it is not realistic to implement such strategies developed for a long term in countries like Turkey where agenda changes rapidly and it is thought that these will not meet the needs. And as final criticism, it is expressed that structure of civil society in Turkey is reactive against developments and strategic planning of civil society's reaction without observing such developments does not fit in with the reality of civil society of the country.

It is said that the CSOs having the internal capacity for making strategic planning are mainly supported CSOs, and therefore they can find funds suitable for the strategic plan. Other CSOs developing strategic plans are the ones making such planning as a prerequisite for benefiting from international funding, and by this way they solve their funding problem. Another point criticized by interviewees is the fact that strategic plans made for benefiting from international funding are prepared rapidly from statutes of CSOs and for show only. The CSOs other than abovementioned ones have funding problems as they don't have the capacity for strategic planning. Interviewees think that having a strategic plan does not make any contribution to increase civil society capacity, as agenda of Turkey changes rapidly and the culture of developing strategic plans by civil society in Turkey is not based on a solid foundation. Therefore, it should not be used as a criterion.

Also, in-depth interviews revealed the outlook on donor dependency for CSOs in Turkey. Even though there is data available by the General Directorate of Foundations and the Directorate of Associations regarding civil society organizations' sources of income and their distribution based on CSOs declarations, it is not possible to access cumulative data which is sum of the data from two institutions. Representatives of CSOs express that lack of cumulative data cause lack of transparency, accountability and more importantly, lack of risk management plan.

Civil society organizations' sources of income are diversified as donations, subscription fees, financial income such as interest yield, real estate, rents, if any, funds from public funding and/or international funding and revenues from commercial enterprises, if any. Diversity of income is considered significant by both representatives of the CSOs and of the public institutions in terms of ensuring CSOs' sustainability. The greatest threat in terms of CSOs' for financial stability is becoming dependent on funds. In case of interruption of such funding, this may result with inability of CSOs to perform their work and even closure of CSOs. "When CSOs routinely benefit from public funding and international funding for a long time, developing capacity for self-funding will take a back seat." Diversity of CSOs' sources of income is considered as an important aspect by representatives of CSOs in terms of independence of the organization. All interviewees think that as CSOs get stronger in terms of free donations, they will have greater capacity for working independently. Although benefiting from international, national and private corporate funding is important, this causes development of projects complying with the framework requested by the funder, and therefore a limiting effect on CSO activities.

Clear Needs of Smaller CSOs Based in Provincial Areas

Registration of grassroots organisations is mandatory. Unregistered organizations cannot freely operate or receive financial support. The legal framework does not necessarily promote unregistered or legally unrecognized informal CSOs such as groups, initiatives or networks. Such absence of promotion does not necessarily target the conduct or the activity of civic initiative as ordinary citizens, but it excludes them from applying for funds and legitimate claim for participation in public policy making. Along with associations and foundations, platforms¹¹⁸ are also recognized by the law but not accepted as legal entities. Thereby, no collective groups other than registered associations and foundations are recognized to pursue any legal purpose (e.g. having a bank account, applying for funds, taking legal action). Although not given recognition by the State within the legal framework, these various forms of organizations are also an important part of civil society in Turkey. Grassroots organizations are also affected by the gaps and improvements in legal framework on enabling environment would also benefit grassroots organisations.

TACSO Turkey Resource Centre STGM held four workshops with 123 CSO representatives between May and June 2016 for updating needs assessment of local CSOs with the main aim of improving and promoting CSO Help Desk services. The overall findings of these meetings are summarised below:

¹¹⁸ A platform is defined by law as “interim societies formed by associations themselves or with the foundations, unions and similar other civil organizations under the title venture, movement or any other similar name to realize a common objective”.

| Discussion Category | Problems about Local CSOs' Capacity | Needs on Capacity Development |
|-------------------------------------|--|---|
| Visibility and Communication | <ul style="list-style-type: none"> • Mainstream media is almost closed to CSOs; • CSOs in general do not have capacity to produce qualified news; • Relations with media are personal and established on an ad hoc basis, not institutional; • Many CSOs do not have official web site; • CSOs in general are not capable of using social media effectively; and • Media generally uses a discriminative language. | <ul style="list-style-type: none"> • Improved capacity to produce qualified news; • On-line trainings; • Civil society sections in newspapers; • Editorial support from STGM; • Capacity development to use social media effectively; • Web site for all CSOs; and • Meetings with media. |
| Fund raising | <ul style="list-style-type: none"> • When delivering grants, Development Agencies set financial capacity as an eligibility criteria, which in turn eliminates right based CSOs, and prioritise chambers in the selection process; • CSOs don't have co-financing capacity; • Getting permission for the collection of aid is very hard; • CSOs have problems on collecting membership fees and donations; • Municipalities and private sector do not support civil society in principle; • In general, there is a perception that public funds are distributed discriminatively; • CSOs do not have enough capacity to establish and manage | <ul style="list-style-type: none"> • Improved capacity for fundraising; • Minimum operational budget for all CSOs for sustainability (from municipalities); • Project development and implementation trainings; • Translation supports particularly in terms of project management terminology; and • Improved stakeholder management and public relations capacities. |

| | | |
|---|--|---|
| | <p>commercial enterprise; and</p> <ul style="list-style-type: none"> • Cooperative regulations are very difficult to follow and budernsome. | |
| <p>Human resources and Internal Governance</p> | <ul style="list-style-type: none"> • Limited staff due to the lack of resources; • Voluntarily working and staff turnover prevent institutional sustainability; and • Deficit in terms of internal democracy and transparency (permanent chairman/woman) | <ul style="list-style-type: none"> • More professional staff; • More transparency and accountability in terms of internal management structures; • English speaking staff; • Organizational strategy to improve internal communication and empower relations between members and volunteers; • Improved capacity for volunteer management and increased number of volunteers; and • Established and clear standards on voluntarism |
| <p>Difficulties in Public - CSO Relations</p> | <ul style="list-style-type: none"> • For CSOs, access to information in general is difficult. In various cases, no real response can be obtained; • Legislative drafting is not open to CSOs; • Public and CSOs relations are not held in an impartial manner. Some CSOs suffer from the alienation problem; • Public staff are not competent on civil society issues; • Public is disconnected from civil society; • Public institutions are not inclusive in general; • Problems between public institutions and municipalities negatively affect CSOs; • CSOs perceive that there is a transparency problem in the distribution of public funds; • Public bureaucracy and hierarchy prolong the processes of dialogue and cooperation; | <ul style="list-style-type: none"> • Regular info meeting with public sector; • Staff competent on legal issues; • Assembly channel should broadcast 7/24; • There should be regular MP - CSO meetings; • E-info system should be effective, transparent and impartial; • The classification and conceptualization of CSOs should be revisited - Bars, associations and chambers should be categorized differently for a better treatment; • Public funds should be transparent and impartial; • CSOs' monitoring capacity should be improved; • There should be civil society offices in governorships and municipalities functioning with the principles of impartiality and transparency; |

| | | |
|---|---|--|
| | <ul style="list-style-type: none"> • Rapid changing of public staff prevents sustainability; and • Auditing practices have no standard, there are discretionary implementation gaps | <ul style="list-style-type: none"> • Civil participation should be improved and facilitated; thematic-based participation should be enabled; • Public should recognize and promote CSOs accumulated knowledge and practical experience on their specific thematic issues; • CSOs' advocacy and lobbying capacities should be improved; and • Public bodies responsible for auditing of CSOs should operate in a coordinated manner. All procedures should be standardized. |
| <p>Difficulties and problems about legislation regarding CSOs</p> | <ul style="list-style-type: none"> • Working with Directorate of Associations is difficult because there is a lack of standardization in terms of implementation at the local level; • Heavy tax regulations on cooperatives may force some of CSOs to close down; • There are also differences in terms of tax practice and related sanctions, they may be operated discriminatively and arbitrarily at local level; • Directorate of Associations is affiliated to the Ministry of Interior, to which the police force is also affiliated; • CSOs have limited knowledge on laws and regulations; • Managing conflict of interest issues in terms of good governance; • Using Kurdish words in organization's names in may create problems; • Regulation on the collection of aid is not supportive in terms of | <ul style="list-style-type: none"> • Improved knowledge on financial regulations; • Better tracking changes in legislation; • The Directorate of Associations should provide technical assistance, organize regular info meetings on the implementation of regulations; • The Law of Associations should be revised in a participatory manner; • The Directorate of Associations should operate in a more cooperative manner, sanctions should be minimized; • Audits of CSOs should be implemented in a more standardized manner; • Bureaucracy should be minimized; and • Organizations without legal status should be officially recognized and regarded as civil society actors. |

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| | <p>enabling environment;</p> <ul style="list-style-type: none"> • Public benefit status has limitations and the selection process is regarded as problematic; and • There is no framework regulation defining voluntarism in civil society. | |
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3. CONCLUSION

3.1.1 Major Issues regarding the Civil Society Environment

There's a very critical need to support the civil society to advocate for extending the space for its actions in public sphere in order to play its key role in a participatory pluralistic society as observed by international organisations and CSOs via monitoring reports. Yet, critical pressures and growing security concerns and discourse in Turkey create a shrinking interpretation of fundamental rights and freedoms as well as space for civil society. Considering the civil society's potential contributions for keeping governments accountable, asking for transparency and mobilising citizens' requests to political discourse, it is essential to support advocacy and civil monitoring activities of CSOs to contribute the efforts to overcome the current challenges.

There is a clear need to transform the dynamics of dialogue and cooperation between the CSOs and the public institutions. The relations between these two stakeholders should be taken into consideration with a coordinated approach that is based on non-hierarchical and egalitarian manner. Public institutions should be accepting civil society as an indispensable stakeholder and should be realizing a legal transformation which would enable CSOs' participation in public activities and programmes at all levels.

Participatory development and adoption of an overall civil society development strategy; multiannual working programs; multi sectoral cooperation mechanisms those bring diverse range of CSOs together with Public Administration appears as essential elements for civil society development in Turkey. Such elements remained absent since 2012 TACSO NAR for Turkey, along with other essential elements such as framework documents which mandate good conduct standards for consultations with CSOs and general public for policy development, for delivering public funding to CSOs, and mutually developed approaches for Code of Conduct related to Civil Society.

The CSOs expect that all sorts of activities to reform the legal framework should be in line with international and EU standards. Furthermore, there is also a need for activities and advocacy efforts to ensure that the public institutions act in line with duties and responsibilities laid down in the existing laws. In addition, there is also a need to increase awareness on what politics, policy and advocacy mean both in the public sector and among the CSOs, specifically at local level as well as civil society's indispensable role for a functioning participatory democracy.

It is positive that Public Administration recognises these issues as an important part of EU Accession plans and programs and the definition of Civil Society as sub sector in IPA II enables interventions to this end.

It is noteworthy to provide Monitoring Matrix Project's recommendations regarding enabling environment in Turkey, developed by Balkan Civil Society Development Network with contributions of TUSEV from Turkey¹¹⁹.

- The legal framework should be revised to include definitions of civil society and civil society organization, which acknowledge a variety of legal entities including foundations, associations as well as initiatives, social enterprises and grant-making foundations. Unregistered civil society activities should also be acknowledged in the legal framework.
- The legal framework regulating inspection of CSOs should be revised and limitations of state interference in internal affairs of CSOs should be clearly laid down. The rules for inspection and limits of authority of the state inspectors should be clearly defined in the legislation. Since the Penal Code already covers penal sanctioning, the punitive provisions in the Laws on Foundations and Associations should be removed.
- The Law and Regulations for Demonstrations and Meetings should be annulled completely and a new law should be drafted that would allow peaceful assemblies and demonstrations to be held in line with the European Convention on Human Rights and the European Court of Human Rights rulings.
- There should be a comprehensive re-examination of tax laws for supporting financial sustainability of CSOs. Turkey should adopt tax exemption practices that are compatible with EU countries. The Law on Collection of Aid should be amended in a way to exempt civil society fundraising activities from permission requirement.
- A principle law setting forth the process of public funding for CSOs should be adopted.
- The framework of the civil society-public sector cooperation, including provisions ensuring civil society participation in the legislation and formation of public institutions that would directly manage the relationship with civil society should be prepared in a participatory manner. Consultation with CSOs should be mandatory for all law-making processes.

3.1.2 Major Issues regarding the Capacities CSOs'

There's a clear need to improve financial regulations specifically related to fundraising of CSOs in Turkey in order to enable CSOs to fundraise accordingly with their plans and to move towards works for achieving their missions instead of struggling to survive financially.

¹¹⁹ <http://monitoringmatrix.net/m-m-reports-coded/turkey-2015/> , www.tusev.org

Due to the current context, it is essential to provide systematic, multiannual, comprehensive and diverse tools to support CSOs and civic initiatives to carry out their works to give voice to citizens, to claim their right to participate in policy and decision making, to monitor public policy and implementation and to hold government accountable on behalf of citizens.

An emerging trend shall be addressed to improve CSOs' access to citizens, general public and target groups via several interventions focusing on constitution building, communications, visibility and public relations.

To strengthen CSOs to participate in policy development and decision-making in the absence of facilitating framework for it, it is essential to provide CSOs with capacity building supports that includes interventions such as standard trainings to mentoring and facilitating peer to peer learning and tools (in kind and in cash) supports to facilitate their efforts in this regard.

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