

# Montenegro Needs Assessment Report



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# **Technical Assistance to the Civil Society Organisations in the IPA countries**

**TACSO**

**Technical Assistance to the Civil Society Organisations 2 (TACSO 2) from the  
IPA Beneficiaries;**

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## **MONTENEGRO NEEDS ASSESSMENT REPORT**

**Podgorica**

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# INTRODUCTION

This study is one of eight country assessments of civil society capacities conducted as a preliminary activity within the EC-funded project Technical Assistance to Civil Society (TACSO) in Western Balkans and Turkey (Technical Assistance to the Civil Society Organisations 2 (TACSO 2) from the IPA Beneficiaries; EuropeAid/133642/C/SER/Multi), implemented by SIPU International, during the period August 2013 – July 2017. The aim of the study is to provide a comprehensive assessment of civil society in Montenegro and the environment that it works in, including its strengths and weaknesses, and its impacts to date and the challenges it faces to its further development. The study is based upon a combination of desk research embracing all relevant documentation, including legal and financial legislation applicable to civil society, previous civil society analyses and evaluations, policy documents and country-specific academic literature, and a consultative stakeholder analysis carried out by means of focus groups, interviews and questionnaire surveys with civil society organisations (CSOs), government actors, donor organisations and other institutional players.

Survey with representatives of CSOs in this study was conducted using face-to-face methods, on a representative quota sample of CSOs in Montenegro. In other words, the research covered CSOs on the entire territory of Montenegro, both those having headquarters in urban areas and those having headquarters in rural areas. The realized sample of 229 CSOs included 52 percent of organisations having headquarters in the central part of Montenegro, 24 percent of those having headquarters in the northern part of Montenegro and 24 percent of those having headquarters on the coast.

The study is an integral part of the project and it provides the premise for the majority of other project activities by serving as the basis of the development of regional as well as national work plans to be implemented during the project duration.

In line with the project's Terms of Reference and SIPU's technical proposal, the study understands civil society in the following two complementary definitions:

1. All organisational structures whose members have objectives and responsibilities that are of general interest and who also act as mediators between the citizens and public authorities. This definition clearly emphasizes the associational character of civil society, while also accentuating its representational role. Civil society includes a variety of organisational types, such as NGOs, mass movements, cooperatives, professional associations, cultural and religious groups, trades unions and grassroots community groups, etc.
2. A space for views, policies and actions supportive of alternatives compared to those promoted by government and the private sector. This definition places the emphasis on social inclusion, social and political pluralism and the rights of expression in developing a participatory democracy.

The paper is composed of four sections:

- Section one provides an analysis of the civil society and its environment, including the legal framework governing CSOs and their work, the current donors and other sources of civil society funding, the government mechanisms for cooperation with and support of civil society and the policy framework determining government-civil society relations and public perceptions and support for civil society and its activities.
- Section two gives an overview of the main characteristics of civil society: the types of organisations represented and their key organisational characteristics, the types of activities they carry out and their main fields of action, their geographical distribution and the position they have within the civil society. CSOs are assessed according to their technical, organisational and institutional ca-

capacities, including human resources and technical skills, strategic strengths, analytical capabilities, relations with other actors including other CSOs, Government and the community, and material and financial stability and resilience.

- Section three summarizes the most important institutional and organisational needs of capacity building of CSOs in the country and also identifies key strategic issues for the implementation of the project. By way of conclusion, recommendations are made for both the project's regional work plan and country-specific work plan.

# 1. CIVIL SOCIETY AND ITS ENVIRONMENT

## 1.1 CONTEXT

### 1.1.1 Reforms and Changes in the Institutional Framework since 2011

Council for Cooperation between Government and NGOs became fully operational in early 2011. The Council represents an advisory body to the Government and it consists of 13 representatives of the Ministries and 12 representatives of NGOs. The new Law on NGOs has given new competences to the Council, so it “proposes priority areas of public interest in the amount of funds for financing programmes and projects financed from the budget”, “considers the report on the implementation of projects and programmes financed” and “engages external auditors to control designated use of funds allocated to NGOs”.

The legal framework relevant to CSOs has also undergone significant changes. New Law on NGOs was adopted in July 2011. The full effect was completed in August 2012, until when was the deadline for harmonization of internal acts of NGOs with the Law.

Regulation on the Manner and Procedure for Cooperation between State Administration Bodies and NGOs was adopted and it entered into force in February 2012.

Regulation on the Manner and Procedure for Conducting Public Discussion entered into force in February 2012.

The Law on Representativeness of Trade Unions was adopted in May 2010 and its amendments in August 2013.

Proposed amendments to the Law on Social Council were determined by the Government in November 2013.

The Law on Volunteerism was adopted in April 2010 and amendments in 2012.

Regulation on the Criteria for Determining the Beneficiaries and Manner of Distribution of the Revenues from Games of Chance was adopted in August 2011.

Councils for Cooperation with NGOs were established in some municipalities at the level of local self-governments.

Seven local self-governments adopted acts in accordance with the new improved models of the decisions on participation of citizens, financing of NGOs; Assembly Rules of Procedure.

### 1.1.2 Planned Reforms (Decisions to be implemented or New Initiatives)

Adoption of the Strategy and Action Plan for the development of the NGO sector for the period 2014-2016

Adoption of the Law on Games of Chance, which will be harmonized with the Law on NGOs

Adoption of secondary legislation for the implementation of the Law on NGOs - regulations on determining the composition, selection criteria and procedure for nominating committee members for the allocation of funds and detailed criteria for evaluation of projects and programmes of NGOs in the process of allocation of budget resources

Possible reorganisation of activities of state administration in connection with NGOs through assignment of competences to one state administration body

Adoption of amendments to the Law on Volunteer Work

Adoption of policy and/or regulations in the field of social entrepreneurship  
Adoption of acts at local self-government level in accordance with models of acts:  
Agreement on Cooperation between Assembly and Non-Governmental Organisations  
Decision on the Council for Cooperation with NGOs  
Decision on the Manner and Procedure for Citizen Participation in Conducting of Affairs at the local level  
Decision on Criteria, Manner and Procedure for Distribution of Funds to Non-Governmental Organisations  
Amendment of legal regulations for the purpose of creating an obligation of maintaining official records and statistics on CSOs

## **1.2 LEGAL FRAMEWORK – ANALYSIS OF RELEVANT LAWS AND FINANCIAL REGULATIONS**

The legal framework in Montenegro defines NGOs as non-governmental associations and non-governmental foundations, both regulated under a single unified law, while, on the other hand, trade unions are regulated under Rules for Registering of Trade Unions and Law on Representativeness of Trade Unions. Generally speaking, CSOs are furnished with the freedoms and legal guarantees necessary to carry out their work without hindrance of political or institutional interference. This includes operation free from state control or obstruction and protection from the threat of dissolution for political or other arbitrary reasons. Formally, CSOs benefit from a range of tax exemptions regarding their activities and tax concessions offered to their potential supporters. In practice, CSOs are unable to take advantage of these measures owing to limitations in their scope, lack of available information regarding tax regulations and high levels of bureaucracy in the tax system.

### **1.2.1 Law on NGOs**

The new Law on NGOs<sup>1</sup> was adopted at the end of July 2011, and it entered into force by mid-August of the same year. Adoption of the law was preceded by a high-quality public discussion, participation of NGOs in the working group tasked with drafting of the Law and consultations with interested NGOs. The Law specifically defines two forms of non-governmental organisations: non-governmental association and non-governmental foundation.

Non-governmental association is a voluntary, not-for-profit membership organisation established by natural persons or legal entities, domestic or foreign, to accomplish certain joint or common goals and interests.

Non-governmental foundation is a voluntary, not-for-profit organisation without members, established by natural persons or legal entities, domestic or foreign, with or without initial assets, to accomplish common goals and interests.

Foreign NGO may operate on the territory of Montenegro in order to achieve goals and interests which are not prohibited by the Constitution and the law. Foreign NGO, according to this law, is a NGO with attributes of legal entity, based in another country, and which has been established under the laws of that country in order to achieve some common or general goals and interests.

Minimal number of founders of the association is now three, instead of five. The right of association is explicitly given to minors over 14 years of age in accordance with existing legal restrictions. The new law stipulates that only one of the founders (natural persons or legal entities) needs to have domicile, residence or seat of office in Montenegro (instead of all the founders). Minimum elements which

<sup>1</sup> Official Gazette of Montenegro No. 59/11

founding documents should contain are prescribed, without interfering with the manner in which organisations develop and regulate their internal relations and thus respecting both their private and legal nature as well as the required contents of the will, in case that the foundation is established by a will. Also, a clear obligation to keep records of members of the association is introduced, which is important for proving membership in NGO, quorum and decisions of the Assembly and other issues, while the manner of record keeping is determined by NGO itself.

### **1.2.2 Legal Framework for Functioning of Trade Unions**

According to Labour Law<sup>2</sup> and Rulebook on Registration of Trade Unions<sup>3</sup> and Rulebook on Registration of Representative Trade Unions<sup>4</sup>, trade organisations are registered in Trade Union Register and Register of Representative Trade Unions kept at the Ministry of Labour and Social Welfare of Montenegro. The latest data from the Ministry of Labour and Social Welfare show that there have been 1,609 trade organisations registered as of 11th January 2013 (which is unrealistic since most of the trade unions that have been registered during the 90s do not exist in practice), while as of 6th December 2012 there have been 458 representative trade organisations entered in the Register of Representative Trade Unions. The pluralism of representative trade union organisations in Montenegro evolved in mid-2007, with the division of the only trade union alliance at the national level that existed by that time Confederation of Trade Unions of Montenegro (SSCG). At the end of 2008, a number of trade unions created a new trade union alliance at the national level Union of Free Trade Unions of Montenegro (USSCG). Law on Representativeness of Trade Unions was adopted in May 2010. Both national trade union organisations (USSCG and SSCG) proved representativeness at the national level, reaching the high census of 10 percent of overall number of employees in Montenegro. Pursuant to the Law on Representativeness of Trade Unions, all trade unions that have proven their representativeness (at the collective, branch and national level) have the right to participate in social dialogue and collective negotiations. Key body where institutional tripartite dialogue is conducted is Social Council, whose work is regulated pursuant to the Law on Social Council<sup>5</sup>, and which has 33 members (11 members on behalf of trade unions, 11 members on behalf of employers and 11 members on behalf of the Government). Out of 11 trade union members, six are nominated by SSCG and five by USSCG. Beside the fact that the representativeness has been proven in 2010, USSCG still does not participate in all the bodies in which multipartite social dialogue is conducted. Therefore, the Law on Representativeness of Trade Unions has been amended and entered into force in August 2013, so it is expected that this irregularity will soon be corrected. One of the problems that burden the further development of trade unionism is the fact that the total trade union property created in the last 60 years, since the days of socialist realism, is used only by SSCG, while the new trade union (USSCG) is forced to rent premises.

### **1.2.3 Economic Activity of NGOs**

NGOs in Montenegro have the right to acquire part of revenues needed for their work by engaging in economic activities. The provisions of the Law specify that only economic activity of NGO is entered in the Central Register of the Commercial Court, rather than the organisation itself in order to avoid interpretations whether it needs to be registered as a company or established as a new legal entity or not.

NGOs need to cumulatively meet the following conditions in order to conduct economic activity: 1) economic activity must be determined by Articles of Association; 2) gained revenues must be used exclusively to finance the statutory goals of the organisation and on the territory of Montenegro; 3)

<sup>2</sup> Official Gazette of Montenegro No. 49/2008, 26/2009 and 59/2011, 88/2009, 26/2010

<sup>3</sup> Official Gazette of Montenegro No. 33/2010

<sup>4</sup> <http://www.sluzbenilist.me/PravniAktDetalji.aspx?tag=%7B75EB12FE-A6A0-42C9-B86A-9BE99B635261%7D>

<sup>5</sup> Official Gazette of Montenegro No. 16/ 2007 and 20/ 2011

economic activity must be conducted in line with the regulations governing the area within which the economic activity is conducted; 4) carrying out of the economic activity must be entered in the Central Register of the Commercial Court, which is done by entering the code and description of the activity, as stipulated by the regulations on classification of activities.

Provided that the income from economic activity in the current year does not exceed the prescribed limit of EUR 4.000,00, that is (more favorable option for NGO) that the income gained from the economic activity in that year does not exceed 20 percent of the total annual income in the previous year, NGO may continue to conduct the economic activity. Otherwise, the organisation must establish a separate company through which it will conduct the economic activity.

#### **1.2.4 Financial Support from the State in the Law on NGOs**

By the provisions that define the funding of NGOs, the public interest was first defined in the law through the establishment of a broad (21 areas) list of areas in which funding is provided for the following areas: "social and health care, poverty reduction, protection of persons with disabilities, social care for children and young people, help for the elderly, protection and promotion of human and minority rights, rule of law, development of civil society and volunteerism, the Euro-Atlantic and European integration of Montenegro, institutional and non-institutional education, science, art, culture, technical culture, environmental protection, agriculture and rural development, sustainable development, consumer protection, gender equality, fight against corruption and organised crime, fight against addiction, as well as other areas of public interest determined by special law".

For the first time, two types of support have been clearly defined, for projects and programmes. Projects are defined as "Projects, in terms of this Law, are a set of activities in areas ... which are implemented in a period not exceeding one year", and programmes as "Long-term development plan for the organisation and implementation of activities in areas ... in a period not exceeding three years". In this way, the door for the institutional support of NGOs has been opened.

The Government has repeatedly rejected requests made by NGOs to determine a percentage or percentage range of allocations from the budget of Montenegro for the NGOs.

The Law prescribes that "NGO that has received funds from the budget in any other way cannot be funded in accordance with this law". This provision is part of an overall plan to entirely centralize the financing of the projects of NGOs at the national level.

The Law prescribes an obligation for "all NGOs that accrue revenues higher than EUR 10,000.00 during the calendar year on all grounds, to publish their financial report on their Web site, ten days after it has been approved by the management body of that organisation". The general idea of this Article is to increase the transparency of financial operations of NGOs, which is very positive. However, this Article can be disputed in terms of implementation of Article 11 of the European Convention because it is binding for all organisations which meet the requirements, regardless of the nature and sources of income. Furthermore, it causes additional disproportional costs. According to our information, the ministry responsible for supervising of implementation of this law has not conducted inspection of the implementation of this provision of the law, and its application is weak and limited.

#### **1.2.5 Deductibility of Charitable Contributions**

Natural persons and legal entities may deduct up to 3.5 percent of the total (untaxed) income for expenditures for "health, educational, scientific, religious, cultural, sport, humanitarian and environmental purposes". Law on Corporate Income Tax and Law on Personal Income Tax stipulate narrowly defined and limited list of areas of public interest. These regulations have not covered a number of other areas, not even those that are otherwise recognized and protected as constitutional values (human and minority rights, the rule of law), or on whose importance in society there is a broad consensus (fight

against corruption, sustainable development). Definition of areas of public interest specified in these regulations is inconsistent with considerably broader list of areas of public interest in which NGOs operate, which is regulated by the Law on NGOs, and which is not limited. The difference between the tax and statutory regulations leads to a situation where there are two public policies when it comes to areas of public interest in which NGOs operate, depending on whether NGOs are funded directly by the state or through tax incentives. So for example, NGO operating in the field of human rights meets the general requirements prescribed to apply for financing from the budget, however, grant to such NGO by legal entities or natural persons does not represent recognized tax expenditure. There are no official statistics that show the degree of utilization of these benefits.

### **1.2.6 Value added tax**

CSOs are broadly speaking the subject to the same VAT regulations (payable at the standard rate of 19 percent as of 2013) as commercial enterprises, although CSOs do not have to register for VAT if their total annual income is less than the statutory limit of EUR 18,000.

Also, CSOs are exempted from VAT in key areas. Foreign grants and donations are not subject to VAT, nor are imported humanitarian goods. In addition, the law provides a broad exemption of VAT charges for all services provided by NGOs, unless there is a probability that the exemption would distort competition. Services "of public interest", which include educational, cultural, sporting and religious services, are also exempted from VAT.

### **1.2.7 Voluntarism**

The Labour Law prescribes that "an employer may contract an unemployed person for volunteer work, in accordance with specific law". The Law on Volunteerism was adopted on 22nd April 2010. Approach to regulation of volunteer work is the main problem of the Law, because it only regulates the manner and conditions of volunteer work as a form of free labour, instead of regulating volunteering as a way of civic participation and support of citizens and civil sector to community development. The Law does not stimulate volunteering, but prohibits and makes bureaucratic the manner of participation of citizens in volunteering, and therefore, instead of making efforts to strongly regulate all forms of volunteering and insistence on punishing the offenders, the Law should have the approach of affirming volunteerism. There are no affirmative measures in the Law (support of voluntary activities, support of structure that develops and promotes volunteerism, the coordination board whose establishment was foreseen by the conclusion of the Strategy for the Development of Volunteerism). The Law prohibits employed persons and minors less than 15 years of age to volunteer, even in cases when the action is organised by educational institution or if the activity serves to educate children. The state, i.e. Education Bureau has developed elective and mandatory content for primary and secondary education, which is called "Volunteer and Charity Work", which foresees volunteering in practice. Provisions of this Law greatly hinder the arrival of foreign volunteers, as they must have a residence permit or permission for housing. This law creates additional financial burdens and puts NGOs in even less favorable position (compulsory health insurance, residence permits for foreign volunteers). At the same time, labour inspection may without prior warning prohibit volunteering if a volunteer or organiser do not have necessary documentation (contract and insurance), but there is not a single mechanism to prevent potential abuse. The lawmakers have not adopted the accompanying secondary legislation in due time. The law prohibits the so-called corporate volunteering, even when it is organised outside of work and official premises of the company.

Action Plan for Section 23 provides for the activity "Development of a new Law on Volunteerism in order to create a stimulating framework for civic activism and sustainability of civil society organisations" in the course of 2014.

### **1.2.8 Labour Law framework for employment and working at a CSO**

The Labour Law does not recognize any advantages of employment and working in NGO sector. On the contrary, the Law imposes an obligation for creating employee contracts for unlimited period of time after two years of work, and in the case of involuntary termination of employment, the employer i.e. organisation has to settle severance pay in the amount of six gross salaries. Taking into consideration that CSOs are mainly financed through projects and that they do not have their own assets for this purpose, they are exposed to potential threats for further operation and functioning.

### **1.2.9 Social entrepreneurship**

Social entrepreneurship in the widest scope includes using of innovative practice in selling of goods and services on the market, for the purposes of providing income which is used for achieving general interests. This general interest is primarily related (but not limited) to employment of difficult to employ groups and social inclusion of marginalized social groups. On the other hand, social entrepreneurship includes a way of organising which has the following characteristics: 1) performs a certain social mission; 2) satisfies the needs of particularly sensitive social groups (for instance, people with disabilities, people difficult to employ, etc.); 3) operates in different statutory and legal ways; 4) significantly uses volunteer resources in its activities 5) has been established to accomplish some general purposes, or, if it has been established for profit gain, to re-invest profit in some general goals; 6) can be a recipient of assets from the budget.<sup>6</sup>

Individual examples of social entrepreneurship already exist in Montenegro (craft union: „Rukatnica“, which operated as a part of NGO SOS from Niksic; it dealt with tailor and hairdressing craft and employed women of Roma nationality; “Nova Sansa” from Herceg Novi, company for employment of people with disabilities, etc.) The importance of social entrepreneurship has been recognized by the government of Montenegro. In *National strategy for employment and human resources (2012-2015)* it is noted: that “the concept of social entrepreneurship, which has still not become fully active in Montenegro, can contribute to opening of alternative new work positions, especially for those who belong to the most vulnerable citizen groups (p. 31).

At the beginning of 2013 the Ministry of Labour and Social Care formed a workgroup for drafting of the Law on Social Entrepreneurship, with the technical support of TACSO project. A preliminary draft of the Law was done, whose enacting was planned for the II quartal of 2013 by the Government programme scheme, as well as enacting of the Strategy of social entrepreneurship with Action Plan. However, with the Government’s brief from the parliamentary sitting held on 24 May 2013 from the government programme scheme for 2013 and on the request of aforementioned ministry, obligations related to the drafting of Bill on social entrepreneurship and strategy of social entrepreneurship 2013-2016 were cancelled, together with the Action Plan for 2013.

## **1.3 DONORS AND FUNDING OPPORTUNITIES (NATIONAL AND INTERNATIONAL) TODAY AND AS PREDICTED IN THE FUTURE**

There is a limited number of funding sources available to CSOs in Montenegro, and the total amount of financial resources is insufficient, even when the small size of the country and the total number of active CSOs are taken into account.

The state is a significant source of funds, particularly in the area of service provision, as well as educational and humanitarian projects. Owing to a flawed allocation process, however, there is a question of whether public (budget) funds reach sustainable CSOs, and to which extent the public funds are

<sup>6</sup> Austrian Institute for SME Research: Study on Practices and Policies in the Social Enterprise Sector in Europe, Vienna, June 2007, p. 2.

effective in bringing projects to completion. Financing from public funds (budget) is the most important funding source for the majority of small CSOs in Montenegro.

CSOs working in the fields of human rights, advocacy, public policy, fight against corruption and monitoring of public institutions are almost entirely dependent on foreign funding. This group includes 30 most professional, well-established NGOs. Bilateral donor agencies which were most active in supporting civil society in the past scaled down their donations considerably or entirely suspended their programmes for Montenegro, leaving the EU as the most important funding source.

There are now rare funding opportunities for CSO capacity building and institutional support is provided by only a few big international private donors.

### **1.3.1 Governmental Funding Sources**

During the adoption of the Law on NGOs, Government and Parliament opted for the establishment of a Commission consisting of representatives of the Government and NGOs to decide on the allocation of funds for projects and programmes of NGOs. In accordance with this option, Government has committed the competent ministries to prepare amendments to specific laws (Law on Culture, Law on Minority Rights and Freedoms and Law on Games of Chance). While the Law on Culture was amended, the Proposal for Amendments to the Law on Games of Chance was withdrawn from the parliamentary procedure.

At the end of 2012, the Ministry of Finance formed two working groups for the development of the Regulation on the Establishment of the Composition, Selection Criteria and Procedure for the Nomination of Members of the Commission for the Allocation of Funds and the Regulation on Detailed Criteria for Evaluation of Projects and Programs of NGOs in the Procedure of Allocation of Budget Funds to finance these projects and programmes. Work on this legislation is still pending.

Total allocations for NGOs from the state budget are reduced from EUR four million in 2010 to 1.7 million in 2013. Seen as a percentage of the current budget of Montenegro, this reduction was concerningly reduced from 0.73 in 2010 to 0.24 percent in 2013.

### **1.3.2 Fund from Games of Chance**

Commission for allocation of revenues from games of chance distributes 60 percent of all annual revenues from games of chance, out of which 75 percent is foreseen for "plans and programmes of NGOs", which is why this is the most important source of public financing of CSOs.

The Commission has had available the funds determined by the annual Law on Budget. However, according to NGO data, these funds are significantly different compared to the exact amount of the legally established percentage allocated for the Commission and NGOs in accordance with the provisions of the Law on Games of Chance.

According available information, the funds under this legal basis allocated and planned by the Budget over the period 2008-2013, were less than the funds that had to be allocated on the basis of the Law on Games of Chance for EUR 4,743,390.38.

Regulation on the Criteria for Determining the Beneficiaries and Manner of Distribution of the Revenues from Games of Chance<sup>7</sup> in force as of August 2011, determines that out of the total available funds, 75 percent is distributed to plans and programmes of NGOs, 10 percent for media pluralism, and 15 percent for other NGOs and public institutions. It is foreseen that for the area of "social protection and humanitarian activities" 12 percent is set aside for "meeting the needs of persons with disabilities", 40 percent for culture and technical culture, 12 percent for non-institutional education and upbringing of children and young people, 10 percent for contribution to the fight against drugs and all other forms

7 Official Gazette of Montenegro, No. 42-11 from 15th August 2011

of addiction. Allocation of funds is done on the bases of four criteria which bear different number of points: public usefulness, i.e. public interest 30 percent, quality of the proposed plan and programme 30 percent, the capacity of the organisation to implement the plan and programme 25 percent and budget 15 percent.

The Regulation has enabled co-financing of EU supported projects in the amount of missing funds, i.e. up to 10 percent of the project value. In practice, a limited number of these projects directly implemented in one of the six areas provided for by Law are supported.

The Regulation stipulates criteria, sub-criteria, additional sub-criteria and a ranking list. Signing of separate contracts on financing is done. Monitoring of proper use of allocated funds is conducted by the Commission, and for the projects over EUR 30,000 a direct inspection in the organisation is envisaged. The Commission that decides on allocation consists of seven representatives of public administration bodies and seven representatives of NGOs (before there were only two NGO representatives), while the President of the Commission until recently was the Deputy Minister of Finance, and since November 2013, the President of the Commission is Deputy Minister of Labour and Social Welfare.

Since 2010, the Commission entirely publishes all supported projects on the Web site.

Several NGOs filed a complaint to the Administrative Court against the decisions of the Commission from 2010 and 2011, and the Court annulled the decisions on procedural grounds during 2012 and 2013 and ordered the Commission to explain the decisions in accordance with the Law on Administrative Procedure and regulations governing the work of the Commission.

In October 2013, the Commission adopted a new Rules of Procedure.<sup>8</sup>

During 2013, the first external (commercial) financial audit of selected projects funded by the Commission was performed. Only four out of twenty one projects did not meet the standards of financial management (two NGOs, one TV station, one public institution).

During the consultation process with the CSOs on the drafting of this report, a unanimous opinion was expressed that the Government illegally deprives NGOs from the funds of the Fund from Games of Chance and on this basis NGO sector received 3.1 million euros less than it is entitled to by the Law on Games of Chance for the years of 2011 and 2012. These kinds of Government decisions compromise the complete cooperation of the Government and NGOs and they are a clear indicator of the lack of political will to contribute to the development of the NGO sector.

### **1.3.3 Commission for Allocation of Funds to Non-government Organizations**

Commission for the Allocation of Funds to NGOs (appointed in 2011 by the Parliament of Montenegro) is still positioned in the budget, even though it has not performed allocation since the entry into force of the Law on NGOs. Around EUR 560,000 (EUR 200,000 for 2011 and 2012 and EUR 160,000 for 2013) has not been distributed to NGOs from this budget item.

This Commission was established by the previous Law on NGOs. It had annually allocated EUR 230,000 (2011) for small project, formally of value between EUR 500 to 10,000, and in practice the support ranged from EUR 500 to 3,500. Members of the Commission were Members of the Parliament and representatives of political parties. The Commission supported projects from areas defined as: "human rights, development of civil society, European integration; the reduction of poverty and unemployment; environmental and health protection; culture and education - projects promoting multiculturalism and the multi-religious character of Montenegro, as well as those dealing with cooperation with the diaspora".

The work of the Commission was characterized by non-compliance with statutory deadlines determined for announcing of the public competition, and in many cases the Commission granted far less

<sup>8</sup> [http://www.mif.gov.me/rubrike/konkurs\\_igre\\_na\\_srecu/130817/inovirana-verzija-Poslovnika-o-radu-Komisije-zaraspodjelu-dijela-prihoda-od-igara-na-srecu.html](http://www.mif.gov.me/rubrike/konkurs_igre_na_srecu/130817/inovirana-verzija-Poslovnika-o-radu-Komisije-zaraspodjelu-dijela-prihoda-od-igara-na-srecu.html)

than the required funds without any indication as to which part of the project the financial support was related to. In practice, most CSOs which had applied for grant received some financial support, so many organisations with insufficiently developed capacities, or even inactive CSOs, received support. The Commission did not sign contracts with CSOs which received funds for implementation of their projects, nor did in any way monitor their implementation.

### **1.3.4 Fund for Protection and Realization of Minority Rights**

Fund for Minorities was established<sup>9</sup> in 2008, in accordance with the Law on Minority Rights and Freedoms in order to support the activities that are of importance for preservation and development of national and ethnic particularities of minority people and other minority ethnic communities and their members in the field of national, ethnic, cultural, language and religious identity.

Decision making of the Fund is defined by the provisions of the Rulebook on Criteria for Evaluation and Allocation of Funds for Financing and Co-Financing of Projects from the Fund for Protection and Realization of Minority Rights. The Fund has developed a ranking list with criteria for the evaluation of projects. Public announcements for use of the funds and decisions are published on the Web site of the Fund<sup>10</sup>, and in September 2013, the Fund has adopted a decision on financing projects of the total value of EUR 500,000.

Work of the Fund has been criticized for a number of years by NGOs, the State Audit Institution and also the European Commission which, in the Report on Progress of Montenegro, emphasizes “the Minority Fund continues to operate with significant shortcomings, notably regarding the allocation of funds and proper implementation of projects”.<sup>11</sup>

### **1.3.5 Financing of CSOs from the Budget of State Administration Bodies**

Certain ministries and other state administration bodies continue to allocate funds for projects of NGOs, even though there are no clearly visible funds for NGOs in the budgets of these bodies.

According to data from the Report on Cooperation between the Ministries/State Administration Bodies and NGOs, in 2012, the bodies financed NGOs with about EUR 175,000 from their budgetary positions, and mainly based on the applications of NGOs to help certain organisations. In the first six months of 2013, this amount was slightly less than EUR 39,000. It should be noted that there are no written, transparent procedures for distribution of these funds.

The Public Procurement Law allows for any legal entity, including NGOs, to compete for procurement contracts at both local and national level. In practice, the opportunities for award of work to NGOs through public procurement for products and services, which public institutions need, are poorly used. One reason for this situation may be that CSOs are mainly qualified to provide services and products in the field of education, training, research and publishing. In most cases services in these fields are contracted directly, as their value is less than EUR 5,000, so they are contracted by direct agreement, or their value is from EUR 5-25,000, so they are contracted by the so-called shopping method that requires the submission of three bids.

The right for social protection services, as a special right within social and children protection system, is acknowledged for the first time with the Law on social and children protection entering into force in 2013. By this law, organisations, entrepreneurs and natural persons are allowed to offer services of social protection if they meet the conditions for conducting such activities and if they acquire license. In this way, principle of pluralism is affirmed and with it pluralism of services as well.

According to the Law on social and children protection (“Official Gazzette of Montenegro” 27/13), so-

9 Official Gazette of Montenegro, No. 13/08 from 26th February 2008

10 <http://www.fzm.me/1/index.php?lang=en>

11 [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mn\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mn_rapport_2013.pdf)

cial protection services, which can be offered by other bodies besides centres for social work, include services of life support in a community, socially-educational, counseling and therapeutic services and accommodation services. It is specified by law that services of social protection (coming outside of official institutions) are financed from the state's budget, municipality budget, through activities of service providers – participation of users, through donations, gifts, wills, legacies, creating endowments and foundations etc. However, it is not specified in which way financing shall be realized and this will be a subject regulated by a special secondary legislation. Secondary legislations are currently being drafted and NGOs expect for incentives and conditions for financing services provided by NGOs to be defined, as well as technical support in for the process of licencing of NGOs services.

### **1.3.6 Budgets of Local Self-Governments**

The legal basis for the allocation of funds to NGOs by local self-governments is contained in Article 116 of the Law on Local Self-Government, which stipulates that cooperation between local self-government and NGO is realized *inter alia* and through „Financing of NGO projects that are of interest for the local population, under the conditions and procedures prescribed by a general regulation of the Municipality“. Based on the established budget, the local self-government adopts the Decision on Criteria, Manner and Procedure for Distribution of Funds to NGOs, which closely defines criteria and procedure for allocation of funds for NGO projects. In addition, within the allocation of funds for NGO projects, certain local self-governments also finance NGOs with special financing status, such as charity organisations with special financing status (Red Cross), veterans associations and associations of persons with disabilities, in accordance with the general regulations and strategic documents of local self-governments.

According to the Report of the Center for Development of NGOs (CRNVO) on Financing of NGOs from the local budgets for 2012, out of 21 municipalities, three were not planned by the budget for the funds for NGOs. According to data from decisions on the budget, 18 local self-governments opted EUR 485,000 to NGOs (compared to EUR 800,000 that was distributed in 2009). There is a noticeable trend of reducing of funds for NGOs at the local level.

According to the same Report, „Financing projects of NGOs of interest to local population was conducted during 2012 with different degree of success. In some municipalities there were no competitions announced, in some municipalities, despite the signed contracts, there was no disbursement of funds (for instance, in municipality of Niksic, despite the signed contracts, the funds for 2011 were never disbursed, and for 2012 and 2013 the competitions were not announced). Allocation process was followed by sporadic complaints of part of NGOs in relation to decision-making process and transparency in decision-making, conflict of interest. Drastic reduction of funds for this purpose in the majority of municipalities was identified as the biggest problem.

As noted in the draft Strategy for Development of NGO Sector, the process of financing of NGOs at the local level is characterized by not clearly defined deadlines for announcement of public competition and/or non-compliance with the same, high level of discretionary decision-making due to the absence of clear criteria, and the fact that the funds are not only granted to NGOs, but also to other civil society actors. Procedures for monitoring the implementation of projects and reporting have not been developed, or have not been sufficiently developed, and monitoring is mostly limited to the examination of reports submitted, without requesting additional clarifications regarding certain segments of the reports. Representatives of local self-governments - members of the committees for the allocation of funds to NGOs often lack knowledge about the meaning and purpose of the project, writing methodology and programme and financial reporting on implemented projects. Commissions do not have mechanisms for monitoring and evaluation of projects. Also, the transparency of the allocation process is not satisfactory.

It is to be noted that the local authorities can significantly support the work of NGOs through providing office space for work (based on determined criteria) for free or with benefits, which at the moment is an exception.

### 1.3.7 Private and Corporate Giving

World giving index 2012<sup>12</sup> ranked Montenegro at 145th place (on the scale where index 1 represents the highest score) as compared to 138th place where it was in 2010. The position of Montenegro on the WGI list was obtained on the basis of information that in the month preceding the survey 10 percent of respondents “gave money”, five percent “volunteered” and 23 percent “helped a stranger”<sup>13</sup>. Montenegro has regressed on the scale and is now located at the very bottom of the WGI scale. In the region of Southern Europe, Montenegro is the only that has regressed for three percentage points in comparison to WGI 2010.

Corporate giving is a limited, but growing field of CSO support, and currently out of the total income of NGOs, a small part reaches the companies.

According to TACSO survey<sup>14</sup>, 21 percent of CSOs have used the funds of private companies operating in Montenegro. Of all CSOs in Montenegro, 15 percent have used the monetary funds received from private companies, 12 percent have used non-monetary funds and two percent free volunteer work of employees in private companies.

Giving is mainly confined to a few larger and multi-national companies, which include some of these activities in their annual reports. Companies mainly invest in the field of education, activities related to children and youth and culture and art. General impression in professional circles is that companies still do not invest in the areas of democracy and human rights.

Nineteen companies, institutions and NGOs from Montenegro joined the UN Global Compact network in Montenegro on 9th December 2010. Global Compact is an initiative launched by the United Nations in 1999 as a political platform and strategic framework for companies dedicated to the principles of sustainability and corporate social responsibility. Membership in the Global Compact involves alignment of business with ten universally accepted principles pertaining to human rights, labour rights, protection of environment and fight against corruption. Significant contribution to the development of CSR has been given by Union of Employers, first signatory of the UN Global Compact from Montenegro. Among other, Union has adopted “Ethical Codex of the Employers” in 2005, which among other things contains principles of the UN Global Compact and Millennium Development Goals.

There are also some positive examples such as for example the Brewery “Trebjesa” which, since 2010, launches annual competition for NGO projects in the field of environmental protection in the total amount of EUR 10,000.

Fund for Active Citizenship (FAKT) registered as independent foundation in 2008, earlier present in Montenegro as a country office of the Balkan Fund for Local Initiatives (BCIF) from Belgrade, is today financed by EU, foreign foundations such as C. S. Mott Foundation and Rockefeller Brothers Fund. In the period from 2008 to 2013, FAKT has financed a total of 149 CSO projects within two programs (Social Transition and Civic Action) in the total amount of more than EUR one million.<sup>15</sup>

### 1.3.8 EU IPA and Other Funds

EU support for civil society is primarily provided through the Civil Society Facility established to make use of IPA (Instrument for Pre-accession Assistance) funds available for the support of institution building and cross-border cooperation (components I and II respectively).

The Regional Civil Society Facility (RCSF) is an instrument for strengthening the CSOs capacities in

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12 This report is primarily based on data from Gallup “World View” Poll ([worldview.gallup.com](http://worldview.gallup.com)), which is a research project on NGOs conducted in 153 countries that together represent 95% of the world population. Poll raises questions about many different aspects of life today, including charitable behavior.

13 Gallup asked respondents whether they had donated money to an organization in the previous month, volunteered for an organization or helped a stranger, i.e. someone they had not known, and who needed help.

14 A survey conducted in November 2013 in collaboration with IPSOS PULS

15 <http://www.faktcg.org/lista-donacija/>

IPA countries. In order to support the development of civil society in Southeast Europe, the European Commission established in March 2008 a new financing facility under the Instrument for Pre-Accession Assistance (IPA) called "Civil Society Facility". The goal of this program is to strengthen civil society and its role in the political processes, enhance the capacity of CSOs to develop cross-border cooperation programs and networks and familiarize civil society representatives and public opinion makers with EU affairs. The priorities in Montenegro are: improvement of services provided by CSOs, stronger local and international networking, improved understanding of EU affairs/procedures, better civil society environment and culture for civil society development.

Seven NGOs from Montenegro participate in the Framework Partnership Agreement (FPA) of regional IPA projects.

The IPA Cross Border Cooperation (CBC) component is also open for Montenegrin CSOs. It focuses at strengthening the economic, social and institutional cooperation and preservation of the natural and cultural resources in cross border regions.

Cross Border Cooperation Programs for Montenegro include Bosnia and Herzegovina - Montenegro, Croatia - Montenegro, Serbia - Montenegro, Albania - Montenegro and Kosovo-Montenegro Program.

EU funds are implemented through the European Instrument for Democracy and Human Rights (EIDHR) for Montenegro. Support is provided for CSO projects in the field of human rights and political pluralism, democratic political participation and representation, reconciliation of group interests, fight against discrimination and gender equality in social, economic and political life.

Possibilities have been opened for the participation of CSO in the programmes of the European Union "Youth in Action", "Citizens of Europe", Euromed and Adriatic.

Within IPA and the European Instrument for Democracy and Human Rights (EIDHR), a total of € 4.095.632 was allocated for NGO projects in Montenegro. Through the IPA II component (cross border cooperation), the Montenegrin NGOs participate in the implementation of projects whose total value is € 2,155,949. CSOs are involved in the programming of IPA 1 - the part of *Civil Society Development* and the European Instrument for Democracy and Human Rights (EIDHR).

Co-financing of projects remains a cause for concern to the extent that may threaten the financial sustainability and survival of organisations which fail to provide the missing funds. The lack of mechanisms for co-financing at the national and local level seriously endangers the financial position of NGOs. CSOs believe that for example the Ministry of Foreign Affairs and European Integration could develop a special fund for co-financing. The question of participation of NGOs in projects implemented by national authorities through IPA funds remains open, because participation of NGOs is not formally prescribed or encouraged, as opposed to the EU calls for financing of NGOs, where the participation of state authorities is encouraged.

NGOs participating in the Framework Partnership Agreement (FPA) find it necessary to implement serious efforts to establish the practice of written interpretation of financial procedures by the task manager and commonality in the approach of financial auditors, which is currently not the case. They have pointed to the serious challenges to harmonization of EU rules and national legislation, in order to comply with both rules in financial management. There is also a problem in the application of legislation in cross-border projects.

Participants have pointed to the problem of intermediary disqualifications of NGOs that are not eligible for small grants through regranting scheme (NGOs with a budget up to € 10,000), and at the same time they do not have the financial capacity for grants of € 50,000 to € 200,000 what are the usual calls.

Greater visibility of the FPA projects would be achieved through more intensive participation of representatives of the EU Delegation in the events that are realized through the FPA, which is currently not the case.

### **1.3.9 Other International Donors**

USAID ended the mission in Montenegro in 2013. Embassy of the United States in mid-2013 supported NGO projects with a total value of nearly USD 200,000 within the program Civil Society Criminal Justice (CSCJ).

Swedish International Development Agency (SIDA) in the meantime stopped supporting NGOs through International Centre Olof Palme, Kweena till Kweena and other similar organisations.

Embassies: Some funds, in many cases on an ad hoc basis, are available to CSOs through the embassies of the following countries: Federal Republic of Germany, United Kingdom, USA (Democracy Commission) Canada (Canada Fund), The Netherlands (Matra / KAP program).

Although not being a direct donor, OSCE has for many years supported CSOs through efforts in improvement of conditions for CSO functioning in areas like CSR, volunteerism, legal framework for NGOs, etc.

United Nations Development Program (UNDP) and UNICEF provide support to the activities of NGOs.

### **1.3.10 Foreign Private Foundations**

The Network Open Society Foundation (Foundation) has, from the end of 2010, ended the program of awarding donations to local NGOs through the national Foundation based in Podgorica, but it finances NGO projects through several network programs (Think Tank Fund, Human Rights and Governance and others) based in Budapest.

Regional foundations include: Balkan Trust for Democracy (since May 2013 in the phase of restructuring), European Fund for Balkans.

Other international foundations providing support to civil society are German political foundations: Friedrich Ebert Foundation, Conrad Adenauer Foundation and Heinrich Boll Foundation, as well as Charles Stewart Mott Foundation, Rockefeller Brothers Fund from the USA.

## **1.4 GOVERNMENTAL MECHANISMS FOR CIVIL SOCIETY – GOVERNMENT COOPERATION AND THE POLICY FRAMEWORK DETERMINING GOVERNMENT-CIVIL SOCIETY RELATIONS**

Coordination and cooperation between the Government and civil society in Montenegro relies on the Government's Office for Cooperation with NGOs, Council of the Government of Montenegro for Cooperation with NGOs and a network of contact persons in ministries and other state institutions. The work of the Office is limited by numerous factors, while the functioning of the network of contact persons is limited and inconsistent.

### **1.4.1 Government's Office for Cooperation with NGOs**

The Office for Cooperation was established in 2007 on the basis of a political mandate provided in 2006 by the Government's document "Basis of Cooperation between the Government of the Republic of Montenegro and NGOs" and the accompanying Conclusion by the Government. This document, which was the first of the kind, established a loose agenda for improving the traditionally poor Government – civil society relations by establishing such Office.

The Office was in charge of performing tasks related to preparation of plans, programmes, projects and other activities in line with the principles and objectives set out in the document "Basis of Cooperation" as well as in other documents - by developing mutual cooperation and coordination, not

affecting the independence of NGOs and enhancing transparency of its own work and work of NGOs, in order to continue building open and democratic society. The Office serves as administrative and technical support for Government Council for Cooperation with NGOs. The Office also coordinates work of state bodies in the field of cooperation with NGOs and educates and connects them in the internal network - infrastructure of state administration bodies for cooperation with NGOs.

The Office has a limited capacity and authority to fully carry out its duties. The Office only employs three persons, the Head of the Office, an advisor and administrative secretary. Within newly amended act on organisation of working positions in the General Secretariat, additional advisor position is planned within the Office. The Office does not have a clear and precisely determined budget and its competences to coordinate the contact persons in public administration bodies have not been clearly defined. Also, being a part of the Government General Secretariat, it lacks the authority to act independently. As things stand at the present, the long-term sustainability and effectiveness of the Office is still a challenge.

Key problems in the work of the Government Office for Cooperation with NGOs:<sup>16</sup>

- Lack of well-defined responsibilities/competencies;
- The Office does not have its own separate budget as well as opportunities of fundraising, as it is integral part of the General Secretariat of the Government and its budget;
- Lack of appropriate number of qualified employees;
- High expectations from the Office and Government bodies, which is not in line with its real competencies - budget and available human resources;
- New legal competencies not well accompanied with additional resources.

The system of networking and coordination through the network of contact persons from public administration bodies is also functioning poorly. Contact persons are frequently changed, which leads to disruption of communication with NGOs. Newly appointed contact persons often have poor understanding of civil society and lack of experience in work with CSOs. Consequently, it is necessary to build the capacities of newly appointed contact persons in state administration bodies, and some time needs to pass so that the new contact persons would gain experience.

Key problems in the work of contact persons for cooperation of state administration bodies with NGOs:<sup>17</sup>

- There are no clear job descriptions that explain the detailed content of duties of the employees;
- Cooperation with NGOs has formally been determined, but is not high on the list of priorities of duties of these employees;
- Regular communication with NGOs in practice is divided among various public officers in state administration bodies;
- Poor use of Internet and e-tools in communication with NGOs;
- Lack of support from the highest level of political responsibility / top management in the bodies;
- Communication and cooperation between the contact persons and between contact persons and Office for Cooperation with NGOs has not been clearly defined;
- Lack of a proactive approach.

#### **1.4.2 Strategy and Action Plan for Cooperation between Government and NGOs 2009-2012**

First Strategy for Cooperation between the Government of Montenegro and NGOs covered the period 2009-2011, and was the first document of the Government of this kind. In July 2012, at the proposal of the Council for Cooperation between the Government and NGOs, the Government of Montenegro adopted the Report on the Implementation of the Action Plan for Implementation of the Strategy

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<sup>16</sup> According to the conclusions of TACSO workshops with government officials for cooperation with NGOs, May 2011

<sup>17</sup> According to the conclusions of TACSO workshops with government officials for cooperation with NGOs, May 2011

and concluded that it was necessary to prepare a new document (Strategy and Action Plan) for the next three-year period. It was noted that the implementation of the plan was delayed and deadlines were shifted, but also that 20 out of 29 measures (68.97 percent) were implemented, seven measures (24.14 percent) were partially implemented, while two measures (6,90 percent) were not implemented.

One of the two non-implemented measures referred to the incentive to culture of giving and corporate social responsibility through the amendment to the Law on Corporate Income Tax, while the other referred to the establishment of “resource” databases in bodies, and in relation to the central database in the Office, with a note that some bodies kept records of NGOs active in the area of work of the bodies.

Partially implemented measures referred to the introduction of affairs of cooperation with NGOs in the job description of officers in charge through the rulebooks on systematization followed by increasing the number of employees in the Office and defining its competence, and the establishment of a central database of NGOs in the Office, the involvement of NGOs in translating AQ and accessibility of public administration bodies to persons with disabilities.

Key measures for improvement of regulatory and institutional framework were implemented (the Law on NGOs was adopted, analyses of regulations and financing models were carried out, NGO e-register was established, Regulation on the Manner and Procedure for Cooperation between the State Administration Bodies and NGOs was passed, Decision on Establishment of the Council for Cooperation between Government and NGOs was passed, etc.).

The Ministry of the Interior established the intersectoral working group to draft the Strategy and Action Plan in November 2012, and the working group was composed of two representatives of NGOs.

The first version of the document was made available to the public during the consultation meetings held in June 2013.

The draft Strategy promoted in November 2013 indicates as a general objective “further improvement of legal, institutional and financial preconditions for the free operation of NGOs and the development of social capital, as well as the partnership between the Government, line ministries, other bodies of state administration and local self-government that will respect their different but complementary roles and responsibilities for the creation of an open, prosperous and democratic society of equal chances” while it emphasizes as specific objectives “strengthening of institutional framework for cooperation with NGOs at the state and local level; a higher level of NGO participation in the definition and implementation of public policies at the state and local level; creation of legal and institutional preconditions for greater financial sustainability of NGOs; creation of a more challenging environment for the operation and development of NGOs; more important role of NGOs in the process of accession of Montenegro to the European Union and building organisational capacities of NGOs”<sup>18</sup>

### **1.4.3 Council for Cooperation between Government and NGOs**

The Council for Cooperation with NGOs was established<sup>19</sup> in 2010 and it became fully operational at the beginning of 2011. The Council represents an advisory body of the Government that consists of 13 representatives of the ministries and 12 representatives of NGOs.

Competencies of the Council include: monitoring of implementation of the Strategy of Cooperation between the Government of Montenegro and NGOs and results of activities envisaged by the Action Plan for Implementation of the Strategy; providing opinion to the Government on draft regulations that affect institutional and normative framework for work of NGOs in Montenegro in order to create a supportive environment for their development and work; impacting improvement of complementarities and intensification of mutual relations in the definition of national public policies and their

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18 Draft Strategy for Development of NGOs in Montenegro 2014-2016 available at [http://www.mup.gov.me/ministarstvo/Javne\\_rasprave/132279/Poziv-za-javnu-raspravu-o-Nacrtu-Strategije-razvoja-NVO-u-Crnoj-Gori-2014-2016.html](http://www.mup.gov.me/ministarstvo/Javne_rasprave/132279/Poziv-za-javnu-raspravu-o-Nacrtu-Strategije-razvoja-NVO-u-Crnoj-Gori-2014-2016.html)

19 Official Gazette of Montenegro No. 28/10

implementation; initiating adoption of new and amendments to the existing regulations in order to create a better normative and institutional framework for the work of NGOs and achievement of other objectives set forth by the Strategy; providing support to inclusion of relevant NGOs in the process of formulation and implementation of public policies, that is participation of NGOs in the discussions on regulations, strategies and programmes; encouraging cooperation between the Government and state administration bodies with NGOs in the country and abroad, as well as with relevant actors in the international community in defining and achievement of international and intersectoral cooperation; reviewing interim and annual reports of state administration bodies on cooperation with NGOs in certain areas and on allocated funds for projects of NGOs and reporting to the Government on the extent of achieved cooperation; initiating removal of potential obstacles in order to enable realization of specific activities from the Action Plan; reviewing other issues and documents related to implementation of the Strategy and activities set forth in the Action Plan.<sup>20</sup>

The new Law on NGOs has given new competences to the Council, so it “proposes priority areas of public interest in the amount of funds for financing programs and projects financed from the budget”, considers the report on the implementation of projects and programmes financed” and “engages external auditors to control designated use of funds allocated to NGOs”.

As the law was not applied in this area, the Council did not apply these competencies.

Until December 2013, the Council held twelve sessions, where a number of draft regulations, strategic and other documents were discussed. Council decisions were generally made by consensus, and the Government generally accepted the proposals of the Council, except in the case of proposals which were related to financing of NGOs from the state budget.

From mid-2012, the President of the Council (former Secretary of State in the Ministry of Foreign Affairs has been appointed as Ambassador) does not attend sessions of the Council, but participates in the work and votes electronically. President of the Council has not resigned and has not been dismissed by the Government. In his absence, Vice-President - member from NGOs replaces the President.

Generally, CSOs have a negative opinion on current mechanisms for dialogue and cooperation between CSOs and state bodies. According to the TACSO survey<sup>21</sup> from November 2013, “51 percent of CSOs were aware of the existence of these structures and mechanisms, but they believed that they existed only to fulfill a form. In addition, another 23 percent of CSOs said that they were not aware of the mechanisms for dialogue and cooperation between CSOs and state bodies and in the end only 26 percent of organisations said that they were familiar with the mechanisms for dialogue and cooperation, and that they also considered them useful”.

However, a relatively high participation of CSOs in the consultation processes at the national and local level was registered – 57 percent of organisations in the past three years participated in some consultation process at the local or national level.

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20 [http://www.crnvo.me/attachments/article/7408/Odluka\\_o\\_obrazovanju\\_Savjeta\\_za\\_saradnju\\_sa\\_nevladinim\\_organizacijama.pdf](http://www.crnvo.me/attachments/article/7408/Odluka_o_obrazovanju_Savjeta_za_saradnju_sa_nevladinim_organizacijama.pdf)

21 Survey of the needs of CSOs in Montenegro, November 2013; TACSO, Ipsos Puls

## **1.5 GOVERNMENT (LOCAL AND NATIONAL) INSTITUTIONAL CAPACITIES FOR ENGAGING CIVIL SOCIETY, INCLUDING INFLUENCE OF FACTORS SUCH AS DEMOCRATIC DEVELOPMENT OR THE PRESENCE OF CORRUPTION**

Montenegro is a candidate for membership in the European Union, and in 2013 it has opened the accession negotiations with the EU. Montenegro still faces constraints of inefficient public administration and the problem of widespread corruption and organized crime. According to the reports of the Freedom House<sup>22</sup>, Montenegro is a “semi-consolidated democracy”.

Citizens take relatively little part in the process of creating laws and public policies. Key reasons are limited transparency of public administration in Montenegro and distrust of public institutions in CSOs.

In the TACSO survey<sup>23</sup> among CSOs, as main deficiencies in the structures and mechanisms for cooperation between CSOs and public/state bodies, but also between CSOs and local administration bodies, absolutely dominating are the lack of resources and lack of motivation among public officials, while a weak legal framework defining the mechanisms is significantly less stated as a main deficiency.

The Law on Free Access to Information is applied with a number of limitations and challenges. It is noticeable that judgments of the Administrative Court are often left without adequate response of public institutions that would have to enforce them.

Public officials and highly ranked politicians sometimes question the legitimacy, motives and capacities of CSOs that wish to engage in policy dialogue, and public consultations are often viewed as an obstacle to efficient implementation of government duties.

The role, scope of work, competences and responsibilities of contact persons in public institutions for cooperation with CSOs are poorly defined and understood. There is a lack of commitment within political leadership and higher management in public administration bodies to fully implement obligations defined within adopted government documents in order to create sustainable structures for consultations with CSOs. The Law on State Administration stipulates that ministries and state administration bodies “shall be obliged to ensure cooperation with NGOs, which shall be achieved in particular by consulting non-governmental sector on legal and other projects and regulations governing the manner of exercising the rights and freedoms of citizens”.

Amendments to the Law on State Administration from July 2011 enabled adoption of secondary legislation which defined “manner and process of achieving cooperation between state administration bodies and NGOs, as well as criteria and procedure of election of representatives of NGOs in working groups and other working bodies established by the Government and state administration bodies”.

There has been progress in engaging NGOs in the development of public policies and regulations. Only in the first six months of 2013, state administration bodies sent 105 calls for engaging NGO representatives in working bodies, based on which 108 NGO representatives were nominated, while 31 calls had no applicants.

However, in its report<sup>24</sup> for 2012, CRNVO noted failure to publish lists of laws which would be the subject of public discussions, as well as failure to publish report on consultation to the interested public on the web sites of administrative bodies, as well as report on conducted public discussions.

The contribution of the civil society to the work of the Parliament, especially parliamentary committees is increasing. Representatives of NGOs are often involved in the work of parliamentary committees through consultative hearings or participation in the sessions of the committees.<sup>25</sup>

22 <http://www.freedomhouse.org/report/nations-transit/2013/montenegro>

23 Survey of the needs of CSOs in Montenegro, November 2013; TACSO, Ipsos Puls

24 <http://www.crnvo.me/pravna-regulativa/analize.html>

25 Report of the Work of the Parliament of Montenegro for 2012, available at [http://www.skupstina.me/images/dokumenti/izvjestaji-o-radulzvjestaj\\_o\\_radu\\_u\\_2012.pdf](http://www.skupstina.me/images/dokumenti/izvjestaji-o-radulzvjestaj_o_radu_u_2012.pdf)

NGO database originally produced by CRNVO has been established in Parliament to assist communication between MPs, Parliamentary service and NGOs. Although it is functional, the database is poorly used by MPs. Parliament is responsible for updating the database.

In 2012, the Government of Montenegro joined **the global initiative “Open Government Partnership”** (OGP) which helps governments of initiative member-states to devote to improving transparency, empowering public opinion in the process of decision-making, fighting corruption and affirming the usage of new technologies for the purposes of developing democracy. The Action Plan for realization of OGP has been developed by an Operation team, in which representatives of four NGOs are involved. This team is in charge of evaluation and monitoring of Action Plan implementation, as well as quarterly reporting of its realisation.

Prior to adoption of the Constitution of Montenegro in the October 2007, CSOs had a right to directly propose laws to the Parliament upon gathering 6,000 signatures. This right has then been abolished, and in the opinion of CSOs access of these organisations to the process of adoption of the laws has been unfairly restricted, and initiatives of advocacy initiated by NGOs are now related to political patronage of certain MPs. NGOs have in recent years raised this issue regarding the amendments to the Constitution, but their requests have not been adopted.

### 1.5.1 Local Self-Government

The Law on Local Self-Government of Montenegro stipulates that local self-government bodies should have a wide cooperation with local civil society and promote its role in decision-making process.<sup>26</sup> The implementation of the provisions of the law is inconsistent and there are different limitations.

According to the TACSO survey (November 2013), CSOs have slightly more favorable opinion (compared to the national level) about the mechanisms for dialogue and cooperation between CSOs and local administration bodies. 47 percent of them perceive them as a mere fulfillment of form, 22 percent are not familiar with the mechanism, and 31 percent of the existing mechanisms for dialogue and cooperation between CSOs and local administration bodies are seen as useful. The highest level of participation is registered at the creation of strategies and action plans at the local level.

The right of local NGOs to participate at the plenary sessions of local assemblies (without the right to vote), the so called “free” or “empty” chair is legally defined. This institute has so far been implemented in a satisfactory manner, with clear rules and procedures, only in two out of 21 Montenegrin municipalities (Tivat and Bar to some extent). Aforementioned good examples allow NGOs to nominate their representatives for empty chair without interference of local self-government and to have representative at each agenda point of the local self-government.

New models of the decision on manner and procedure for participation of local population in conducting of public affairs, rules and procedures of assembly, decision on criteria, manner and procedure for distribution of funds to NGOs, agreement on cooperation between assembly and NGOs, council for cooperation between local self-government and NGOs, were developed at the end of 2011, in cooperation of the Ministry of the Interior, Union of Municipalities of Montenegro and the CRNVO (with the support of the OSCE). A small number of local self-governments<sup>27</sup> have harmonized one part of acts

26 Municipalities promote participation of CSOs and citizens through: 1) Providing information on all issues that are important for the non-governmental sector; 2) Consultation of the non-governmental sector with respect to development programs of the local self-government and drafts of general regulations adopted by the Assembly; 3) Enabling participation in working groups on drafting normative regulations or preparation of projects and programs; 4) Organizing joint public discussions, round tables, seminars, etc.; 5) Financing projects presented by NGOs that are of interest for the local population, under the conditions and procedures prescribed by a general regulation of the Municipality; 6) Providing working conditions for NGOs, in accordance with possibilities of the local self-government.

27 two municipalities have adopted the Agreement on cooperation of the Parliament, cooperation of municipality and NGOs, four municipalities have adopted the Resolution of Council for Cooperation with NGOs, eight have adopted the Resolution on the way and procedure of participation of local citizens in performing public services, five have adopted the Resolution on criteria, way and procedure of allocation of funds to NGOs, ten municipalities have adopted the new Rules of Procedure of the Parliament etc.

with these models. It is expected that other municipalities will soon adopt their new, improved acts, since the Union of Municipalities is an association where all municipalities have their representatives.

## **1.6 PUBLIC PERCEPTIONS AND SUPPORT OF CIVIL SOCIETY AND ITS VARIOUS SEGMENTS**

Some available public opinion surveys indicate that Montenegrin public is relatively well familiar with civil society and that it holds it in high regard. More importantly, surveys show that public support to NGOs and their activities is relatively high and stable.

According to a survey<sup>28</sup> conducted with the support of TACSO Montenegro by CRNVO and IPSOS Strategic Puls, the situation of trust in NGOs has not significantly changed in the period from 2008 to 2012. Furthermore, most citizens have medium (37 percent) or little (24 percent) trust, but the percentage of those who believe NGOs to a large extent has slightly increased (from eight percent in 2008 to 13 percent in 2012). A positive finding is also the fact that, observed since 2006 onwards, the share of citizens who do not have specific clear position towards the non-governmental sector has been constantly decreasing, and it amounts only to 10 percent of the population.

In addition, citizens who say that the activities (or project) of some NGO have directly affected them and their interests significantly more often have trust in NGOs than the average.

The citizens of Montenegro in most cases have a positive association with NGOs and primarily see them as organisations working in the interest of the society and on solving problems, independent from authorities and political parties, i.e. which help vulnerable groups and fight for human rights.

Based on the analysis of attributes by which they have been described, one could say that, observed together, the existing NGOs have a good image among the citizens of Montenegro. CSOs are primarily perceived as necessary and important, but also with perspective for the future, since they are described in this way by almost 60 percent of citizens. They are also perceived as professional organisations that help, are successful and modern (about half of the population has chosen the aforementioned attributes).

Attitudes of citizens suggest that NGOs are primarily perceived as a form of self-assembly of citizens that enables politically unengaged people to express their views and influence the resolution of problems, and that some citizens still have negative stereotypes about NGOs as an instrument for making money and pursuing ideas of other countries.

In relation to local self-government, trade unions, Parliament, political parties and economic sector, the citizens of Montenegro have the most favorable picture of NGOs and the Government of Montenegro, as only they are positioned in the quadrant of above average perception of success in problem solving and advocacy in the best interest of the society.

Although the expectations from NGO activities are slightly lower compared to the other institutions mentioned, precisely for them the highest percentage of citizens believe that they truly work in the best interest of the whole society (62 percent).

The answers to the direct question “achieving whose interests do NGOs primarily serve for” confirm the previous findings that NGOs are mainly perceived as organisation in the service of citizens and society.

It is noted that there is a significantly larger percentage of citizens who believe that the influence of NGOs to addressing key social issues in Montenegro is great, as well as those who evaluate the influence as medium. At the same time, the percentage of those who believe that NGOs have little influence on solving the most important problems and the percentage of those who are unable to estimate the influence of NGOs to solving problems in Montenegro have been significantly reduced. In addition, the observed influence is generally evaluated as a positive contribution in the lives of citizens.

28 <http://tacso.org/doc/Stavovi%20gradjana%20Crne%20Gore%20o%20nevladinim%20organizacijama.pdf>

Citizens see NGO sector as “an independent observer who monitors and actively participates in the most important areas and corrects government moves”. When it comes to areas for which citizens believe that further involvement of NGOs is most needed, the following have been pointed out: the fight against corruption, human rights and monitoring work of the Government and local self-government. These are at the same time areas that people perceive as extremely important and which fall within the list of major problems in the state.

In addition to these areas, the area of social welfare and humanitarian work is evaluated as extremely important by the citizens of Montenegro, but at the same time the activity of NGOs in these is perceived below average - in comparison to other areas. Existential problems of the citizens of Montenegro caused by increasingly difficult employment, decline in the life standard and growth of poverty are the reason to recognize precisely these areas as very important which lack NGO activities.

An earlier public opinion survey “[Balkan Monitor](#)”<sup>29</sup> that was conducted in countries of Western Balkans by the agency Gallup Europe in organisation of European Fund for Balkans showed disturbing trend regarding freedom of expression in Montenegro. Namely, 64 percent of respondents believe that most or many people are afraid to freely express their political views. In an earlier survey conducted by the same agency, this data amounted to 50 percent. This is the highest percentage in the Western Balkans. This data is directly related with the overall context in which civil society operates.

Factor that contributes to generally positive attitude that the citizens have regarding the civil society is the interest of media for activities of CSOs. Certain partnerships between the media and certain CSOs also contribute to this situation.

Besides, the civil society itself has taken steps in order to enhance its own performance, standards and transparency. In October 2013, the NGO Coalition “By Cooperation towards the Goal”, appointed the Ethics Committee to deal with violations of the Code of Ethics of the Coalition members.<sup>30</sup>

Unlike in 2008, when 97 CSOs made their financial reports transparent, 213 NGOs did the same in 2011<sup>31</sup>. This data and significant double increase in the number of NGOs ready to make their financial reports transparent contribute to higher overall transparency and legitimacy of the sector.

Total number of NGOs that on average submit their annual financial reports (tax return statement on balance) is below one thousand, i.e. nearly every third registered NGO submits the reports to competent state authorities.

## **1.7 INSTITUTIONAL ISSUES TO BE ADDRESSED WITHIN TACSO 2**

Improvement of communication and cooperation between CSOs and public sector, particularly through:

- Implementation of the Strategy for Development of Non-Governmental Sector 2014-2016
- Support for further development of Government Council for Cooperation with NGOs;
- Further improvement of capacities and efficiency of the network of state administration employees for cooperation with NGOs;
- Improvement of the CSO financing system from public sources (Government, state administration and local self-government) with the aim to increase transparency, efficiency and accountability of the process (including planning, decision-making process, contracting, monitoring).
- Support for approximation of services for development of NGOs to local NGOs

29 <http://www.balkan-monitor.eu/index.php/reports>

30 [www.](#)

31 [http://www.tacso.org/doc/mn08112011\\_afr\\_cso\\_mn.pdf](http://www.tacso.org/doc/mn08112011_afr_cso_mn.pdf)

## **2. ORGANISATIONAL CAPACITIES OF CSOS**

### **2.1 OVERVIEW OF NON-GOVERNMENTAL SECTOR IN THE COUNTRY**

#### **2.1.1 Structure of the Civil Society**

There are 2,870 NGOs registered in Montenegro, most of which are non-governmental associations (2,789) and 81 are non-governmental foundations. It is unknown how many of them are actually active. A possibly indicator of still active NGOs (NGOs that at least occasionally conduct activities) may be the number of 968 NGOs that have submitted financial reports to the Tax Administration for the fiscal year 2012. This means that only every third registered NGO submits the requested financial statements to the Tax Administration.

Geographically, activities of civil society mostly take place in central region of the country. Most of NGOs have headquarters in the central region of the country. Specifically, most of NGOs, 1,069 of them, have headquarters in Podgorica, while 257 NGOs have headquarters in Niksic. They are followed by Bar with 150 NGOs and Bijelo Polje with 144 NGOs. The smallest number of organisations has headquarters in municipalities Pluzine (ten) and Savnik (six).

By legal regulations and internal procedures of government authorities, keeping statistics and records related to NGOs has not been regulated. A worrying lack of official data on employees and volunteers, incomes (donations from domestic or foreign sources, economical activities, memberships etc...) offices, technological equipment has been immanent. Without such data, the quality of research and analysis of the current state and requirements of NGOs is limited, but also planning of development of NGOs, especially in the part of support which government authorities and local authorities should provide for NGOs.

According to the TACSO survey (November 2013), the majority of CSOs in Montenegro have headquarters in urban city areas, and only 12.2 percent of organisations have headquarters in a rural area. Every fifth organisation covered by this survey was established in the period until the end of 1999, nearly half from 2000 until 2006, and 30 percent in 2007 and later.

Also, every fifth organisation is not part of any network, whether at local, national or international level. On average, CSOs that have experience with international networking, 42 percent of them, are members of 2.2 international networks. 60 percent of CSOs in Montenegro are members of at least one national network, and each second is a member of some network at the local level.

64 percent of CSOs have access to the Internet and computers. 56 percent of CSOs have telephone connection, and 39 percent of organisations have a Web site. Furthermore, out of these 39 percent of organisations that have their own Web sites, 57 percent say they have Articles of Association on their Web sites. In addition to Articles of Association, 52 percent say that they publish annual report on the work programme, 32 percent have their financial reports and 26 percent have audited financial reports on their Web sites. 75 percent of CSOs in Montenegro have business premises, the office - out of which 53 percent are leased and 22 percent are owned by the organisation.

There is a significant difference in resources between CSOs having their headquarters in urban areas from those having their headquarters in rural areas.

A majority of Montenegrin NGOs are small, poorly resourced, municipally based organisations, dedicated to immediate addressing of issues in the local community.

Lack of financial resources and dependence on short-term projects dictates a situation in which a relatively small number of Montenegrin NGOs continuously conducts activities. In average, Montenegrin NGOs employ three persons.

At the national level, there is a core of renowned, organisationally mature NGOs engaged mainly in advocacy, research, monitoring and capacity building in fields such as the fight against corruption, state administration, poverty reduction and human rights. This small number of professional organisations exists in stunning contrast to the majority of weak, voluntary or semi-professional NGOs working at the local level, which in the main provide services to the community or their members.

There is a specialized organisation dedicated to providing support to NGOs, CRNVO, which offers assistance to CSOs in relation to organisational development and individual capacity building, legal advice on establishing and managing CSOs, information on other CSOs, civil society activities and data on donors. Besides CRNVO, coalitions and networks provide some services in organisational development of its members.

### **2.1.2 Field of Operation / Activities**

The only data indicating the range of activities undertaken by CSOs in Montenegro are available from the CRNVO database. They suggest the fact that civil society covers a relatively wide and even range of the socio-cultural activities, but that culture and art, as well as environmental issues, are represented in high proportions.

The majority of CSOs continue to concentrate on service provision to the community. Apart from self-help services, CSOs are active across the country providing a range of services regarding health, education, environmental protection and governance. Larger, more developed CSOs, working at the national level, provide a large number of information and legal services.

Advocacy and related activities are mainly practiced by national (*de facto*) non-membership organisations serving the whole community. The public is well familiar with them, but this is an exception that confirms the rule.

### **2.1.3 Human Resources and Technical Skills**

According to the survey of Association for Democratic Prosperity - Zid (ADP ZID) from 2010, there are 556 persons employed in NGOs in line with the Labour Law<sup>32</sup>, while 1,358 of them have worked on the basis of service contracts (short-term or occasional employment). That is less than one percent (0.86 percent) out of the total average number of employees in Montenegro in 2010 (161,742 MONSTAT). There are no recent data and surveys as well as official information on this matter.

The small size of an average CSO in Montenegro is a clear indication of the generally inadequate human resources available to civil society and the challenges faced by CSOs in recruiting sufficient number of quality staff. To a large extent this situation is due to weak financial resources at the disposal of CSOs.

When it comes to specific areas of knowledge required for the work and development, in the TACSO survey from November 2013, CSOs indicate "fundraising, exchange of experiences and writing projects" as priority areas in terms of improvement and further development. All of the tested proposals of TACSO activities that would be focused to the exchange of activities were rated as useful and CSOs expressed high willingness to participate in these processes.

As the information they need in order to achieve its mission, CSOs in Montenegro, in the first place, have indicated access to funds (EU, other donors, the public calls of state institutions - at all levels). They are followed by opportunities for cooperation (networks), and the third is access to information (authorities, CSOs). CSOs that have previously been the beneficiaries of services of TACSO Montenegro, significantly more often than the average emphasize the importance of information about opportunities for advocacy. Within the same survey, we investigated the needs of CSOs for additional development in certain areas. For all ten areas more than half of CSOs stated that they had needed

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32 In 2008, 630 persons were employed, and in 2009, 451 persons were employed.

improvement and further development. Skills of fundraising and exchange of experiences with other CSOs were two areas in which the greatest need for additional development was expressed. More than 60 percent of CSOs also indicated the need for improving the skills of writing projects, strategic planning, advocacy and lobbying.

Although high agreement on the need for improvement was expressed for all 10 areas in that moment when CSOs should have determined priorities and chosen only one of the tested areas, 28 percent believed that these were the skills of fundraising, 20 percent indicated the writing of projects, 13 percent the exchange of experiences with other CSOs, eight percent advocacy and lobbying, six percent strategic planning, five percent expansion and building relationships with user group, four percent administrative and financial management, three percent internal and external communication, and two percent indicated organisational development and management of development, as well as project management and reporting.

A large number of CSOs suffer from “founders’ syndrome” or an over-dependence on dominant leaders who provide them both the identity and ambition, and who perform most of the daily administrative work. Smaller CSOs are also highly dependent on the unpaid or “after-hours” work of staff members who are otherwise professionally employed in the public or private sector.

In the last two years, through programs of professional training of interns, the Government enabled the employment of interns in NGOs, which was used by a number of NGOs and which gave a further incentive to the activities of NGOs.

Retaining the qualified and experienced staff is a major challenge for all CSOs in Montenegro. Employees frequently leave CSOs for better-paid or more stable employment in both the public and private sector. This is, generally speaking, another challenge related to the development of human and organisational resources.

Voluntarism in Montenegro is weak. The reason for this is the lack of tradition of involvement in community service and the lack of incentives in the legal framework. Neither the Government nor the civil society sector is able to significantly develop the country’s potential volunteer resources.

Overall, CSOs are deficient in the technical skills necessary for organisational management, as well as the specialist knowledge related to their fields of work (such as environmental protection, human rights, economic development, etc.). Many organisations are insufficiently literate in electronic technologies, poorly equipped and have poor access to the Internet.<sup>33</sup> Consequently, they have restricted access, generally, to information relevant to their work; they do not use the Web sites of specialist international and local NGOs, as well as development and research organisations. Lack of knowledge of EU policies and the process of European integration is especially notable.

Training and support facilities for CSOs are few. CRNVO is the only specialized NGO capacity builder with an established training team offering a full range of technical trainings and consultancy for organisational development.

Outside the capital, Podgorica, there are no resource centers that provide technical support at the local level.

According to the analysis on capacity for performing functions of local resource centers which was done by the office of TACSO Montenegro in 2012, it is necessary to continue the activities for approximation of certain functions of the resource center to local NGOs.

A certain number of more developed NGOs organise specialized programmes or “schools” intended, among others, to CSOs, about the changes in social and political issues. These include: NGO „Anima” - Gender Studies – Interdisciplinary Program on Feminism Theory and Women Human Rights; Center for Civic Education - School of Democracy, School of Human and Minority Rights and School of Youth Leadership; Institute for Media «Journalism School, « Civil Alliance - School of Democratic Governance,

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33 Out of 1,184 NGOs in the CRNVO database, only 148 NGOs have a web site, while 692 have email address.

Center for Monitoring and Research CEMI - School of Euro-Atlantic Integration for Young People; Institute Alternative - School of Public Policies, Alfa Center – REACT workshop (popularization of NATO in Montenegro); Ozon – School of Urban Ecology; Bonum – School of Democracy and Human Rights.

In the north of Montenegro, Foundation for the Development of Northern Montenegro - FORS MONTENEGRO which realises programmes in different areas of significance for the northern region including educational programmes for NGOs, is the most active.

CSOs invest relatively little in the education of employees. In most cases, CSOs are too small to have human resource development systems and a budget to finance these.

On the other hand, better developed and established CSOs are aware of the need to constantly invest in the acquiring of new skills and knowledge.

During 2012 and 2013, within the TACSO project, trainings on the topics: "Democracy and Gender Equality" (34 participants), "Development and Management of EU funded projects"

(25 participants), a two-day training on "Advocacy", a three-day training on "Strategic Planning" and consultations were held with representatives of five networks and coalitions from Montenegro, which gather 56 CSOs.

Women NGOs emphasize the importance of integrating gender component in capacity building programs for NGOs.

#### **2.1.4 Strategic Strengths of CSOs in Montenegro**

As a sector, the civil society in Montenegro has achieved more success than others in the region in terms of the presence in public and fostering public trust. This has been achieved in two ways - through the successful implementation of high profile projects and campaigns that have drawn the attention of citizens, and through fostering over time of mutually beneficial relations with the local and national media.

Regarding advocacy and networking of national NGOs, the sector is well positioned, so it can take advantage, in terms of achieving a greater influence on the policy-making process, of the ongoing course of institutional and legal reform which will begin to gather pace as the country progresses towards the European integration. It can be concluded that the inclusion of a larger number of CSOs in the process will depend greatly on successful leadership and proactive approach, as well as significant increase of investments in civil sector capacity building at the local level.

At the level of the individual organisation, strategic planning is rarely carried out and its importance is not understood completely. From the perspective of the average Montenegrin CSO, operating with a small number of people and poor resources conditioned by financing of projects, long-term planning often appears both a luxury and an irrelevance.

#### **2.1.5 Analytical Capacities**

Only a very small number of CSOs have sufficient human and financial resources to engage in meaningful social or economic analysis that can serve as the basis for further work in the fields of advocacy and policy dialogue. In the broad field of economic and social policy issues, ISSP (Institute for Strategic Studies and Prognoses) and CEED (Center for Entrepreneurship and Economic Development) have been recognized.

In the fields of democracy, good governance and human rights, there are also several prominent NGOs that conduct research, advocacy and monitoring of government performance and the democratic processes, including the Center for Monitoring and Research - CEMI, Institute Alternative (IA), Center for Democracy and Human Rights (CEDEM), Network for Affirmation of NGO Sector (MANS) and Cen-

ter for Democratic Transition (CDT), Center for Civic Education (CGO) and Center for Development of NGOs (CRNVO).

## 2.1.6 External Relationships – Networking and Partnerships

### **CSO Networks and Coalitions**

Communication between CSOs in Montenegro is insufficiently developed. Cooperation between organisations working in the same field is infrequent and CSO project partnerships in projects are still very rare.

CSOs in Montenegro have been consistently reluctant to form networks, owing to often intense competition between organisations for funding and lack of trust. This is despite the fact that Montenegrin CSOs have clearly managed to exert significantly greater influence on Government and other national and local institutions on the rare occasions when they have worked together. Shorter-term coalitions formed for carrying out individual campaigns, particularly related to environmental protection, have proved to be the most effective, although a temporary form of cooperation among CSOs.

Local associations are joined in national unions, such as the Union of the Blind of Montenegro, Association of the Deaf and Hard of Hearing, the national Association of Parents of Disabled Children “*Our initiative*”; Montenegrin Pensioners’ Union, Network for Local Community Development, National Network of Service Providers, Paraplegics’ Association of Montenegro, Montenegrin Youth Forum, Network of NGOs for European Integration Processes (MAIP), Coalition of Roma and Egyptian People Together KREZ, Association of People with Multiple Sclerosis, NARDOS, Scout Association of Montenegro, etc.

There are also informal networks and coalitions that are established *ad hoc*.

There are several electronic mailing lists for communication among CSOs, some of which are maintained by CRNVO and MANS at the national level, while at the local level there is e-list of NGOs in Niksic, administered by NGO “Ozon” as well as some lists related to particular areas.

A particular problem experienced by many CSOs is the lack of information which would assist them identify partners – both domestic and those in neighboring countries - and establish cooperation for cross-border projects. This seriously reduces opportunities for accessing funding sources such as those provided by the EC for cross-border cooperation. An effort was made in previous years to strengthen cross-border links among NGOs through various forums organised by TACSO and structures for cross-border cooperation.

Communication and cooperation between NGOs and trade unions is sporadic. In accordance with the conclusions of the Conference from December 2011 organised by the TACSO Office devoted to cooperation of trade unions and NGOs, a Working Group for preparation of document to define the areas and mechanisms of cooperation of representative unions and NGOs in Montenegro was formed. Agreement on cooperation between trade unions (USSCG) and NGOs was signed on 31st May 2013 in Podgorica. The Agreement was signed by representatives of 45 NGOs. After the signing of the Agreement, a body for monitoring of implementation of the Agreement, composed of two members of NGOs, and two members from the trade unions, was formed.

Media provide relevant attention to the work of NGOs. Group of CSOs dealing with the issues of corruption, human rights, rule of law, EU integration and good governance frequently appears in media. Media are very interested for the watchdog approach in the work of CSOs. There are certain partnerships between media and NGOs, such as the joint project of NGO “MANS” and daily newspapers “Vijesti”, “Dan” and weekly newspaper “Monitor”, called “*Pod lupom*” (“Under the Magnifying Glass”). However, more intense cooperation aiming to shed light on crucial issues in the situation and development of NGO sector is lacking.

*Although almost half of CSOs believe that their visibility is at the appropriate level, registered activity of*

*CSOs in social networks and modern communication channels is very low. Organisations that believe that the visibility of CSOs is at a low level are likely to look for the reasons for this on the side of the media rather than at their side. Number of organisations that use traditional channels of communication is relatively high, but the frequency of use of these channels is not. While CSOs in high percentage, spontaneously state that greater involvement of citizens in projects and activities has led to increased trust of citizens in CSOs, such form of cooperation with the media is spontaneously significantly less frequently stated.*

According to the survey results, CSOs in Montenegro have divided opinion on their visibility in the public. Only seven percent believe that CSOs are generally too much present in the public, 45 percent that they are present just as they need to be, but 44 percent believe that CSOs are insufficiently present in the public. In the group of CSOs that believe that the presence in the public is insufficient, the prevailing opinion is that the cause for this lies in the media. More specifically, 62 percent of these organisations (or 27 percent of all CSOs) believe that the media is insufficiently interested to report on the activities of CSOs in Montenegro. In contrast, 35 percent (or 15 percent of all CSOs) believe that **CSOs themselves are not doing enough (or not properly) to increase its presence in the public.** Organisations from the central part of Montenegro, more often than organisations from other two regions, consider that the cause of insufficient visibility of CSOs in the public, above all, is the lack of interest of the media, and not on the side of CSOs themselves. Half of CSOs in Montenegro say that in the past 12 months, they have held a press conference where they have addressed the media and the public. In addition, three quarters of CSOs say that they have sent the media some press release, and nearly two-thirds that an employee has given an interview or statement to the media.

Only one third of CSOs (34.3 percent) have a Facebook account and use it actively. In addition, another ten percent have an account but do not use it actively. When it comes to Twitter, the findings are even worse, because only nine percent actively use their account, and another seven percent have an account but do not use it actively.

### **2.1.7 Material and Financial Stability and Resilience**

*The low percentage of beneficiaries of EU funds, insufficient diversification of funding sources and insufficient use of tax incentives are the main problems in the area of financing of CSOs in Montenegro.*

According to the survey from November 2013, during 2012, the largest number of CSOs was funded by local self-governments, namely 35 percent of CSOs, and 29 percent used the funds received from the Commission for allocation of revenues from games of chance.

A significant number of organisations have also been funded by membership and the citizens of Montenegro, but it is notable that only every seventh organisation has used funds from EU funds. A possible explanation is that the EU funds require the filling of complex application forms and that a significant portion of CSOs does not have capacities that allow handling of projects financed from EU funds. In any case, this fact points to the need to approach to developing of capacities of CSOs in Montenegro, with special attention, in order to strengthen the larger number of organisations to try to apply for funds from EU funds.

Also, it is important to emphasize that all organisations that have used funds from the EU funds have been part of a network, and that, significantly more often than average, these have been CSOs that have used the TACSO Montenegro services. Namely, of all the organisations that have been beneficiaries of TACSO Montenegro services, 40 percent have used EU funds during 2012, while out of the organisations that have not used TACSO Montenegro services, only three percent have used funds from EU funds in 2012.

Also, it is worrying that CSOs in Montenegro rely on a small number of funding sources. Namely, out of eight different funding sources, CSOs in Montenegro, on average, have used funds from only 1.8 sources in 2012. That is, only 29 percent of organisations have used funds from three or more funding sources that have been included in this study. Also, this suggests that it is necessary to make

additional effort in informing CSOs about potential donors, application methods and fundraising for CSOs in Montenegro.

During 2012, only 15 percent of CSOs in Montenegro have used funds received from citizens - whether money, free volunteer work or other non-monetary funds. If we observe all CSOs in Montenegro, eight percent of CSOs have used money received from citizens. Almost identical percentage has used free volunteer work of citizens, and 6.5 percent of CSOs have used non-monetary funds (such as materials, equipment...) received from citizens in 2012.

Slightly higher percentage of CSOs has used the funds of private companies operating in Montenegro – 21 percent. Of all CSOs in Montenegro, 15 percent has used the monetary funds received from private companies, 12 percent has used non-monetary funds and two percent free volunteer work of employees in private companies.

Viewed as a whole, civil society in Montenegro is under-funded and financially vulnerable. The stronger, leading NGOs are generally better financially secured. They have good relations with many foreign donors and in most cases have succeeded in securing support from a variety of foreign agencies simultaneously, which has made these organisations more resilient and financially sustainable.

Smaller CSOs and those active at the local level are not financially secure. Most of them are membership-based, but have been unable to provide membership support, owing to both capacity shortfalls on their side and poverty and the absence of a culture of charitable giving on the other side. For the same reasons local organisations have been unable to provide funds by charging for services. Generally, these CSOs rely on the funds obtained from local self-government and the Parliamentary and Government funds from games of chance.

The average CSO has also insufficiently developed capacities to access foreign donor funds. This includes poor knowledge of the development and writing of projects, inexperience regarding the logical framework required by most foreign agencies, poor English language skills as well as lack of administrative and management capacity to absorb major foreign grants at all.

### **2.1.8 Organisational Sustainability**

Numerous factors that influence organisational sustainability are explained in previous sections. Sustainability of CSOs in Montenegro is at a relatively low level due to lack of organisational capacities (including strategic planning); challenges CSOs face in recruiting and retaining quality human resources; lack of diversified funding sources. Key problems in reaching financial sustainability are: the lack of support by the state, underdeveloped practice of business sector donations and withdrawal of international donors. One of the key challenges for CSOs is to understand that sustainability does not only depend on financial stability. At the political level CSOs need well-structured institutional framework and encouraging political process.

Further development of communication and cooperation among CSOs, including building long lasting networks, platforms and federations remains one of the challenges. Introducing Quality Assurance System in CSOs is one of the forthcoming challenges for CSO sustainability.

## **3. CONCLUSIONS**

### **3.1 SUMMARY OF STRATEGIC ISSUES OF RELEVANCE TO THE PROJECT IN MONTENEGRO**

- Montenegro has begun the process of EU accession negotiations during 2012. By the end of 2013, negotiations under Chapters 23 and 24 will be opened. The role of CSOs in relation to the negotiation process is of great importance to the quality of the process and progress of the country in the process of European integration. CSOs are facing the challenge of further specialization and training to participate in next phases of this challenging process.
- Strategy for Cooperation between the Government and NGOs for the previous period has mainly been implemented, and the Strategy for development of NGOs and Action Plan for the period 2014-2016 will be adopted by the end of 2013. Implementation of the new Strategy and Action Plan requires significant participation of CSOs themselves.
- Government Council for Cooperation with NGOs, whose half of members come from NGOs, contributes to the quality of CSO-related public policies and legislation and represents an effective mechanism for monitoring of Strategy and Action Plan implementation.
- Financial sustainability of CSOs, especially when it comes to public sources of funding remains an open issue. Ensuring the implementation of the provisions of the Law on NGOs and defining the percentage of benefits from the current budget for CSOs are two issues of strategic importance to the stability of state support to CSOs.
- Regarding the EU support to CSOs, it is necessary to open a dialogue about the possibilities of redesigning support programs in a manner that would strengthen the partnerships of larger and smaller CSOs and open wider opportunities for smaller CSOs to use EU funds.
- Poor communication and cooperation between CSOs and insufficient access to information and organisations that provide support in rural areas, particularly in the north, represent deep-rooted problems with geographical and technological causes, which are negatively impacting the sustainability and effectiveness of the sector.
- The part-time nature of many activities conducted by CSOs and the often minimal staff employed in local organisations will represent a significant challenge to the project to succeed in going beyond the level of the individual in activities regarding building organisational and institutional capacities.

### **3.2 NEEDS ASSESSMENT CONCLUSIONS**

#### **3.2.1 Civil Society and its Environment**

- Law on NGOs is adjusted to the highest extent with international standards and represents a substantial improvement in comparison to previous solutions in a number of provisions
- The Labour Law must be changed and CSOs need to be exempt from the obligation of severance pay to the employees with which the employment is terminated through the decision of employer.
- Institutional mechanisms and legal framework aimed at encouraging dialogue between the Government and CSOs are limited
- Extended definition of the field of action of CSOs in the public interest has been introduced by the new Law on NGOs
- Conditions for voluntarism defined by the Law on Volunteer Work from 2010 are not satisfactory and do not encourage development of volunteerism

- Tax concessions available to CSOs and incentives for charitable giving to civil society are insufficiently used. Civil society development and sustainability could be enhanced through the introduction of new tax measures and better usage of the existing ones.
- State financing of activities of CSOs is on a decrease due to malpractice of Law on Games of Chance and lack of will for the system of financing to be made more stable. The Government policy for cutting budget for financing NGOs projects can seriously endanger the complete financial sustainability of CSOs.
- While state funding of CSO activities is decreasing, it still represents a significant source of CSO funding. Government policy of reducing budget allocations for financing of NGO projects can severely compromise the overall financial sustainability of CSOs.
- Funds available to civil society from all sources at both local and national level are insufficient to sustain the present level of CSO activities.
- State funding of CSOs at both national and local level are disbursed without clear references to public policies or strategies of the Government. Partnerships of small and large CSOs have not been stimulated, and the institutional and capacity building support has not been foreseen. Funds are allocated without clear criteria, and sometimes in a non-transparent *ad hoc manner*. There are no appropriate monitoring systems in place to ensure monitoring of the implementation of funded activities of CSOs.
- The EU is now the single most important foreign funding source in Montenegro. EU grants are inaccessible to the majority of CSOs owing to the requirements for partial co-financing, complicated and technically rigorous application procedures and the low fund absorption capacity of many CSOs. Recently introduced co-financing scheme for CSO support represents one of the possible ways to extend EU support throughout the CSO sector.
- There is no institutional funding of CSOs from public sources to assist organisational development and long-term program planning. New Law on NGOs opens such opportunity, but it is yet to be seen how this opportunity will be used in practice.
- It is necessary to specify the question of providing NGOs with offices according to transparent and objective criteria through special municipal decisions.
- Despite the existence of a basic institutional framework for mediating Government-civil sector relations – comprising the Government's Office for Cooperation with NGOs and contact persons in ministries and state bodies – the Government capacities for effective cooperation with CSOs are not sufficient.
- Strategy for development of non-government organisations and Action plan for Cooperation between the Government and CSOs provide a further three-year framework for strengthening non-governmental sector. Government Council for Cooperation with NGOs represents a good mechanism for coordination of activities envisaged by the Action Plan.
- Legal framework regulating CSOs' participation in decision-making process at the national level has enabled progress in the inclusion of NGOs in the creation of public policies and regulations. Actual participation of CSOs in the policy dialogue and in the legislative process has a positive trend, although the regulations are still limitedly applied.
- Civil society enjoys a relatively high reputation in public and trust of citizens in CSOs is above average.
- Individual philanthropy and corporate social responsibility are at a low level of development, with a significant space left for improvement of partnerships between CSOs and enterprises.
- Official statistics on CSOs (income, employment, etc.) do not exist or are unreliable.

### 3.2.2 CSO Organisational Capacities

- The majority of CSOs in Montenegro are small, more or less voluntary organisations with poor resources, insufficiently organisationally developed, with underdeveloped human resources and technical skills.
- The majority of local CSOs, especially those outside the capital, are over-dependent on their leaders who are occasionally provided support for the implementation of certain projects and activities by their colleagues, friends and relatives employed elsewhere.
- At the national level, there is a small core of renowned, organisationally mature NGOs engaged mainly in advocacy, research and similar activities in fields such as human rights, good governance and poverty reduction.
- Most other CSOs continue to concentrate on service provision in the community in areas such as, protection of the rights of persons with disabilities, environmental protection, culture and youth. A lot fewer number of CSOs deal with issues of good governance such as rule of law, transparency in decision-making process and fight against corruption. Few CSOs have the analytical capabilities necessary for social research, advocacy and policy dialogue.
- More developed CSOs are aware of their capacity-building needs, but there is considerable demand in the whole sector for a wide range of technical trainings in technical skills and aspects of NGO management, as well as specialized knowledge and experience in the areas of CSOs work (human rights, gender equality, etc.).
- CSOs have limited access to information, including funding opportunities, specialized knowledge related to their field of activity, how to find partners, as well as the EU policies and European integration process.
- Cooperation between CSOs in Montenegro is not sufficient, both at local and national level. Intense competition between CSOs for resources has resulted in only several effective CSO networks. This situation reduces the potential of civil society to influence decision makers and to carry out effective advocacy and policy dialogue. It is also a serious obstacle to the overall coordination and overall development of the sector.
- Application forms of public funds should be adjusted to the need of continuous capacity building (technical and specialist) of CSOs, through introduction of mandatory amount for this purpose within the planned project budget.

## 3.3 RECOMMENDATIONS FOR THE WORK PLAN FOR MONTENEGRO

### Civil Society and its Environment

- Assist the acceleration of the implementation of the Action Plan for the Strategy on Cooperation between the Government and NGOs
- Strengthen capacities of the state bodies for cooperation with NGOs
- Support the dialogue on the place of tasks related to the development of NGOs in the system of organisation of the state administration
- Support Government Council for Cooperation with NGOs in terms of capacity building, expertise, work of specialized working bodies and strengthening cooperation with other institutions at the national level engaged in cooperation with NGOs
- Support monitoring of implementation of the Law on NGOs
- Support initiatives aimed at further development and better implementation of tax incentives for certain categories of CSOs, programmes or projects, i.e. services

- Secure co-financing of CSOs projects financed from EU funds from state or local self-government sources
- Continue to develop capacities of government officials for cooperation with NGOs
- Work with civil society on the pressure for revision of the Law on Volunteerism, defining roles and responsibilities of volunteers and organisations that engage volunteers
- Support implementation of acts regulating cooperation between state administration bodies and NGOs, as well as acts on public debate in law drafting and decision-making process at the national level.
- It is necessary to adopt appropriate objective and transparent procedures for the allocation of state funds to CSOs at the national and local level. It is also necessary to establish mechanisms that will control both the procedure for the award and the implementation of funded activities of CSOs.
- Promote corporate social responsibility and relations between CSOs and the business sector
- Support civil society in its efforts to gain government adoption of appropriate, transparent procedures for allocation of funds allocated at the national and local level. Provide support to civil society in negotiations to ensure greater stability of funding from the state and local budgets
- Support initiatives to create schemes both on local and national level to provide co-financing of CSO projects supported by the EU. This might be particularly important at the local level when it comes to cross-border cooperation programs;
- Improve communication and cooperation between NGOs and trade unions;
- Improve communication and cooperation between NGOs and media;
- Encourage further strengthening of communication and cooperation between CSOs and Delegation of the European Union to Montenegro, particularly through holding of regular, thematic consultations;
- Support the creation of preconditions for the development of official statistics on CSOs.

#### CSO Organisational Capacities

- Provide capacity building to CSOs, according to individual needs of organisations, using a variety of methods: trainings, consultations, advice and mentoring via telephone, e-mail and Internet;
- Adapt planned trainings to suit the needs and capacities of less developed CSOs. Use process facilitation or consultancies in key areas in order ensure that capacity building has concrete results;
- Support the introduction and development of Quality Assurance Systems in CSOs
- The most important areas from which it is necessary to ensure the strengthening of capacities include fundraising, project cycle management (with particular emphasis on management of EU funds and EU application procedures), strategic planning, advocacy, establishment and development of networks and coalitions, corporate social responsibility and communication with enterprises;
- Apply methodologies for startup trainings and trainings for new members/staff in CSOs developed by TACSO;
- Support exchange of experience/knowledge/information between CSOs which have implemented EU funded projects and CSOs which are just starting the implementation of EU funded projects;
- Assistance should be provided to CSOs, in cooperation with CBIB, to identify partner organisations in neighboring countries so that they can apply for EU cross-border cooperation programs;
- Assistance in the form of process facilitation and provision of information should be provided to CSOs to help them establish permanent networks and program coalitions. In addition, assistance should be provided to local networks to connect with regional networks;
- Assist local CSOs in particular to communicate with their memberships and develop local support.
- Support the writing and publication of annual reports and statements on funds spent;
- Facilitate creation and implementation of donor schemes that enable smaller CSOs to cooperate with professional CSOs as project partners.

- Support the change of application forms of public funds and adjust them to the need of continuous capacity building (technical and specialist) of CSO, through introduction of mandatory amount for this purpose within the planned project budget (e.g. 5 percent of the total budget is directed to capacity building of applicant CSO).

## Annex 1 Acronyms and Abbreviations Used in the Text

ADP ZID	Association for Democratic Prosperity - Zid
CDP	Capacity Building Program
CEDEM	Center for Democracy and Human Rights
CEMI	Center for Monitoring and Research ISSP
CEED	Center for Entrepreneurship and Economic Development
CGO	Center for Civic Education
CDT	Center for Democratic Transition
IA	Institute Alternative
ISSP	Institute for Strategic Studies and Prognoses
CRNVO	Center for Development of Non-Governmental Organisations
CSO	Civil Society Organisation
OSCE	Organisation for Security and Co-operation in Europe
DPRS	Development and Poverty Reduction Strategy
EC	European Commission
EU	European Union
EIDHR	European Instrument for Democracy and Human Rights
FAKT	Fund for Active Citizenship
FPA	Framework Partnersheep Agreement
FOSI ROM	Foundation Open Society Institute - Representative Office in Montenegro
IPA	Instrument for Pre-accession Assistance
NGO	Non-governmental organisation
NSSD	National Strategy for Sustainable Development
CSO	Civil society organisation
MANS	Network for Affirmation of NGO Sector
OGP	Open Government Partnership
PAPRR	National Action Plan for Gender Equality
PCM	Project Cycle Management
SIDA	Swedish International Development Agency
SSCG	Confederation of Trade Unions of Montenegro
UNDP	United Nations Development Program
USAID	United States Agency for International Development
USSCG	Union of Free Trade Unions of Montenegro

## **Annex 2 Research Methodology**

Research for this study proceeded from a comprehensive analysis of the legal and financial documents (laws and regulations), which constitute the legislative framework in which civil society in Montenegro operates. Particular reference was made to all available documentation related to interaction between CSOs and the public administration bodies at national and local level, including policy and advocacy documents obtained from civil society, as well as general civil society assessments. The latter were also used in the description of CSO organisational and institutional capacities and regarding their public image.

Primary data for the research, particularly with regard to CSO capacities, were obtained through a series of consultations with CSOs, government officials and donor organisations, using different methods.

Survey with representatives of CSOs in this study was conducted using face-to-face methods, on a representative quota sample of CSOs in Montenegro. In other words, the research covered CSOs on the entire territory of Montenegro, both those having headquarters in urban areas and those having headquarters in rural areas. The realized sample of 229 CSOs included 52 percent of organisations having headquarters in the central part of Montenegro, 24 percent of those having headquarters in the northern part of Montenegro, and 24 percent of those having headquarters on the coast.

Consultative meeting was organized with representatives of CSOs, state administration and international organisations in order to review and improve the conclusions and recommendations of this Needs Assessment.

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