



Assessment
on the State of the
Enabling Environment
and Capacities of
Civil Society
against the Guidelines
for EU support to Civil
Society in Enlargement
Region, 2014-2020
for the period
2018-2019

FINAL REPORT

**ANNEX 4.
BRIEF IPA BENEFICIARIES
OVERVIEW**

COUNTRY BRIEF: MONTENEGRO

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The freedom of association in Montenegro is guaranteed by the Article 53 of the Constitution. The establishment of associations and their work is further regulated with the Law on NGOs. CSOs in Montenegro find the legislative framework for associations **favourable** to the work and operations of associations and foundations. Recently there haven't been changes to the regulation in this area. In practice, many **new organisations appear** and at least for some of them there is a concern in the public that they are initiated by the Government, political parties or individuals related to them (i.e. GONGOs and PONGOs). These organisations started to occupy public space and have received public funding dedicated to the sector.

The freedom of assembly is also guaranteed with the Article 52 of the Constitution. The area is further regulated by the Law on Public Assemblies and Public Performances adopted in 2016. Although the Law widely recognizes the right of **peaceful assemblies** as well as **spontaneous gatherings**, there are certain limitations with regards to the distance of the gathering from the public institutions. In 2019, there have been series of civic protests in the capital of Podgorica, which gathered over 10.000 people. Some representatives of civil society took part in both organisation and participation of these events. During these events, many constitutionally guaranteed freedoms were put on test. Freedom of assembly and expression **was not violated during protests**, but some incidents occurred on the following events after the protests.

In recent years, the situation in Montenegro, especially in freedom of expression, has been noticeably **worsening** and directly affects the environment in which civil society operates. Montenegro has reported to have made **no progress** in advancing freedom of expression since November 2016¹. Most prominent cases of endangering the freedom of expression were cases of expelling critically-oriented representatives of CSOs from the Council of National Public service (RTCG) and Council of Anti-Corruption Agency (ASK). These cases raised great concerns about potential **political interference** in mentioned institutions. Furthermore, the perception of the focus groups' participants is as well that their freedom of expression is hindered by the mainstream media that refuse to give space to CSOs and activists.

In 2019, a new draft Law on Volunteering was prepared and following the public debate entered the parliamentary procedure. Until the adoption of the new Law, the area of volunteering is still regulated by the Law on Voluntary Work. This Law defines voluntary work as **unpaid and done in freewill**. It also regulates the relations between the volunteers and organizers of the voluntary work as well as roles and obligations for both sides. There were reports in the focus groups that the **awareness** about importance of volunteering is not sufficiently developed among youth and even more so among parents of potential volunteers. This lack of interest in volunteering is also confirmed in the latest CAF World Giving Index. With regards to the employment, the Labour Law **does not recognize** advantages of employment and working in the sector. On the contrary, the Law **imposes** an obligation for creating employee **contracts for unlimited period** of time after two years of employment, and in the case of involuntary termination of employment, the employer i.e. organisation has to settle a **severance pay** in the amount of six gross salaries. The draft of a new Labour Law is upheld by the Government that might resolve the above-mentioned obstacles for CSOs as well regulate additional areas of favour to CSOs. Basic data on CSOs, such as numbers of employees and volunteers, annual incomes and similar are not available to public and no legal obligation is in place to publicise them. Such information is only available through **free access to information**. For example, such a FIO resulted in obtaining information from the Tax Administration that there are **854 employees** in CSOs in Montenegro.

¹ EC: Report on Montenegro, SWD(2019) 217 final, Available at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-montenegro-report.pdf> [09.01.2020]

There is an **increasing trend** of grassroots initiatives, as citizens recognize how difficult it is, especially for watchdog CSOs, to influence Government decisions, which oftentimes get neglected. That is why **informal gatherings** are being perceived as a possible mechanism that might achieve certain results. To that fact, a number of informal gathering have been taking place where citizens protested against construction of buildings on green areas and resulted in their **withdrawal**.

The financial environment, although not discriminatory towards the sector, is also **sufficiently encouraging** for their work. Although some benefits exist and projects funded by the EU are tax exempt, the burden on financial operations of CSOs are great, since many of the organizations do not have fixed or permanent funding sources. **High taxes, surtaxes and contributions on pays** of employees make it difficult to hire enough staff for regular operations. Also, this reduces the amount of resources that organisations can allocate towards their activities. A **new system for the distribution of public funds** to CSOs' projects and programmes was established. Its main feature is the **decentralized financing**. Government ministries declare areas of public interest among their areas of work and in which projects are to be financed. On this basis, public calls for funding are announced. Projects are evaluated by **independent assessors**, and the commissions in each ministry make the final decision on supported projects. There is a publicly available database of projects financed from public fund². The tax system grants some benefits to non-profit organisations who work in public interest, but the vast majority of rules that exist for business organisations are also in place for CSOs.

With regards to the public consultations with CSOs, in 2018, the Government adopted the **Regulation on the Election of CSO Representatives to the Working Bodies of the State Administration and the Conduct of Public Debates in the Preparation of Laws and Strategies**. A new **Council for Cooperation Between State Bodies and CSOs** was formed in 2018, with 12 members (6 from the Government and 6 from CSOs). CSOs take part in working bodies, public debates and other forms and mechanisms of cooperation, but results and influence of their work are **limited**.

One of the major problems in determining what is the current status of the sector is the lack of precise, public and official data on most important aspect of the sector. There is an available **registry of CSOs** in Montenegro, but it does not make any distinction between active CSOs and those that exist only on paper. Moreover, there is no publicly available registry or information on how many people are employed in CSOs and the types of contract. As of November 2019, there are **5.669 CSOs registered** in Montenegro.

With regards to the internal governance standards, the internal structuring of CSOs is regulated by the Law on NGOs. Every organisation must establish an **assembly** as the managing authority and a **legal representative**. The bigger organizations establish a board of directors, while some of the organizations' practice is to have both the executive director, who runs the operations, and the president, who presents the organization in public.

Organisations use different methods of communication for communication of their programmes and activities. Usually, CSOs have **websites** to publish their activities. Most CSOs are active on **social media**. Mainstream media rarely utilize, due to the lack of interest for cooperation from both sides. Organisations that work on the local level have established good **cooperation with local media** and their activities are regularly reported to the local community. **Direct contact** is the preferred method of communication for a big number of organisations, especially those that work with youth or in the field of environmental protection.

² www.finansiranjenvo.me

The data on transparency and accountability of CSOs show that the majority of organizations **publish their activities and financial reports** as well as audited financial statements. The data about monitoring and evaluation of CSOs show a different picture. While, on the one hand, CSOs state they **generally rarely use evaluation** in their work or conduct some form of internal assessment, on the other hand, survey data show that majority of the organizations have established an evaluation system and conduct evaluations to assess the success of their programs. Additional survey is needed to confirm the practices in this area.

In regard to the strategic approach, most CSOs **do not have strategic plans** because they **lack finances** to support strategic planning process. CSOs mostly develop short term or ad-hoc plans. According to the CSO Sustainability Index for 2018³, developed and big organisations conduct strategic planning on a regular basis, while medium and small organisations do so only when asked by the donor.

Advocacy as a method of work is significantly present in civil sector. However, most organisations focus their advocacy on **announcements, statements and media presence**. With regards to the evidence-based advocacy, small organisations **do not have enough capacities** and knowledge to conduct evidence-based research or to present arguments for their advocacy, while, on the contrary, big organisations with more employees, experience and knowledge are in a position to do so. The CSO Sustainability index for 2018⁴ notes that well-developed national-level organisations advocate initiatives in the field of fight against corruption, good governance, legislation on elections, protection of human rights and media freedom.

With regards to networking for advocacy, networks remain one of the most successful ways for advocacy on national level issues. Majority of CSOs belong to some network or coalition on a local, national or international level. So far, there are **256 associations, unions, clusters and coalitions** that have been officially registered in Montenegro. Coalitions and networks are usually created within a project activity, which can be then an **obstacle for its sustainability** after the project is completed.

When considering financial sustainability, it remains one of the **biggest concerns** of CSOs. The largest donor for CSOs is the EU and majority of professional and well-developed organisations are **very dependent of external funding**. Starting from 2018, the **new mechanism** of allocating funds from the state budget was introduced. However, its effects as well as the functionality are yet to be seen. In 2018, **852.273,04 EUR of public funds** have been distributed to organisations, and **so far in 2019, 372.966,53 EUR**. Small organisations are turning to **sub-granting calls, mini-grants by corporations or crowdfunding**. Although the EU remains the biggest foreign donor, some funds from embassies and international organisations are also available. According to the date of the Tax Administration, the total income of CSOs in 2018 was **26.897.606 EUR**.

CSOs that have profiled and recognized themselves as advocates for gender equality policies made significant gains in Montenegro regarding **gender mainstreaming**. Also, the raising of awareness through political networking of women as well as the gender budgeting initiatives are of particular importance in advancing the gender equality in Montenegro. While many organisations, regardless of their size and capacities, pay attention to gender equality, general awareness by on gender is relatively low, which is demonstrated through discrimination and lack of the use of gender sensitive language. Established and recognized women organizations have positioned themselves as **counterparts** to the Government with regards to gender issues. The

³ CSO Sustainability index for 2018

⁴ Ibid.

Council for Gender Equality has been established within the Ministry for Human and Minority Rights in 2016, with a goal to contribute to strengthening women's position on national and local level. In 2018 and 2019, several local self-governments started drafting **Local Action Plan on Gender Equality**.

The **capacity building needs** of CSOs still refer mostly towards lack of skills for project writing and project implementation. One of the main shortcomings of CSOs is the **inadequate level of knowledge of English language**, which represents an obstacle for applying for EU or international funds, or for implementing project activities. Another group of needs is related to **budgeting, including bookkeeping and financial management**, as many organisations, especially small ones, are not able to hire a financial manager. Moreover, organisations in Montenegro lack knowledge of **PR, communication and visibility**.

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