



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: ALBANIA

The legal framework in Albania is aligned with the international standards and conventions that guarantee the basic human rights. However, the practical implementation needs to be further enhanced with new and additional provisions.

Freedom of association, as a constitutional right, is guaranteed and regulated within the Law on Non-Profit Organizations<sup>1</sup> and **exercised freely** by individuals and legal entities. In the last two years, no initiatives have been undertaken to intervene in the legal framework regarding the freedom of association. The registration process is **centralized** in the capital Tirana at the Tirana District Court. In addition to this, every statutory change undertaken by a CSO must be notified centrally at the Tirana District Court, which for CSOs is **lengthy as well as costly** procedure.

The Law on Assemblies<sup>2</sup> regulates the right to assembly. It is basically aligned with European standards, although there is a need to clarify the procedure for notification and/or prior permission for holding an assembly as well as right to spontaneous gatherings. Based on the **Ombudsman's recommendations** for establishing general procedure among the police with regard to the organisation and management of assemblies, the General Directory of State Police developed the internal procedure **Planning of Police Services During the Development of Assemblies**. Based on the Country Report on The Right to Free Assembly during 2017 – 2018, around **311 assemblies** were organized in the Albania<sup>3</sup>. The most relevant is the long-term students' protest at the end of the 2018 demanding improvement of quality and fees for higher education.

With regards to the freedom of expression, the legal framework is in place. In 2018, the Government introduced **the anti – defamation legal package** providing power to the Audio-Visual Media Authority (AMA) and extending its scope of action to any electronic publication with editorial content, including ethical principles of respect for privacy, citizen dignity and the protection of juvenile integrity. The anti – defamation legal package was **opposed by media organizations** as a violation of the right to freedom of expression. They issued **three public statements during 2019** to address their concerns. The draft of the Law is being consulted in the Parliament and there are some on-going changes compared to the initial draft.

**Volunteering** is regulated with the Law on Voluntarism, as well with the two orders approved by the Minister of Finance and Economy in 2018 in regard to the **volunteer card** and the format and content of the **volunteering contract register**. In July 2019, the Council of Ministers approved the **Code of Ethics for Volunteers**, completing the legal framework on voluntarism. Majority of CSOs are not aware of the two orders. CSOs are facing difficulties and uncertainties in the involvement of volunteers in their projects and activities, exposing themselves to the risk of fines. According to the information received from INSTAT, there are **8.917** employees working in CSOs. There are no available data on full-time, part-time and consultants working in and for CSOs. **The concept and the role of grassroots** in common understanding refers to the small local organizations active at community level. There are number of active informal groups, but they face fundraising difficulties because due of their informal way of operating. However, in the last years there have been projects funded by international donors such as Swiss Development Cooperation (SDC) and European Instrument for Democracy and Human Rights (EIDHR) funded by the EU Delegation to Albania that have special funding schemes for such initiatives.

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<sup>1</sup> OG 36/2013, Law no 8788, date 07/05/2001, on "Non Profit Organizations" [https://qbz.gov.al/share/s0AXcHUmTAm53LiuW\\_wbpQ](https://qbz.gov.al/share/s0AXcHUmTAm53LiuW_wbpQ)

<sup>2</sup> OG 23/2001, Law no. 8773, date 23.04.2001 "On the Assemblies" [Online] [http://www.qbz.gov.al/botime/fletore\\_zyrtare/2001/PDF-2001/23-2001.pdf](http://www.qbz.gov.al/botime/fletore_zyrtare/2001/PDF-2001/23-2001.pdf)

<sup>3</sup> Tavani, K., Këruti, K. Monitoring the Right to Free Assembly for 2017 – 2018 in Albania, Partner Albania, 2018., pg. 7. [Online] [http://partnersalbania.org/wp-content/uploads/2019/02/Albania\\_Monitoring-assembly-report-2017-2018.pdf](http://partnersalbania.org/wp-content/uploads/2019/02/Albania_Monitoring-assembly-report-2017-2018.pdf)

With regards to financial rules and reporting requirements for CSOs, the **Directive of the National Accounting Standard for Non Profit** presents **simplified** reporting rules and requirements for smaller organizations with the annual revenue below 35.700 EUR, while big organizations with a value of assets and/or income at 240.000 EUR are obliged to publish their annual financial statements on their official websites and prepare a performance report related to their activity, which is published together with the annual financial statements.<sup>4</sup> The 2018 approved **Law on Accounting and Financial Statements** makes room for potential pressure from the Government as it enables setting criteria on the efficiency and effectiveness of the sector across the board, regardless if CSOs receive public funding or not. No legal framework was pushed forward to enable **individual giving**, while tax incentives schemes for corporate giving are minimal and not significant for businesses giving. According to the statement of the Prime Minister, the Government is considering creating a **philanthropic fund**, to which businesses will have to contribute with a certain percentage of their profit. When established, the fund will be managed and supervised by a joint body of contributing businesses and government representatives. As regards to financial benefits, CSOs that deliver specific goods and services such those from social and cultural area, youth and children as well as sport and physical education are **exempted from VAT**. CSOs can carry out economic activity, but it should not be their primary activity and should not exceed 20% of the total annual of their income. **CSOs can charge VAT** for their services, but they cannot practically **claim VAT reimbursement** as the private businesses can.

Public funding remains very important to sustain CSOs activity and their institutional development. The available data regarding public funding to CSOs are not public and easy to obtain. **The Agency for the Support of Civil Society (ASCS)** remains the main mechanism at the country level for the distribution of public funds to CSOs aiming to support their institutional development, project ideas as per priorities identified in call for proposals, and co-funding of EU projects. The **amount of fund** allocated from state budget to the ASCS has not increased significantly throughout the years. Even though the Agency has the mandate to give support for institutional development of CSOs, the **call for applications** for the institutional support **is not public** and the proposal templates are missing. **Lack of transparency** on the allocation of funds and decision-making processes are still present and not addressed properly.

Inclusion of CSOs in the decision-making processes still **needs improvement**, especially with regards to the feedback given to the input provided by CSOs and the reflection of this input in the final legal acts. The electronic consultation portal<sup>5</sup> is not user friendly and does not enable notification via e-mails for new entries in the register. At local level, **civic engagement remains** weak, in particular in smaller municipalities. There are structures and mechanisms for dialogue and cooperation between civil society and state institutions, such as the **National Council for Civil Society** and the **National Council for European Integration**. Both councils need to improve their performance, to be more proactive and to increase interaction with their constituencies among CSOs.

With regards to public data on CSOs, the **lack of a unified register** has resulted with different numbers being provided by public institutions responsible to generate these data. The data **are not fully reliable** as they also include data about other entities such as political parties, sport clubs, health clinics, religious and academic institutions. Until May 2019, there were **11.426 CSOs** in total registered at the **First Instance Court of Tirana**. There are **4.369 CSOs** registered at the

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<sup>4</sup> Ibid, Article 22

<sup>5</sup> <http://www.konsultimipublik.gov.al>

**General Directory of Taxation**, out of which almost 50% are inactive as of May 2019. According to data provided from the Directory of Taxation, the **annual turnover** of the sector for 2018 was approximately **35.693.020 EUR**, while in 2017 the annual turnover was **32.848.003 EUR**.

In terms of internal governance structures, CSOs have structures that are required by the law including **the Assembly** and **Governing Board** in CSOs (e.g. Associations) or **Board of Directors** in Foundations. In most of CSOs, internal procedures have been developed in recent years, as a requirement from donors, including intermediary funding organizations.

The awareness of CSOs about transparency in their activities and financial management needs to be further enhanced. Transparency is considered as the **cornerstone** in building the trust and image for CSOs. The majority of CSOs state that they **prepare annual narrative report with financial statements included**. Half of CSOs **publish** their organizational documents, while a small portion of CSOs **share** their reports and information on their activities only with their donors, the board of the organization and their partners. CSOs Sustainability Index 2018<sup>6</sup> rate the public trust to CSOs at 57%, being **the fifth most trusted institutions** in Albania.

The strategic approach of CSOs remains relatively weak. According to the CSO Sustainability Index 2018<sup>7</sup>, many CSOs adopt their mission statements according to foreign donor agenda, since the sector **remains donor driven**. Beyond that, the donor support has been focused more on supporting advocacy and lobbying actions rather than supporting CSOs in the development of their strategic approach, internal governance structures, and systems, and address longer-term problems in society in a continuous and consistent way<sup>8</sup>.

Effective advocacy serves to better protect citizens` rights and to address their needs at central and local level institutions. In the last two years, there was an increased number of sub-granting schemes managed by intermediary organizations that have **enhanced advocacy-based actions** of CSOs. The advocacy actions are geared towards women`s and girls` rights, gender equality, the fight against domestic violence, the fight against human trafficking, rehabilitation and integration of victims of trafficking, the right to information and participation in local decision-making, environmental protection, the rights of children and youth, the rights of persons with disabilities, freedom of media and speech, housing, immigration and migration, justice reform, reforms in education system, etc.

Financial sustainability and viability remain among the **weakest aspects for CSOs**. Organizations that are membership-based have a very weak linkage with their constituency, and as a result very **limited revenues** from membership fees. There is no law that regulates distribution of public funding to CSOs at central, but also at a local level. This is considered a hindering factor for CSOs to effectively plan their programmes targeting local communities, which can be supported by or through local government funds. Grants from foreign donors remain the main source of funding for CSOs.

With regards to gender mainstreaming, there is a strong presence of CSOs working in the area of gender equality and women`s rights. Particularly in the area of **gender-based violence**, civil society has played a significant role in the legal framework development, improvement and monitoring. Also, the local gender-based violence mechanisms were initially introduced by civil society and are closely supported by them. In the area of **political participation**, women`s

<sup>6</sup> CSOs Sustainability Index for Albania (2018) Available at: <https://www.fhi360.org/sites/default/files/media/documents/resource-csosi-2018-report-europe-eurasia.pdf>

<sup>7</sup> Ibid, page 13.

<sup>8</sup> Sida (2018). Evaluation of Swedish Civil Society Support in Albania. Available at: [https://www.sida.se/contentassets/14bc0c9b1a5b45109110e-f6adb2b3424/de2018\\_16\\_62156en.pdf](https://www.sida.se/contentassets/14bc0c9b1a5b45109110e-f6adb2b3424/de2018_16_62156en.pdf) (12.12.2019)

organizations have played a strong role in pushing forward various changes in the legislation. As reported by the donor community in Albania, CSOs are very active in **monitoring of relevant international conventions**. Nevertheless, the situation is still problematic challenging and the existing mechanisms on gender equality do not receive the necessary financial support, leading to **limited effectiveness and weak impact**. Although gender equality remains one of the main priorities of Albania, the concrete actions to implement the engagements of the Government in this field **show limited capacities** to fully address the issue of gender equality. Improvements have been noticed mainly in the preparation and approval of the policy documents and in the **review of the structures** of the National Mechanism on Gender Equality, but these structures lack the necessary human and financial sources as well as the necessary infrastructure to perform their role.

The capacity building of management and administrative staff in **fundraising**, whether through grants application or development of new fundraising models, such as the provision of paid services, is the main challenge of the sector in Albania. **Lack of sustainable funding** is also reflected in the establishment and development of cooperation both within the sector and with other actors such as the media, local and central government. Furthermore, **project proposal writing**, and management of EU funds, **strategic planning** and development of **social entrepreneurship** are among the main capacity building needs of CSOs



## COUNTRY BRIEF: BOSNIA AND HERZEGOVINA

CSO sustainability and general conducive environment for CSOs in Bosnia and Herzegovina have been in general **stagnation** for more than 10 years.

With regards to the freedom of association, there are eight (8) laws governing freedom of association in Bosnia and Herzegovina, including at the state level, the two entities and the Brčko District. The state-level Law on Associations and Foundations was amended in November 2016 to reflect the requirements and recommendations of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), and the Financial Action Task Force (FATF). Associations and foundations are required to submit to the Ministry of Justice of Bosnia and Herzegovina a financial and performance report, which the Ministry publishes on its website. Also, the new Law introduces the category of “public interest” for programmes and projects that can be proposed by all CSOs. Amendments to the Law also regulate the right of persons, who are not Bosnia and Herzegovina citizens, but reside in Bosnia and Herzegovina, to be founders of an association or foundation.

In practice there have been gatherings and protests organized by the civil society in Bosnia and Herzegovina, although the legislation as well as institutional actions to some extent limit the freedom of assembly. The **legislative framework** regulating this area remains **unchanged**. There are twelve (12) laws governing freedom of gathering, in the Republika Srpska entity, in each of the ten cantons of the Federation entity, and in the Brčko District. There are rare cases of using control or monitoring mechanism to ensure the proper and harmonized implementation of legal requirements of this right due to costly and long-term judicial procedure that are very burdensome for most CSOs. The unexplained cases of deaths of two young men in 2016 and 2018 triggered **significant civil movements in Sarajevo and Banja Luka in 2018** that brought together large numbers of citizens, including the support of more than 200.000 people on social networks. Since 2014, this was the first time that Bosnia and Herzegovina has seen massive public mobilizations. At the end of 2018, police engaged in violent measures—including beatings, arrests, and detentions—to prevent protesters from gathering daily in Banja Luka’s central square.

With regards to the freedom of expression, there have been **positive legal changes** introduced. The High Judicial and Prosecutorial Council adopted the Rulebook on the Automatic Case Management System in the Prosecutor’s Offices (TCMS)<sup>9</sup>. According to the Rulebook, defendants and claimants in defamation acts will be registered in the CMS system in the future, which will increase transparency in these cases. Although **freedom of expression** is guaranteed both in the Constitution and the international conventions on human rights and freedoms, there were some **violations in practice**, including political pressure and intimidation of journalists.

The policies and legal environment for volunteering **differ** at different levels of governance. On the **state level**, there is still **no regulation** on volunteering. The last step forward at the Federation Bosnia and Herzegovina level has been made in 2012, when the Law on Voluntarism was adopted<sup>10</sup>, providing legal solution according to which volunteering is recognized as work experience. CSOs generally questioned the justification of this rule, since it interferes with the regulation in the field of labour relations. **In Republika Srpska** there were no changes since the **adoption of the Law on Volunteering** in 2013. Also, **in 2018, the Law on Volunteering** was adopted in **Brčko District**<sup>11</sup>. In practice, the implementation of the laws faces more or less the same obstacles as **volunteers**

<sup>9</sup> Official Gazette Bosnia and Herzegovina 04/16, 37/16, 84/16 i 40/17. Available at: [https://www.pravosudje.ba/vstv/faces/docservlet?p\\_id\\_doc=27187](https://www.pravosudje.ba/vstv/faces/docservlet?p_id_doc=27187)

<sup>10</sup> Official Gazette. The Federation of Bosnia and Herzegovina, number 110/12

<sup>11</sup> Official Gazette of Brčko District 2/10. Available at: <https://skupstinabd.ba/3-zakon/ba/Zakon%20o%20volontiranju/001%2034-18%20Zakon%20o%20volontiranju.pdf>

**do not sign the contract** and do not insist on signing the practice **volunteer's booklet**. With regards to **labour legislation**, for CSO registered at the state level, the same legislation as for public institutions is applied, although founders of the association are not public institutions but rather individuals. In addition, **at the entities' level**, labour relations are regulated by the Entity Labour Laws and applied to all legal entities.

Grassroot organizations are considered small organizations based in certain **local communities** that work with the community and manage small amounts of funds. Grassroots mainly operate at local or canton level, and most of these organizations are dedicated to providing **social services**. Civil society representatives share perception that the operation of the grassroots, which is not enough visible in the public, in some cases places them in a **marginalized position**, as they are not able to enjoy full access to donor funding, advocacy with policy-makers, take part in consultations, undertake legal action, etc..

The financial environment deteriorated as funding for CSOs continued to **decrease**, with international rather than local organizations receiving most direct donor funds. International organizations and agencies still receive funds directly from donors and then disburse part of it to local CSOs. Their fees consume a large part of the total funding, and their involvement reduces the sense of ownership among local CSOs. Donors such as the USAID, EU, and Sida continue to engage domestic CSOs to manage foreign funded projects that include **sub-grant schemes**, which is a positive trend. An association and a foundation may undertake **economic activities**, which are not directly related to the achievement of its goals only by establishing a separate commercial legal entity. The only current tax benefit used is **income tax exemption** on donations, under both entities laws. Second are **donor deductions** that are not directly targeted at CSOs. CSOs are exempt from charging **VAT**. In addition, there are tax relief measures for individual and corporate giving.

The situation with public funding for CSOs in general is downward trend. The last elections had impact on the access of CSOs to state funds. The election winners did not succeed to form a government, while in Mostar elections have not been held yet. This situation has significant impact on the ability of registered CSOs to carry out planned and budgeted activities and projects, as the ministries are not operating fully. A major step forward is adoption of the **Rulebook** on financing and co-financing projects of public interest of associations and foundations at the state-level. The data on **public funding** to CSOs are not accurate, but based on what is available the general assumption is that compared to 2012 when there were some data available on this subject, the situation has **worsened** since.

Although there are positive examples of Involvement of CSOs in public consultation processes, in general, organizations have insignificant influence on public policy making. According to focus groups' participants, CSOs are rarely invited to participate in the process of drafting, adopting and implementing laws and policies. Social service contracts concluded between public institutions and CSOs at local and cantonal level are seen as a positive example of cooperation. With the establishment of the e-consultation platform<sup>12</sup> in 2017, the mechanism has been raised to a higher level as it is now mandatory for all state-level institutions to consult CSOs. In practice, however, cooperation between public institutions and CSOs at the state level remains quite limited. Although the state-level Council of Ministers in 2012 adopted the Rules on Consultations<sup>13</sup>, their implementation is weak. In Republika Srpska, the legislative framework for engagement of citizens in decision-making process has been set up in form of Guidelines on participation of the

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<sup>12</sup> Platform is available at the link: <https://ekonsultacije.gov.ba/>

<sup>13</sup> [http://www.ads.gov.ba/v2/attachments/4257\\_PravilaKonsultacije.pdf](http://www.ads.gov.ba/v2/attachments/4257_PravilaKonsultacije.pdf)

public and consultation in drafting laws and it is being implemented to a certain extent.

With regards to structures and mechanisms for dialogue and cooperation between civil society and public institutions, the greatest change in state-level cooperation with CSOs is the **adoption of the Agreement on Cooperation** between the Council of Ministers of Bosnia and Herzegovina and the Non-Governmental Sector in Bosnia and Herzegovina, which was signed in late 2017<sup>14</sup>. While the Agreement has been an achievement of the EU CBGI project and has in formal terms illustrated to international community that the country is fulfilling its task in the EU accession process, the implementation of the Agreement has not brought about actual changes in terms of improved dialogue between institutions and civil society. The main challenge remains the preparation of the Strategy for civil society in BiH, whose preparation is to be led by the Council of Ministers. While it was expected that the Agreement with the Council of Ministers would instigate lower levels of public administration to follow with same steps, at both entities and Canton levels, the lack of interest for any improvements in relations with civil society still persists.

The **data on the capacity of CSOs** show that there exists a limited number of capable, transparent and accountable CSOs. The effectiveness of CSOs is greatly influenced by the legislative framework of Bosnia and Herzegovina and its entities. According to the information from the EU-funded Capacity Building of Government Institutions (CBGI) project, in January 2020 there were **27.263 registered associations and foundations** in the collective register of CSOs maintained by Bosnia and Herzegovina's Ministry of Justice. This number includes CSOs that are registered at multiple levels of government, as well as a significant, but unknown, number of inactive CSOs. The collective register is a positive step forward. However, CSOs suggest that the register should also include information about CSOs' missions in order to provide more useful and detailed information about the sector.

The internal governance systems and capacities of CSOs are **moderate**. The legislation provides minimal requirements for CSOs with regards to internal governance structures. The majority of CSOs tend to have in place an Assembly and legal representative. The internal procedures and systems are not fully followed in the everyday practice of CSOs. Smaller organizations tend to **limit their development** in internal structuring while, on the other side, the donor rules as well as administrative burden for grants management always push these limits towards development of **reliable internal systems** for administration and financial management. As an example of a good practice, civil society representatives, in 2017 prepared and began promoting the **CSO Code of Ethics**, which defines CSO standards of behaviour based on the principles of transparency, openness, cooperation, mutual respect, and partnership.

The communication of the results and programme activities of CSOs remains a challenge. CSOs are generally slow in adapting to the new trends and concepts in communication. In most cases, CSOs use traditional channels to communicate their activities with the public, although there are recent trends of use of social media and data visualisation concepts as well. As a result of the unstructured communication, lack of skills and focus on CSOs, the citizens question the effects of work of CSOs. Bigger organizations invest in staff who work on communication of their results with the public. However, for small organizations, employing of **staff** that will work on communication of CSO' results **remain a challenge**, due to the lack of financial support for human resources engagement. The relationship between CSOs and media in Bosnia and Herzegovina is especially complex and represents a real challenge. CSOs' representatives are aware that they do not have the knowledge or capacities to deal with the media in a proper way, while also media participants

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<sup>14</sup> Original text of the Agreement is available at the official web page of the Ministry of Justice of Bosnia and Herzegovina: <http://www.mpr.gov.ba/NVO/default.aspx?id=7076&langTag=bs-BA>



in the focus groups recognised that their approach towards CSOs could be more professional.

There is worrying trend in transparency of the programme activities and financial management of CSOs, where 45% of CSOs report avoiding legal obligations and do not submit their annual financial report to responsible public institution<sup>15</sup>. Similar is the situation with publishing annual reports of CSOs, since majority of CSOs (i.e. even some of the large ones) do not observe basic aspects of transparency. Even when annual reports are published, they are often presented without a financial report. There is a **lack of substantial engagement of CSOs** in monitoring and evaluating their work. The CSOs predominantly establish M&E practices on project level as a response to donor request.

There is an existing lack of strategic orientation and approach and project-to-project logic of CSOs. CSOs mainly orient their strategic planning to donor priorities in order to be eligible for funding. Strategic planning is still not widely used by CSOs, i.e. it is rather a small percentage of well-developed organizations, which have strategic approach to their operations. With regards to the evidence-based advocacy, CSOs have **limited knowledge** about the quantitative and qualitative research methods and are not familiar with methodology for developing policy studies or policy analysis. There is a presence of foreign donor funded think-tanks and research centres, which have major impact in the country's decision-making processes. Despite the existing achievements, most **CSOs feel discouraged** by their limited successes and the extended length of advocacy campaigns. The advocacy efforts of CSOs increasingly take form of networking and coalition building and, in many cases, resulting with success in their influence on public policies. However, the challenge remains of networks that tend to **cease** after their funding is over.

The CSOs in Bosnia and Herzegovina usually do not apply strategic orientation towards funding priorities, particularly smaller organizations. CSOs are responsive mostly to donor calls for project support and usually a small group of CSOs is included in programming of donor funds. The establishment of a diverse funding base is especially challenging for CSOs, since they have to acquire new skills for this. In most cases, main sources of funds are foreign donors and the state funds, i.e. at national and local level. CSOs rarely use new fundraising techniques such as crowdfunding. In the last few years, there has been an increase in the number of CSOs, which implement **income generation activities**. A limited number of CSOs have the capacity to apply and manage EU funds, while most of them partner with bigger organizations on EU calls.

In general, the sector has made progress with regards to the increase of the awareness on gender mainstreaming. On the other hand, examples show that CSOs in general do not have internal policies dealing with gender mainstreaming in place. Women's organizations consider themselves positioned and capable of serving as **experts and advisors** in gender sensitive policy, gender responsive budgeting etc., but this is not recognized widely. Agency for Gender Equality of Bosnia and Herzegovina has the main coordination role in the area of gender equality, together with the Gender Centre of the Federation of Bosnia and Herzegovina and the Gender Centre of the Republika Srpska.

Capacity building of CSOs should follow the global development of society, especially in area of soft skills, IT competences and media literacy. The sector requires substantive capacity building programmes in basic skills such as organizational management, technical and administrative management, project proposal writing and project implementation. Trainings are still considered the best way for capacity building of larger number of people. In addition to this, CSOs point out mentoring, practical trainings and workshops, online tutorials, and webinars as further useful tool to improve their capacities.

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<sup>15</sup> Opstanak OCD u Bosnia and Herzegovina, CPCD, 2018

## COUNTRY BRIEF: KOSOVO\*

The legal framework on freedom of association in Kosovo is in line with the international standards and practices on an enabling environment. In 2019, the Law on Freedom of Association on NGOs was amended to further accommodate practices for exercising the right to freedom of association. The basic legislation for the establishment and operation of CSOs is in place and has advanced. Nevertheless, based on past experience, civil society and other stakeholders are closely following and **participating** in working groups on drafting the secondary legislation on freedom of association as to safeguard the sector from any restrictive provisions that can be pushed beyond primary legislation framework. In practice, the legislation regulating the freedom of association is **moderately implemented**. Most CSOs do not experience difficulties in registering an organization.

With regards to the freedom of assembly, there were not recent changes in the legislation. In 2019, the Ministry of Internal Affairs initiated the process of **drafting the Law on Public Gatherings**. There are still some ambiguous and restrictive provisions regarding freedom of assembly, however most CSOs which organized public gathering **did not experience problems** and difficulties in exercise of their right.

In the freedom of expression, the legislation remained unchanged in the past two years. The freedom of expression is a subject of number of laws and provisions that regulate different aspects such as defamation, access to public data, protection of personal data etc.. CSO representatives, including those from human rights and watchdog organizations, generally **enjoy the right to freedom of expression**. On the other hand, there are cases when CSOs felt pressured as a result of their criticisms towards public authorities.

The policies and legal environment do not specifically stimulate and facilitate volunteering and employment in the sector. There is no specific legislation on volunteering except the Law 03/L-145 on Youth Empowerment and Participation that regulates the **volunteering of youth**. In 2016, this Law was updated with the new Administrative Instruction on youth voluntary work that **simplified** the process of volunteer registration by establishing the platform and database of volunteers. Based on the data generated by the same database, the total number of volunteers registered is 5.104 out of which 4.437 are reported active. In 2019, the Office of Prime Minister/ Office of Good Governance (OGG) and the Ministry of Labour and Social Welfare commenced the initiatives to properly regulate the respective policies on volunteering. With regards to the **labour regulations** the legislation applies for all employers including those in CSOs. Data from the Tax Administration of Kosovo show that in 2017, 8.453 persons are employed in 816 CSOs. **Grassroots organizations** are considered smaller organizations, based in certain localities, which work with community and manage small amounts of funds. However, this definition is **limiting and challenging** and is causing many practical issues for grant-giving organizations. Donors, in general, are reluctant on working with or supporting non-registered organizations, which makes access to funding difficult for the grassroots.

The financial environment for the sector in Kosovo notes **improvements in public financing** and challenges in implementation of tax deduction procedures. Nearly half of CSOs operate with no funding, and a large number of CSOs operate with less than 10.000 EUR per year. There is a declining trend of CSO funding in all respects, with the exception of public funds. **Foreign donors** continue to be the **main source** of funding for CSOs, though with a noticeable decline. On the other hand, CSO funding from **public funds has increased**, as well as the number of organizations that have received funds from public institutions. More specifically, foreign donors allocate their

\* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

funds to a smaller group of organizations (22.8%) compared to two years ago (38.6%), while the opposite trend stands for public funds, where more organizations received public funds in 2017 (33.6%) than in 2015 (27.7%).

Although there is an increase in institutional support for CSOs, support for **short-term projects and small amounts is dominant**. CSOs in Kosovo do not have **adequate financial reporting systems**, thus leading to challenges and ambiguities on understanding and delivering tax forms and making it nearly impossible to obtain accurate information on the multiple financial and tax categories within the sector.<sup>16</sup> On the other hand, CSOs subject of very regular **financial audits**. The Law on Corporate Income Tax **provide tax deductions** for corporate donations of their taxable income. The Law on Freedom of Association allows for tax and fiscal benefits for Public Benefit Organizations (PBOs), but such benefits are ambiguous in the tax legislation and are not harmonized with the Public Benefit chapter of the Law on Freedom of Association. Both the legislation on tax exemption and the administrative procedures to obtain them are considered troublesome and ambiguous to CSOs. Public officials, businesses and CSOs are not aware of such exemptions. As a result, many CSO do not know how to proceed with their use in practice. With regards to **CSOs economic and income-generation activities**, there are ambiguities in the legal framework, in particular on the economic activities of CSOs that do not have the PBO status. The implementation of the Regulation on criteria, standards and procedures on public funding for CSOs is lagging, marked with minor improvements in reporting the lists of beneficiaries for 2018. There is still a need for systematic transparency in the disbursement of public funds to CSOs. There are still many cases where public institutions provide funds for CSOs, while disregarding provision and procedures deriving from the Regulation at all levels of governance.

The Regulation on Minimum Standards for the public consultations process has **advanced** the legal framework for public participation, while its implementation remains a serious challenge for public institutions. Utilization of the **Online Platform for public consultations** has almost become the norm for public institutions at the central level, while other provisions of the Regulation are implemented only partially. On the other hand, majority of CSOs in Kosovo either do not know of the existence of Minimum Standards and the Online Platform or lack adequate capacities to contribute to the policy process. In December 2018, the Ministry of Local Governance Administration adopted the **Regulation on Minimum Standards on Public Consultation at the local level**. While the initiative indicates a positive sign, legal provision presented in the Regulation lack many of the necessary elements for effective implementation. Even though the Regulation does not define specific standards, the deadlines or implementation mechanisms, it does sets main principles upon which further implementation mechanisms could be developed. The **Governmental Strategy for Cooperation with Civil Society** focuses on civil servants' capacities and implementation mechanisms of the Regulation on Minimum Standards for Public Consultation and the Regulation on Public Funding for NGOs, while aiming at building a system that enables CSOs to provide public services, building a co-financing scheme for EU funds for CSOs, defining the usage of public property for public benefit purposes, etc.. The entire strategic objectives and activities are built on the results of the previous Strategy, which, although limited, **provides a solid base** for further investment by the Government and contribution by civil society and other stakeholders. Nevertheless, the **Government lacks adequate human resources and financial allocations** for the implementation of the Strategy while relying mostly on technical assistance provided by international donors. On the other hand, **CSOs are not active in this process**, either by pressuring the Government to push for the implementation of the Strategy of contributing to its implementation directly.

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<sup>16</sup> KCSF (2018). Index Kosovar civil society, 2018. [pdf]. Available at: <https://www.kcsfoundation.org/wp-content/uploads/2018/12/Kosovar-Civil-Society-Index-2018.pdf> [14.02.2020]

The **data on capacity of the CSOs** speak to the increased impact of the civil society in the area of democracy, rule of law, fight against corruption, gender equality and education. Yet, generally speaking, CSOs in Kosovo still **lack a link to constituency** and their legitimacy of representation is frequently questioned<sup>17</sup>. Also, very few CSOs are capable of engaging in more complex public issues or policies, indicating that a good majority of CSOs **lack specialized expertise in fields** in which they work or do not have adequate financial and/or human capacities. Official data on registered CSOs continue to be non-systematic. According to the Public NGO Register, there are 9.545 registered organizations with an approximately 1.000 CSO being active. About 95% of CSOs are registered as associations, most of which have very few members. The rest of CSOs are registered as foundations. Data from the Kosovo Civil Society Index shows that nearly half of CSOs in Kosovo operate without funding (46%), while 23% of CSOs operate with less than 10.000 EUR per year<sup>18</sup>. With regards to the internal governance standards, although with minimal legal requirements, a significant part of CSOs in Kosovo **do not to properly implement** internal governance provisions. This is either due to the lack of knowledge, their understanding or because CSOs do not consider these standards necessary for their operations. Also, data shows that existence of documents for internal regulation of CSOs is related to the size and capabilities of the organization. Specifically, the majority of large and consolidated CSOs have developed documents for internal governance, including internal rules of procedure, financial regulation, etc., while smaller CSOs or CSOs operating with small or no funds, barely fulfil the basic internal governance requirements.

With regards to communication of the programmes and activities of CSOs, **social networks** are an important asset for communication for CSOs, as they enable a greater reach and easy access to public communication, while also being low cost and accessible to all. Despite this, a large number of **CSOs do not have websites** or any other social media account.

The data on transparency and accountability of CSOs show a slight decline in citizen confidence in civil society. The larger organizations undergo regular financial audits.<sup>19</sup> In addition, most CSOs noticed an increase in publishing annual reports, financial reports and financial audits.

CSOs in general do not utilize monitoring and evaluation systems for programmes and projects they implement. Nevertheless, CSOs show that they are well aware of the importance of having a M&E processes in place. They do **employ basic instruments** to assess their activities' impact, such as number of participants on their events, social media feedback etc..

With regards to the strategic approach, most CSOs plan their work on short time. Those that have strategic documents mostly orient their work towards donor funding priorities. Still, this issue remains in its early phases of being addressed. Grassroot organizations report of having clear strategies for the next 3–5 years of their work and are based on real links with their constituencies.

Although active in **advocacy activities**, CSOs are less active in advocacy activities pertaining to policy-making processes. CSOs reported using data in their daily activities by conducting **specific research** in order to support their arguments when participating in decision-making process, but this is still not the case with majority of CSOs. Nevertheless, CSOs reported that public institutions do not pay much attention on the evidence-based approach in policy processes. The role of civic engagement in policy and decision-making has been strengthened over the years with many organizations operating mostly at the central level and by developing their **expertise for engagement in the policy process**. Watchdog activities and monitoring of public institutions

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<sup>17</sup> Population Survey, September 2019; KCSF (2018). Index Kosovar civil society, 2018. [pdf]. Available at: <https://www.kcsfoundation.org/wp-content/uploads/2018/12/Kosovar-Civil-Society-Index-2018.pdf> [14.02.2020]

<sup>18</sup> <https://www.kcsfoundation.org/wp-content/uploads/2018/12/Kosovar-Civil-Society-Index-2018.pdf>

<sup>19</sup> Ibid

are also areas within policy cycle where CSOs effectively contribute to accountability demands on behalf of citizens. Similarly, advocacy and issue raising for the **rights of marginalized groups** in society has been almost solely the provenance of civil society with major gains achieved over the years with regards to services and legislation for the rights of women, survivors of sexual violence, people with disability, minority rights, and LGBTI rights. With regards to the networking, about half of CSOs in Kosovo are members of at least one (1) network, umbrella group or federation, while there are also ad-hoc and cause based networks/initiatives. Still, about half report not being members of any network. There is a lack of a **structured networking** among organizations, without pre-set objectives and areas of intervention. Cooperation usually takes place between organizations working in the same area and on the level of information sharing on their activities, without advancing further their level of commitment to joint work.

Similarly, as in strategic programme orientation, CSOs do not engage in strategic fundraising. In this regard CSOs align their project proposals to **donors funding objectives** rather than to needs assessment of the target groups that they tend to represent. There is a declining trend of CSO funding in all respects, with the exception of public funds. Foreign donors continue to be the main source of funding for CSOs in Kosovo, though with a noticeable decline compared to data from 2015. Additionally, it is perceived that there are **no diverse funding sources** with the international donors mainly prevailing in the sector. Other funding sources remain relatively low.

CSOs in Kosovo represent a diversity of organizational types, while showing **broad differences** in terms of their capacities due to their stage of organizational development, resources and organizational maturity. While CSOs think that **alternative ways of organizational capacity building** should be considered and utilized, they highly value trainings provided by local resources centres, i.e. either those who do so for their grantees, or for the whole sector. General trainings are especially important for smaller and new CSOs, as well as informal initiatives. Main capacity building needs for CSOs in Kosovo fall into three categories: 1) **Internal governance**, including internal organization and management of a CSO, networking, visibility, and ties to constituency; 2) **Impact Assessment and fundraising**; and 3) **Gender mainstreaming**.





## COUNTRY BRIEF: MONTENEGRO

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 2016<sup>20</sup>. 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.

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<sup>20</sup> EC: Report on Montenegro, SWD(2019) 217 final, Available at: <https://ec.europa.eu/neighbourhood-enlargement/sites/nearfiles/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 fund<sup>21</sup>. 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.

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<sup>21</sup> [www.finansiranjenvo.me](http://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 2018<sup>22</sup>, 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 2018<sup>23</sup> 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

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<sup>22</sup> CSO Sustainability index for 2018

<sup>23</sup> 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**.

## COUNTRY BRIEF: NORTH MACEDONIA

The legislative changes and practical implementation of the legal acts in North Macedonia **improved the conducive environment** in which CSOs operate. Individuals as well as legal entities can establish, join and participate in associations, express themselves freely and assemble peacefully.

With regards to the **freedom of association**, there have been no main changes in the key legal provisions. The Law on Associations and Foundations regulates the right of association for all individuals without discrimination. Individuals **can establish, join and participate in associations** and this was in general **freely practiced**. Inspections that lasted over two years on the group of 22 CSOs have ceased<sup>24</sup>. The investigation was concluded without discovering any illegal operations or violations to the laws. However, the monitoring noted that certain legislative initiatives and changes implemented in other related legal acts might put at risk the principle of freedom of association. The Law on Money Laundering and Financing of Terrorism and different policies concerning the fight against terrorism and anti-money laundering adopted in June 2018 imposed requirements on CSOs with regards to provision of additional data about their founders. The Criminal Code provisions that define the term "public official" includes the legal representatives of CSOs in this definition and puts on the same type of obligations as for public officials<sup>25</sup>.

The **freedom of assembly** was **enabled and enjoyed**, as numerous gatherings on different issues have taken place in the monitoring period. Almost all protests were held peacefully and were enabled by the police. However, there was one case of disproportionate use of force against protesters where 25 people were injured, and the police used tear gas and shock bombs to disperse the crowd<sup>26</sup>. The **legal improvements** in North Macedonia included amendment to the **Criminal Code**<sup>27</sup>, containing stricter fines for public officials if they misuse their position during gatherings and the **Law on Police** by specifying conditions the means for dispersion can be used on citizens, and removing rubber bullets and electric paralyzers from the list of means for dispersion to be used<sup>28</sup>. Furthermore, at the beginning of November 2019, an extensively amended version of the Law on Public Gatherings was prepared and shared for public consultations<sup>29</sup>. The amendments proposed restrictive measures with regards to the number of people, time and place for gathering. After the reaction from the civil society, the Government withdraw the draft Law.

There have been positive legal changes introduced the **freedom of expression**. The Parliament adopted the **new Law on Free Access to Information from Public Character**, prepared in a participatory manner together with CSOs<sup>30</sup>. The Law should enable a quicker and better access

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<sup>24</sup> Government of the Republic of North Macedonia (2019) It is the end of the persecution of civil society organizations, arranged in the "Night of Long Knives" by Gruevski's regime (statement of the Minister for defence-Radmila Sekerinska. [Internet] Skopje, Government of the Republic of North Macedonia. Address: <https://vlada.mk/node/17780> [Accessed on: 25/11/2019]

<sup>25</sup> Criminal Code ("Official Gazette of the Republic of Macedonia" no. 37/96, 80/99, 4/02, 43/03, 19/04, 81/05, 60/06, 73/06, 7/08, 139/08, 114/09, 51/11, 135/11, 185/11, 142/12, 166/12, 55/2013, 82/13, 14/14, 27/14, 28/14, 41/14, 115/14, 132/14, 160/14, 199/14, 196/15 и 226/15, 97/17 and 248/18).

<sup>26</sup> Macedonian Young Lawyers Association (2018) ANNUAL report on the efficiency of legal protection of human rights in the Republic of Macedonia: 2018. [Internet] Skopje, MYLA. Address: <http://myla.org.mk/wp-content/uploads/2018/12/%D0%93%D0%BE%D0% B4%D0%B8-D1%88%D0%B5%D0%BD-%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98-%D0%B7%D0%B0%D0%B5%D1%84%D0%B8%D0%BA%D0%B0%D1%81%D0%BD%D0%BE%D1%81%D1%82 %D0%B0-%D0%BD%D0%B0-%D0%BF%D1%80 %D0%B0%D0%B2%D0%B-D%D0%B0%D1%82 %D0%B0-%D0%B7%D0%B0%D1%88%D1%82 %D0%B8%D1%82%D0%B0-%D0%BD%D0%B0%D1%87%D0%BE%D0%B2%D0%B5%D0%BA %D0%BE%D0%B2%D0%B8%D1%82%D0%B5%D0%BF%D1%80%D0%B0%D0%B2%D0%B0%D0%B2>

<sup>27</sup> Criminal Code (Official Gazette no. 37/96, 80/99, 4/02, 43/03, 19/04, 81/05, 60/06, 73/2006, 7/2008, 139/2008, 114/2009, 51/2011, 135/2011, 185/2011, 142/2012, 166/2012, 55/2013, 82/2013, 14/2014, 27/2014, 28/2014, 41/2014, 115/2014, 132/2014, 160/2014, 199/2014, 196/2015, 226/2015, 97/2017 and 248/2018). [D0%BE-%D0%A0%D0%9C-2018.pdf](https://vlada.mk/node/17780) [Accessed on: 15.4.2019]

<sup>28</sup> Law on Police (Official Gazette no. 114/2006, 6/2009, 145/2012, 41/2014, 33/2015, 31/2016, 106/2016, 120/2016, 21/2018 и 64/2018).

<sup>29</sup> ENER (2019) Draft Law on Public Assemblies. [Internet] Skopje, ENER. Available at: [https://ener.gov.mk/default.aspx?item=pub\\_regulation&subitem=view\\_reg\\_detail&itemid=FcBt7MpBDB3oYvZe9CSBg==](https://ener.gov.mk/default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=FcBt7MpBDB3oYvZe9CSBg==) [Accessed on: 25.11.2019]

<sup>30</sup> Law on Free Access to Public Information (Official Gazette, no. 13/06, 86/08, 6/10, 42/14, 148/15, 55/16 and 64/18).



to information by those that request the information, as well as greater transparency and accountability of the providers of information. In addition, civil society has reacted and prepared numerous activities concerning fake news and disinformation. The Government has announced and prepared an Action Plan to tackle the issue and the civil society was invited to take part<sup>31</sup>. In practice there are improvements, particularly in the media field and the climate for journalism. In North Macedonia, threats, pressures, insults, and influences are still part of daily life for independent journalists, even though the environment has improved. Progress has been made with regards to journalists' safety, as the number of attacks on journalists in 2018 was just one third of the previous year's figure.

The policies and legal environment do not stimulate and facilitate **volunteering and employment** in the sector. While the legislation regulates the volunteering, the **administrative procedures are insufficiently encouraging**. This is especially case for work of foreign volunteers. In terms of **employment**, the legislation is still not adjusted to the operation and nature of functioning of the sector. CSOs were listed as users of active measures for employment in the Operational Employment Plan for the first time in 2017. The Employment Agency has confirmed that the measure to subsidise salaries and provide in-kind grants (such as for equipment) has shown to be beneficial and of interest for CSOs<sup>32</sup>. While a new Law on Internships was adopted, the effects of its implementation are to be analysed in the next period.

Understanding about **the concept and the role of the grassroots** in North Macedonia differs among the representatives of CSOs. The emerging number of grassroots initiatives is noticeable especially, around issues such as environment, some of them being formalized while others remaining informal. Civil society actors reported that the unregistered operation of the grassroots at certain times and places puts them in a marginalized position, as they are not able to enjoy full access to donor funding, advocacy with policy-makers, take part in consultations, undertake legal action, etc..

With regards to the financial environment for CSOs, some positive steps have been noted. **Positive legislative changes** occurred with amendments to the **Law on Profit Tax** enabling general exemption of CSOs as subjects to the Law. The tax is administered only in case when CSOs earn over approximately 15.000 EUR per year from economic activity. In such case, 1% tax is calculated on the amount exceeding the 15.000 EUR threshold. In addition, all costs for accommodation, food and transportation for persons participating in events organized as part of the activities of the association established under the Law on Associations and Foundations are now tax-exempt. The **Law on Donations and Sponsorships in Public Activities** provides tax relief for individual and corporate giving. However, the administrative procedure for the tax incentives is considered **too burdensome**. The **Law on Accounting for the Non-Profit Organisations** is in the process of revision and should be **further improved**. The financial reporting obligations for CSOs remain unchanged and differ based on the level of annual turnover.

Public funding for CSOs **increased** in 2018 and 2019 subsequently. Considering the Strategy for Cooperation with and Development of the CSOs (2018-2020), the Government has for the first time explicitly expressed public willingness to work on fund for providing institutional grants and co-financing to EU and other projects<sup>33</sup>. However, the main challenges, such as the failure of the

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<sup>31</sup> Government of the Republic of North Macedonia (2019) Draft-plan for decisive action against spreading misinformation and attacks on democracy (2019). [Internet] Skopje, Government of the Republic of North Macedonia. Address <https://vlada.mk/node/18640> [Accessed on: 25/11/2019]

<sup>32</sup> Atanasova, M. (2019) Analysis of the perception and involvement of CSOs as employers in legislation and active employment measures in the Republic of North Macedonia. [Internet] Skopje, Konekt. Address: [http://konekt.org.mk/wp-content/uploads/2019/08/konekt-analiza\\_01.pdf](http://konekt.org.mk/wp-content/uploads/2019/08/konekt-analiza_01.pdf) [Accessed on: 25/11/2019]

<sup>33</sup> Government of the Republic of North Macedonia (2019) Prime Minister Zaev at the conference "Reform of the CSO state Financing System: Striving for sustainable financial support to CSOs. [Internet] Skopje, Government of the Republic of North Macedonia. Address <https://vlada.mk/node/17896> [Accessed on: 25.11.2019]

Government to provide clear objectives and reasons behind awarding government funding, lack of institutional support, lack of co-financing, lack of multi-annual financing, and lack of better geographical dispersion of grants and support, still remain.

The involvement of CSOs in public consultation processes **improved**. There is evident improvement in respecting the deadlines for electronic consultations, and in general continuous involvement of CSOs in consultations for all key legislation. The Council for Cooperation with and Development of the Civil Society was established in 2018 and operates as a functional mechanism for dialogue and cooperation. However, the direct communication between the Council and CSOs in North Macedonia should be further improved<sup>34</sup>. The Government Unit for Cooperation with CSOs, and the Council monitors the implementation of the Strategy for Cooperation with and Development of the CSOs and information about its activities are regularly posted on the Unit's website<sup>35</sup>.

The **data on the capacity of CSOs** show certain increase in some aspects of the capacity. However, the unstable political and financial environment for CSOs, must be considered as limiting factor in the capacity development processes. The official data on the number of registered CSOs can be obtained for free from the Central Registry's website. According to the latest data from December 2019, there are **16.703 CSOs** in Macedonia, out of which **2.710** have submitted annual financial reports and could be considered active. These numbers significantly differ from those obtained at the end of 2018, which confirms the need for the development of a unified methodology for data refining and restructuring. CSOs in 2018 generated a revenue of **101.929.240 EUR**.

The internal governance systems and capacities of CSOs have **increased** mostly due to donor requirements for increased accountability. The legislation, on the other hand, provides minimal requirements for CSOs with regards to internal governance structures. The majority of CSOs tend to have both the assembly and the governing board in their structure. The **functionality** of these bodies remains a challenge as well as proper **division** between the governing and the executive functions in the CSOs. The **lack of institutional support** for CSOs both at the state and foreign donor level makes the maintenance of a proper internal governance structure challenging. Smaller organizations and those considered as grassroots tend to **limit their development** of their internal structures and strategic approach to a certain level where they perform their role in the community well. On the other hand, donor requirements as well as administrative burden for grants management continues to push these limits towards development of **reliable internal systems** for administration and financial management.

The communication of the results and programme activities of CSOs has **improved** to a certain extent. This is due to the increased awareness by CSOs on the possibilities of usage of different social media and visibility tools. In addition, the entire **media context has improved**, and there is increasingly positive approach of media towards CSOs where they have been presenting their work on different issues, as well as developing long-term partnerships and providing expertise for political shows and discussions on "hot" and sensitive topics. In addition, the focus of CSOs on having communication strategies has been supported by donors and has thus increased.

The employment of **staff** that are responsible for communication of results in a CSOs **remains a challenge**, due to the lack of financial support for human resources engagement.

The awareness of CSOs about transparency of their programme activities and financial management has **increased** to some extent. However, **practicing** of transparency is still **insufficient**. While most CSOs prepare annual narrative and financial reports, only half of them share these reports publicly. On the other hand, lack of transparency of some organizations that

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<sup>34</sup> Ogenovska S., Chaushoska, J. (2019) Report on Enabling Environment for Civil Society Development 2018. MCIC.

<sup>35</sup> [www.nvosorabotka.gov.mk](http://www.nvosorabotka.gov.mk)

receive long-term support by the state is demotivating other CSOs to further develop positive practices in this area. There is **lack of substantial engagement of CSOs** in monitoring and evaluating their work. Most CSOs have established M&E practices on the project level and only few organizations have developed M&E systems on the strategic level.

CSOs predominantly report on increased strategic approach. The majority of CSOs and CSO networks have **strategic plans** undertaken and encouraged via the multi-year capacity development assistance. Yet, there are existing **challenges** that influence this trend negatively. The unstable political situation and failure of the state to address key societal problems has certain influence over strategic operations. The lack of institutional support for CSOs and human resources development is also challenging considering the unstable sources of funding.

With regards to the evidence-based advocacy, CSOs **increasingly use** research and other forms of evidence to provide input for certain policy changes. However, there are still **significant challenges** identified as the lack of public data collected by the state that could be further used in policy making, and the lack of support on the donors' side in preparation of baseline studies. Activist movements and organizations that solve practical issues in different areas have proven to be successful in mobilizing citizens and having success in pressuring the institutions. In addition to the success in advocacy and citizen's mobilization, an increase of active and functioning networks was identified, i.e. there is a total of 69 networks in North Macedonia<sup>36</sup>. Furthermore, there was an increase in establishing **informal networks**. Namely, the networking was recognized to give weight to the outcome of the decision-making process. However, the challenge remains of networks that tend to cease after their funding ends.

The unstable political and economic environment prevents CSOs to take up strategic approach towards funding priorities, particularly smaller organizations. The **project support dominates**, while institutional support is limited to one or two donor programmes only. In addition, there is limited funding available for certain regions of North Macedonia (e.g. other than the Skopje region) and certain thematic areas (e.g. women issues, fight against terrorism etc.). The funding base for CSOs is **not diversified** and is in most cases limited only to funding by one donor and in some cases to state funds. This is understandable, as other sources of funding are not generally available. The re-granting mechanism introduced by the EU is considered **helpful** in general to smaller organizations and contributes towards better regional coverage of support to CSOs. Yet, several challenges related to the **difficult administrative procedures** were identified. Despite the shortcomings, CSOs reported that their capacities are being strengthened and there are **positive changes in the community and at the organizational level**.

With regards to gender mainstreaming, civil society is perceived as the **sector most sensitive** to the need of engaging in gender mainstreaming. As this has also become a donor requirement, almost all CSOs using foreign funding inevitably make certain efforts concerning gender equality. On the other hand, there is an evident need to further explain why the concept of gender equality is important amongst CSOs.

The capacity building needs emphasize further organizational strengthening as priority, followed by advocacy, EU project management, digitalization as well as facilitation of networking. CSOs prefer more direct and hands-on approach such as continuous on-demand mentorship as well tailored workshops and facilitation.

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<sup>36</sup> Civil Society Resource Center (2018) "Network identification survey report in Republic of Macedonia" [Internet] Skopje, Civil Society Resource Center. Address: <https://rcgo.mk/wp-content/uploads/2019/02/izveshtaj-od-anketa-za-identifikacija-na-mrezi.pdf> [Accessed: 25.11.2019]

## COUNTRY BRIEF: SERBIA

One of the most difficult challenges that civil society in Serbia has faced during the past two years relates to the **growing trend of shrinking civic space**. Discrepancies between the legal framework for fundamental rights and practices have been present in Serbia for a longer period of time and have been recorded in numerous domestic and international reports. In the last two years, the narrowing of civic space has taken place at the legislative level.

With regards to the freedom of association, the laws regulating this area, such as Law on Association and the Law on Endowments and Foundations, are **in line with international standards** and have not been changed so far. Still, the Civil Code adoption process is underway, which contains, inter alia, provisions on freedom of association, which, if adopted, will regulate this area significantly differently. There is a strong trend of funding governmental NGOs (**GONGOs**) and associations influenced and/or controlled by the ruling political party (**PONGOs**). These organizations mostly support the authorities and their initiatives, use state funding for associations, and appoint their representatives to the consultative bodies, commissions and working groups, thus contributing to the false image of public participation. Inflation of false citizens' associations seriously threatens to **derail freedom of association** in Serbia. According to the monitoring mechanism Three Freedoms under the Magnifying Glass, established by informal network of prominent CSOs-Three freedoms<sup>37</sup>, during the period March-October 2019, a total of **28 cases of violation of the freedom of association**<sup>38</sup> have been recorded. In 2018, the Government adopted the regulation on Money Laundering Risk Assessment and Terrorist Financing Risk with accompanying Action Plan in order to implement its recommendations. Based on this, stronger coordination was made **between inspections in charge for associations and foundations**.<sup>39</sup> The most significant novelty in 2018 is **limiting CSOs from providing legal aid services**. In November 2018, the National Assembly adopted the Law on Free Legal Aid, which came into force in October 2019. Although CSOs have been successfully providing free legal aid to vulnerable groups such as victims of violence and war crimes, members of marginalized and minority asylum seekers, and others for over 20 years, the Government decided to exclude them from the pool of legal aid providers.

The legal framework for freedom of assembly did not change since 2016 when the Public Assembly Act was adopted. For the most part, the Law is in line with international standards. However, while the Law recognizes spontaneous assemblies, it remains unclear if simultaneous and counter-assemblies are allowed. Further restrictions in terms of place of gatherings are ambiguous and secondary legislation that would provide clarification (especially on the local level) is yet to be adopted. Finally, significant responsibilities and high fines for any breach of the Law are placed on organizers. The **practice of selective implementation** of the Public Assembly Act and unclear reactions of the competent authorities, depending on who organizes the public assembly, are evident, which was especially obvious during the protests of the opposition and protest meetings of informal groups. In 2019, **additional restrictions in the local legislative** have been recorded.<sup>40</sup> Using their legal authority in the area of governance of the public spaces, certain local self-governments conditioned CSOs or informal groups occupying public space needed for organizing public gatherings with their **local tax payments** or signing commercial contract with local utility company to clean the public space after end of the activities. According to the monitoring mechanism "Three Freedoms under the Magnifying Glass" during the period March-

<sup>37</sup> Gradjanske.org (2019). THE THREE FREEDOMS PLATFORM TO PROTECT THE CIVIC SPACE IN THE REPUBLIC OF SERBIA SIGNED AT ICSW 2019. Available at: <https://www.gradjanske.org/en/platform-three-freedoms-to-protect-the-civic-space-in-the-republic-of-serbia-signed-at-icsw-2019/> [04.02.2020]

<sup>38</sup> <https://www.gradjanske.org/wp-content/uploads/2019/10/Grafikon-SRB.png>

<sup>39</sup> According to the information obtained verbally by the members of the Coordination Commission, so far 40 civil society organizations are being inspected on this basis without significant irregularities or abuses of supervision on this basis

<sup>40</sup> Interview with the representative of National Coalition for Decentralization

October 2019, a total of **23 cases of violation of the freedom of assembly** have been recorded.<sup>41</sup> Freedom of expression is explicitly guaranteed at the constitutional, primary and secondary level legislation, but its **implementation is at a very low level** as associations', especially those who criticize the Government, credibility is often attacked through political campaigns. According to the monitoring mechanism "Three Freedoms under the Magnifying Glass", during the period March-October 2019, a total of **46 cases of violence of freedom of expression**<sup>42</sup> have been recorded and this is area among the three freedoms that is under the **strongest threat**. CSOs, media and individuals<sup>43</sup> demanded that the Ministry of Public Administration and Local Self-Government remove without delay provision allowing abuse of the right of free access to information against organizations, media and individuals acting in the public or general interest from the Draft Law on Free Access to Information of Public Importance. The Ministry is yet to inform the public about its decision.

There is no change in the legislative framework regulating **employment and volunteering** in CSOs. There are no discriminatory articles for CSOs in labour legislation, including active employment policy, but the legislative framework still is not stimulating in promoting volunteering. The Law on Volunteering adopted in 2010, through its overregulation and treatment of volunteering as work engagement, still makes it **difficult for CSOs to include volunteers** in their activities. CSOs face problems with recruitment and keeping volunteers as well as with motivating new ones. According to official statistic data based on CSOs financial statements, by the end of 2018, **CSOs employed a total of 7.945 people**. Data on the number of part-time employees in CSOs are not available to the public on an annual basis.

The assessment period is marked by formation of a number of **grassroots organizations and movements** due to the lack of space for public debate. According to the Law on Associations, the registration of grassroots is not mandatory and unregistered organizations can operate freely. Funding to the grassroots is provided using accounts of individuals and/or intermediary organizations. They are particularly active in the fields of ecology, environmental protection and socio-economic rights. Activities of the grassroots are mostly **based on community's information** and mobilization via social networks.

In the financial environment, individual and corporate giving still needs to be significantly improved in terms of harmonizing the definition of public benefit activities in different laws, clarifying procedures and rules for obtaining tax-deductions for legal entities (businesses), introducing tax relief for individuals and establishing an effective system of tracking corporate and individual giving. Financial rules are mostly in place and recognize the specific legal nature of CSOs, while the state system of incentives should be improved, particularly in the area of social entrepreneurship. Regulation on **public funding** still misses the necessary elements, i.e. scope, recipients, implementation rules, code of conduct, reporting, etc., even though several legal improvements have been made. The Government has adopted a new Decree on Funds for Incentive Programmes or a Missing Part of Funds for Funding Programmes of Public Interest Implemented by Associations, which has been implemented since March 2018. There is a strong trend of a **non-transparent process of conducting public calls** as well as an increasing trend of GONGOs benefiting from their participation in the distribution of such funds.

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<sup>41</sup> <https://www.gradjanske.org/wp-content/uploads/2019/10/Grafikon-SRB.png>

<sup>42</sup> <https://www.gradjanske.org/wp-content/uploads/2019/10/Grafikon-SRB.png>

<sup>43</sup> Udruzenja.info (no date). HITNO UKLONITI ŠTETNE ODREDBE ZAKONA O SLOBODNOM PRISTUPU INFORMACIJAMA OD JAVNOG ZNAČAJA. Available at: <http://udruzenja.info/hitno-ukloniti-stetne-odredbe-zakona-o-slobodnom-pristupu-informacijama-od-javnog-znacaja/> [24.01.2020]



The assessment period was marked by **significant legislative activity** in the area of participation in decision-making processes focused on the form rather than the quality of dialogue with citizens and civil society. There is a tendency of **devaluing** the mechanisms for participation, creation of parallel processes and strong GONGOs presence and involvement in such processes. Government calls for CSOs involvement are being motivated only by need to strengthen their own image, mainly in the process of the EU negotiation process. The **Government Office for Cooperation with Civil Society (GOCCS)**, as an institutional mechanism for supporting the development of dialogue between the Government and CSOs, has been recognized within the state administration as an advisory body for the involvement of CSOs in the regulation process, **lacking results** in substantially improving the environment for civil society development. The proposed **National Strategy for an Enabling Environment for Civil Society Development** in the Republic of Serbia is **yet to be adopted**.

The general conclusion about the state of **CSOs capacity** is that there is a strong sector polarization among CSOs based on year of establishment, geographic focus and field of operations. The official data<sup>44</sup> on the number of registered CSOs in Serbia is constantly growing year by year. However, the number of those who submit the financial reports is still low and can serve as the indicative number of active CSOs in Serbia. The current number of registered CSOs is **34.260** and **25.878 out of them** submitted financial statements in 2018 and might be considered **active**. The total **revenue** of CSOs in 2018 was **335.652.409 EUR**.

When it comes to internal governing structures the progress is linear, but CSOs are still not fully functional and transparent. There is still a lack of transparent **management selection procedures** and a clear **division of responsibilities** within organizations. Transparency of data in this area remains a burning issue which, among other things, affects the level of trust about CSOs among citizens. This is a particular challenge for less developed and local organizations that are unable to retain people and recruit new ones.

With regards to communication with target groups, organizations are inclined to shift responsibility for media disinterest. With the growing influence of the internet and social networks, other than traditional channels of communication with target groups are emerging. This situation can also be linked to the **lack of strategic approach** to building constituency relations among CSOs. A systemic approach in this area is also lacking, which can be linked again to the lack of resources. Although most organizations claim to rate the satisfaction of their users, this is not confirmed with citizens attitudes who claim to be little informed about the activities of organizations or involved in their work.

There is **lack of substantial engagement of CSOs** in monitoring and evaluating their work. Internal monitoring procedures are mainly implemented on a **project basis** and are mostly initiated by donors. At the organizational level, there is poor practice as well, even among more developed organizations. Internal evaluation is carried out even less frequently than project evaluations. Even if it is conducted, the practice of analysing lessons learned is poor.

According to the findings of the focus groups, due to strong donor support and project-oriented activities, there has been a diminished interest in strategic approach of CSOs. On average, less than one third of CSOs have a strategic plan. Almost half of CSOs involved in the international cooperation have a strategic plan.

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<sup>44</sup> [www.apr.gov.rs](http://www.apr.gov.rs)

Advocacy is one of the areas with the greatest challenges. Although CSOs are generally aware of the **need for an evidence-based approach**, it raises the question of its effects in a narrowed space for action and misuse of known and common advocacy mechanisms by the state with the growing GONGOs. The **strong polarization in society** created a trend among CSOs of considering different methods and shifting their focus to developing wider a legitimacy for their advocacy demands. Networking is one of the **greatest strengths** of civil society and is recognized as such. However, a strong challenge in this regard is to determine its purpose and the sustainability of common structures as well as to assess its influence. A large number of networks in Serbia are initiated by donors, rather than as part of the strategic approach of individual organizations.

Although there is an increase in the annual budgets of organizations, reduced strategic focus at the programme level, results in a lack of strategic approach to the financing of organizations. Sector polarization is evident in terms of satisfaction with the financial situation, although donor activity is expressed and enhanced in this regard by increasing the amounts for **multi-year programmes**, which include **small grants** for programme activities. When it comes to **diversification of funds**, a wider sample of organizations shows that the share of government funding is increased, while pro liberal/pro-EU organizations remain mostly focused on donor funds.<sup>45</sup> Efforts to raise awareness and capacities for **crowdfunding** are visible, but the success of these campaigns is conditioned by the stable situation and adequate capacity of organizations, primarily in terms of human resources.

Gender mainstreaming is still **lacking** among CSOs. There are still fewer women in leadership positions, but their share in all staff categories is increasing. When it comes to influencing national gender policies, although all existing mechanisms have been introduced into the system mainly by women's organizations, their **impact has weakened** significantly and findings indicate that they are one of the most vulnerable part of the sector in the context of narrowed civic space and the rise of the far-right narrative in public space.

The capacity building should continue focus on reduced organizational capacities in terms of their **transparency, accountability and effectiveness**, with a particular focus on **citizen relations, communication and visibility**. During the last period, the capacity building focus was primarily on the sustainability of CSOs and mainly on its financial component. Organizations now need help to survive and bridge a situation where all known mechanisms of liberal democracy are collapsing. In terms of the **approach of implementation**, it is evident that trainings as the main method of work should not be in focus. Organizations are looking for a **tailored, one-on-one approach** and eventual **networking** with those who have similar problems to share experiences and provide peer support.

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<sup>45</sup> IPSOS Strategic Marketing, Velat D. (2019). CSO Sector in Serbia in 2019 - Assessment of the Situation in the Civil Society Organization Sector in Serbia. ACT – For an Active Civil Society Together. [Pdf] Available at: [https://act.org.rs/wp-content/uploads/2019/12/CSO-Sector-in-Serbia-2019\\_Summary\\_WEB.pdf](https://act.org.rs/wp-content/uploads/2019/12/CSO-Sector-in-Serbia-2019_Summary_WEB.pdf) [28.11.2019]

## COUNTRY BRIEF: TURKEY

The basic provisions on the freedom of association in Turkey's law are regulated in the Article 33 of the Constitution. On paper, the freedom of association in Turkey is mostly in line with the **international standards**. During the state of emergency period, most of these liberties were suspended and hundreds of CSOs were closed down through decrees, but with no judicial proceedings. During this extraordinary period, **1419 associations were permanently dissolved**<sup>46</sup> and all their belongings were confiscated without judicial decisions. Although repealed in 2018, the restrictions of the period continue in practice based on the tolerated arbitrariness of the public officials. The emblematic **trials** against prominent figures of the Turkish civil society, the bothering successive **audits** of targeted CSOs and **discriminatory attitude** towards certain actors and themes, prevent the full use of these freedoms.

With regards to the freedom of assembly, the situation in Turkey **is more challenging**. Even though this freedom is fully granted by the Article 34 of the Constitution, its exercise has been hampered by the secondary legislations. **Law on Meetings and Demonstrations** (Law No. 2911), which was adopted in 1983 during the military dictatorship is still in force and brings significant limitations to freedom of assembly. For example, it brings vague grounds for limitations and is not in coherence with international standards as a whole. The obligation of prior notification is used as a mechanism of **prior permission** as many restrictions apply to public assemblies starting from the location to the content and action of the assembly using arguments of public order, public morality and anti-terrorism as pretext for restrictions. According the Association for Monitoring Equal Rights, between April 2019 and September 2019, at least **818 meetings and demonstrations were interfered** and at least **2.098 people were detained** in these interventions in a six-months period. Even closed gatherings in private venues have been banned and intervention by police forces have been violent in certain public gatherings. **LGBTI** organisations especially seem to suffer from discrimination by convention centres, hotels and even cafes that are asked to inform security forces about such closed assemblies and advised not to allocate their spaces for such organizations.

As is the case for other liberties, the freedom of expression is also granted with the Article 26 of the Constitution. Yet, the secondary legislation as well as the actual practice of the granted rights hinder the effective use of these liberties. Both legal restrictions and the use of vague terms in the law texts, let free and sometimes even encourage public authorities to restrict free expression of opinions. For example, in 2018, **the Freedom House** lowered Turkey's status from partly free to **not free** for leaving citizens hesitant to express their views on sensitive topics and violating freedom of expression. As a result, and as confirmed by numerous cases against civil society actors, intellectuals and journalists, Turkey's place in all of **freedom indexes have been worsened**. According to the BIA Media Monitoring Report of 2018, **123 journalists** were behind bars due to occupational and political activities, **47 journalists** were taken into custody, **19 reporters** and one media organization were assaulted, **20 journalists, reporters** and **columnists** were convicted on the charges of "insulting the President" in their news stories<sup>47</sup>. At least **2.950 news stories** on the internet were blocked upon the rulings of the Penal Courts of Peace, while **Wikipedia has been blocked** across all languages since April 2017.<sup>48</sup>

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<sup>46</sup> <https://tr.sputniknews.com/turkiye/201804151033041968-soylu-ohal-kapsaminda-kapatilan-dernek-sayisi-bin-419/>

<sup>47</sup> International Press Institute (2019). Monitoring Judicial Practices in Turkey and Strengthening EU Human Rights Mechanisms: TURKEY FREE EXPRESSION TRIAL MONITORING REPORT. [pdf] Available at: [https://freeturkeyjournalists.ipi.media/wp-content/uploads/2019/09/Turkey-Trial-Monitoring-Report-Sept19-250919\\_final.pdf](https://freeturkeyjournalists.ipi.media/wp-content/uploads/2019/09/Turkey-Trial-Monitoring-Report-Sept19-250919_final.pdf) [04.02.2020]

<sup>48</sup> Bianet (2019). BIA Media Monitoring Report 2018: One Year of the Journalist and the Media. Available at: <https://bianet.org/english/media/205640-bia-media-monitoring-report-2018-one-year-of-the-journalist-and-the-media> [04.02.2020]

Moreover, the public in general seem to be encouraged to support these restrictions on the expression of opinions by the promotion of denunciation practices of those who are critical about the political elite.

When it comes to the human resources of CSOs, it is observed that neither professional **employment** nor **volunteerism** is widespread in Turkey. Although full-time employees represent the majority of CSO staff, its ratio in comparison to the overall rate of employment is negligible. The number of employees recruited in associations was **64.515 in 2018**. That means the number of people working in associations has **almost doubled between 2007 and 2018**. In general, most of the associations' employees are reported to be working full-time. Part-time employment is reported to be the least popular method for engagement in associations. Furthermore, unlike local governments, there is **no legal basis for voluntary work** in CSOs. The state of emergency and concerns about being profiled add up to downsize of volunteers within CSOs and discourage people to take roles in them. The number of **volunteers in associations** increased to 28.038 in 2018, compared to 13.827 in 2014.<sup>49</sup> As for the foundations, in 2016, 1.025.538 people participated to foundations as volunteers. Besides this, 11<sup>th</sup> National Development Plan<sup>50</sup> gives reference to the formulation of a comprehensive regulation for strengthening civil society and volunteerism<sup>51</sup>.

The number of people actively involved in civil society is in fact much bigger than the official statistics suggest as informality has been the main rule of social and economic relations in Turkey. That is why the **grassroots movements** have been always vibrant in solidarity networks, religious gatherings, and more recently, in local food groups that aim at offering access to ecological and fair-trade agricultural productions. Therefore, the scope of CSOs should be enlarged in fact **towards informal groups**, albeit the difficulty of documenting them.

CSOs in Turkey operate under a rather **disabling financial environment**. CSOs are still not taken into account as separate legal entities and subject to existing accounting rules which lays down a long list of bureaucratic requirements that are cumbersome and time consuming for most CSOs. Financial support to CSOs by **individuals and corporations** can be in form of membership fees and donations that can be provided anytime in cash or in-kind. Organization of fundraising campaigns is subject to **prior permission**, whereas only CSOs with a permanent permission or the PBO status can launch such campaigns without prior permission. In any case, although Turkish individuals donate more than the European average, they seem to be more inclined to **donate directly to individuals** rather than to CSOs. It is, thus, necessary to facilitate the fundraising bureaucracy and encourage financial support to CSOs. In fact, there are **very limited financial incentives** for individuals and corporations for donating to CSOs. Only donations made to CSOs with PBO status and foundation with tax exemptions can be deducted from annual revenues and only for a very low level. Yet, all revenue generating activities of CSOs except those undertaken by associations with PBO status or foundations with tax exemptions are considered as business affairs and subject to tax.

When it comes to **governmental support** to CSOs, even though there seems to be no general scheme for such supports, the amount of resources transferred to CSOs **appear to have been multiplied in recent years** through ministerial programmes, regional agencies and national projects. Yet, the **non-transparency** of decisions on these support raises doubts on the objectivity of such transfers and imply the weight of political relations in the determination of whom to

<sup>49</sup> <https://www.siviltoplum.gov.tr/illere-gore-derneklerdeki-calisan-sayilari>

<sup>50</sup> [#776.1](http://www.sbb.gov.tr/wp-content/uploads/2019/07/OnbirinciKalkinmaPlani.pdf)

<sup>51</sup> Relying on the 11th Development Plan, Ministry of Foreign Affairs, Directorate for EU Affairs has initiated a consultation process with the participation of public institutions, international organizations and civil society organizations for the improvement of conducive legal environment for volunteerism and development of necessary regulations. ([http://siviltoplumsektoru.org/wp-content/uploads/2019/12/Conulluluk\\_Calistayi\\_Raporu.pdf](http://siviltoplumsektoru.org/wp-content/uploads/2019/12/Conulluluk_Calistayi_Raporu.pdf))

be supported. Furthermore, there isn't any national strategy regarding public funding and fund distribution nor an applicable legislation with a clear procedure in place for a uniform, standardized, transparent and binding state support for both local administration and central government bodies.

CSOs are not only deprived of systematic and objective governmental support, but also adequate and effective channels of participation in public consultation processes. There is limited structure or mechanism that CSOs may participate for a dialogue between civil society and public institutions or cooperation between them. Traditionally associated with centralist political culture Turkish politics both on national and local scale leave **very limited space and power** to CSOs in governmental bodies. In Turkey, the only existing legal framework for public consultation is the Regulation on the Procedures and Principles of Drafting Legislation. The Regulation envisages the consultation process with CSOs in the process of drafting laws<sup>52</sup>. However, the existing regulations do not make public consultation obligatory and do not define objective mechanisms, procedures and criteria with respect to the consultation process and selection of CSOs that are to be involved in the policy process<sup>53</sup>. This weakness is indirectly acknowledged by the Government as both the Development Plan and the Annual programme of the President emphasise the **need to improve participatory mechanisms**. The 11th Five Year Development Plan adopted on July 2019 defines developing a strong civic culture, organized society, transparent and accountable CSOs and participatory policy making as its major objective. For this purpose, secondary legislations is planned.

Although CSOs can develop common projects with public authorities, there is no formal framework and mechanisms for cooperation to shape such partnerships. The Directorate General for Relations with Civil Society (DGRCS) has not yet offered adequate instruments for this purpose. Its high advisory board also remains on paper. Moreover, in the aftermath of the state of emergency, public authorities appear to be **extremely reluctant** to cooperate with civil society due to the experience by their ex-colleagues who have been excoriated for having links with once legitimate and later then stigmatised civil organisations. Consequently, CSOs are more inclined to **turn towards local governments** for eventual partnerships. City councils established for this purpose though, remain ineffective. Yet, especially after the local elections that led to the success of opposition parties, municipalities governed by such parties appeared to be eager to enable CSOs to contribute to policy making procedures, starting with the mandatory strategic planning processes. On the other hand, both the 11<sup>th</sup> Development Plan<sup>54</sup> and the Annual Program of the President acknowledge the need and puts reinforcement of city councils as a measure to be taken in the framework of improving good governance.

Operating in a restrictive environment, the **number of CSOs in Turkey increased** in the last years, but they are mainly concentrated in a restricted geography and on specific themes such as solidarity, sports and religion. With regards to **CSOs capacities**, as a burden of the state of emergency, they have lost members mainly from among men, thus improving very slightly the gender gap within associations. The data on the number of registered CSOs can be obtained from various national institutions. According to the DGRCS, there are **119.016** registered associations and foundations.

Although all internal governance mechanisms of CSOs are declared to be well structured **on paper** as the law prescribes, their effective, transparent and accountable operation raises doubts.

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<sup>52</sup> Republic of Turkey (no date). Regulation on the Procedures and Principles of Drafting Legislation [pdf] Available at: <https://www.mevzuat.gov.tr/MevzuatMetin/3.5.20059986.pdf> [04.02.2020]

<sup>53</sup> Association for Civil Society Development Centre; Turkey; (2020) "Freedom of Association in Turkey Monitoring Report"

<sup>54</sup> <http://www.sbb.gov.tr/wp-content/uploads/2019/07/OnbirinciKalkinmaPlani.pdf>



Only a small group of CSO members are interested and involved in these mechanisms bringing about a gradual monopolisation of specific managerial tasks and responsibilities in the hands of a minority. Both the Development Plan and the presidential Annual Programme aim at **improving the democratic quality** of these mechanisms.

The **social media** have become the main instrument for CSOs to communicate their results and programme with the wider public. Although almost all of them own an official website, the updating of these pages appears to be troublesome as this task requires IT expertise. Instead, activities of CSOs are publicised through their social media channels. It is not rare that the presidents or program directors of CSOs also share such information through their personal social media accounts.

In securing transparency and accountability of programme activities and finances, associations are responsible for submitting their annual activities and abstract accounts to public authorities in the first four months of every year. Almost one third of CSOs **do not share** the impact/output of their activities with the public authorities that deliver services or develop policies on the same or relevant domain. CSOs, moreover, do not seem having developed **methods or practices of sharing the outcomes** and content of their projects and activities with the general public.

There is a **lack of substantial engagement of CSOs** in monitoring and evaluating their work. It is true that CSOs using international funds have developed their monitoring and reporting skills, but mainly on financial subjects and not the impact analysis. The lack of monitoring and reporting practices and thus of information on what CSOs do and change with their activities and projects on the field, has **worsened their image** with the public and paves the way to easy political stigmatisations.

At present, CSOs have also **lost their skills** for strategic approach and management as restrictions, threats, sanctions under the state of emergency and its sustained practices forced them to **adopt a low profile** and act rather pragmatically and focus on the short-term perspective. The importance of informal relationships within Turkish politics, the scarcity of accessible information as well as the weak reliability of statistical data have always rendered evidence finding quite difficult.

The evidence-based advocacy activities and programmes **have become safer approach** of CSOs compared with the strategic orientation. Advocacy organisations have had to carry out their **own surveys** and enquirers in order to be able to collect evidence for their advocacy campaigns. There are currently **1.247 federations and 103 confederations** consisting of federations registered at the DGRCS. Yet, these numbers do not reflect the complete picture of the existing networks of CSOs as there are also **many informal platforms**. While evidence-based advocacy activities have attracted more attention, **advocacy networks** seem to have been **relatively weakened** due to the reluctance of CSOs for coming together with others for whom they or the Government might have had reservations. In contrast, CSOs acknowledge the fact their **access to international networks** have been facilitated thanks to the apprehension of their foreign counterparts. With the lightening of repressive measures, domestic connections seem to be regenerated.

Strategic fundraising was hindered due to the economic problems and socio-political reluctances of people joining CSOs. CSOs neither felt the security nor had the economic resources to do so. Therefore, **such situation** has not incentivized CSOs adequate conditions and opportunities to develop strategies for sustainable fundraising. Such obstacles against strategic fundraising pushed CSOs to focus on **specific funding channels** depending on the level of their access. Even if the overall distribution of revenues appears to be relatively diversified, it seems that CSOs tend to focus primarily on and specialize in other funding mechanisms either **governmental or international**.

When it comes to gender mainstreaming in CSOs, despite the worsening situation with regards to violence against women and discriminatory policies, **women's movement** had managed to remain as the **main vibrant civil group** during the state of emergency. The **gender gap within CSOs** have been relatively **bridged** in the same period during which pressures, attacks and sanctions on LGBTI groups have intensified. The reactions against women's organisations and campaigns have been recently reinforced by bans of and **attacks on women activities**. Public institutions have distanced themselves from women's CSOs and their gender discourse. Meanwhile, the **development of a new women's movement** from within more conservative social groups has also taken place.

The survival mode of CSOs during and after the state of emergency brings forward the need and opportunity for capacity building. Despite the willingness, CSOs did not have the chance of investing in this domain except the support offered by networks. Even if **international funders** felt obliged to **adopt a low profile** due to the repressive environment of Turkey, intermediary grant allocation mechanisms were introduced to facilitate the application procedures and reducing the visibility of international funders. The following are **areas** identified of required further capacity building activities: updating of legal environment, developing social organisation skills, improving financial literacy, enhancing project management capacities, developing reporting and accountability skills, advancing dissemination potentials and promoting volunteering.



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