



BALKAN CIVIL SOCIETY DEVELOPMENT NETWORK



Balkan Civil Society Acquis Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs

Monitoring Matrix on Enabling Environment for Civil Society Development - Country Report -

SERBIA COUNTRY REPORT 2014



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1. Civil Society and Civil Society Development in Serbia

Continuous comparative monitoring and analyzing show that the legislation and policy framework is in place regarding exercise of the rights of freedom, expression, assembly and association. Legislation provides for freedom of speech without state interference, freedom of assembly without discrimination and hindering conditions, and for accessible, timely and inexpensive registration of CSOs with adequate limitations as defined in the Anti-discrimination Law and the Constitution. In comparison to 2013, there were no changes in the legal framework. Constitution and relevant laws provide all guarantees of freedom of opinion and expression, but when exercising freedom of expression and freedom of the media (i.e. censorship, prohibiting certain TV shows), media, CSOs and their representatives are facing violations of these two basic rights.

Registration process is voluntary, with clear and simple and decentralized procedure and possibilities for a CSOs to register in only few days and online. CSOs networking is supported through a variety of policies and programs. Registration of grass-roots is not mandatory and unregistered organizations can freely operate and receive financial support. Existing gaps in national legislation and policy framework are identified based on the situation in practice and addressed, but they remain unsolved.

Legal framework for financial viability and sustainability is still not favorable and in line with EU standards. **Most of CSOs perceive financial, including tax, rules as reasonable clear and proportionate to CSOs turn-over**, in their opinion, an efficient support system is in place (clear instructions, knowledgeable financial public officers). **In comparison to 2013, new procedures and rules regarding annual financial reports introduced, but still without different formats based on annual turn-over** - CSOs fill in the same documentation regardless of the size/budget. **Definition of public benefit purposes for which tax relief is allowed is still not harmonized in relevant laws.** 5% of gross income is not calculated as taxable income for corporations, but still no tax relief for individuals and no tax allocations for public benefit purposes. Income from CSOs mission-related economic activity is tax free only up to app. 3.300EUR (400.000RSD).

Findings and recommendations for subareas: 1.1., 1.2., 2.1., 2.2. and 2.3 reflect indicators from Guidelines for EU support to civil society in enlargement countries, 2014-2020

In 2014 there is no progress regarding transparent state funding. The legal framework still does not provide funding for the implementation of public policies, identified in policy documents, for which CSOs are identified as key actors in implementation. Funding criteria is not always clear and published in advance. There is no evaluation of achieved outputs/outcomes, no possibility for prepayments and multi-annual contracts.

Additionally, compared with 2013, there is no changes in the quality of legal environment that still do not stimulate or facilitate volunteering and employment in CSOs particularly. Labour legislative framework is not discriminative towards CSOs (including active employment) and enables CSOs reimbursement for travel expenses, accommodation and food as well as other legal entities. From the other side, the framework is still stimulating towards promotion of volunteering. The Law on Volunteering is over-codified and makes it difficult for CSOs in Serbia to engage volunteers in their work.

Importance of informal education acknowledged in the proposal of the National Strategy for an Enabling Environment for Civil Society Development and the draft of the National Strategy for Youth 2015-2025. Civic education is still an elective course, but the choice of taking this class still depends on the preferences of parents and the potential initiative of young adolescents (ages 15-18). What is especially troublesome is the fact that there is no course on the university level that covers civic activism (raising questions, starting campaigns, and solving issues), so that kind of knowledge can be achieved through the role of practitioner/volunteer in some CSO or by studying foreign literature on the topic, which also falls into the area of informal education.

Although compared to 2013 we can summarize general progress regarding legislative for recognising the importance of CSOs in improving good governance through CSOs inclusion in decision making processes, number of laws, bylaws, strategies and policy reforms effectively consulted with CSOs is still very small. The most important Government activities in this area were **adoption of Guidelines for inclusion of civil society organisations in the regulation adoption process and wide consultation process for adoption of National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia.** The Strategy is not adopted yet, and the process for Action plan for its implementation is still in progress. Both Strategy and Guidelines non-binding documents, so problems are still noticeable in: adequate access to information, sufficient time to comment, selection and representativeness/diversity of working groups acknowledgement of input, degree to which input is taken into account, feedback and publication of consultation results.

Regarding mechanisms for dialogue, still only two official mechanisms exist (Office for Cooperation with Civil Society and Sectorial Civil Society Organizations-SEKO for the processes of IPA programming) and there is no progress in 2014. **Both are examples of good practices in terms of CSO representation in general, representation of smaller/weaker CSOs, its visibility and availability, government perception of quality of structures and mechanisms.**

The Government Office for Cooperation with Civil Society still is the main institutional mechanism for the support of developing the dialogue between the Government and CSOs through offering support to its institutions in understanding and recognizing the role of CSOs in policy-shaping and decision-making processes. However, they are often used as the only channel of communication between the two sectors, which makes its work and role more difficult. All this indicates a need for developing a mechanism for direct, meaningful and timely inclusion of CSOs in policy-shaping and decision-making processes. One of the major challenges that ought to be overcome relates to the fact that CSOs are included only in the final phases of writing drafts of laws and policies, in the stage which leaves little room for changes, and even then without receiving enough information in advance and feedback on what was included in the final proposal.

Regarding collaboration services, in 2014 there is no progress in equalizing status of CSOs as service provide. Even though the Law on Social Protection (2011) recognizes CSOs as potential service providers, which is novelty compared to the previous law and has a more significant influence on their work, the current application of the Law has shown that neither the CSOs nor the service beneficiaries, nor other organizations from the system of social protection (centers for social care above all) are not acquainted with all novelties and possibilities that this Law predicts nor do they apply it completely.

2. Key Findings

In sum, key findings in the area of the enabling environment for civil society development for 2014 in Serbia and as measured against the Monitoring Matrix for Enabling Environment for Civil Society Development are as follows:

No.	Top 6 findings from the report	Reference	
1	Public authorities do not consistently protect the basic rights and freedoms (association, assembly and expression) guaranteed by national and international regulations. Violations of rights are most common in the area of freedom of expression.	Area	1
		Subarea	1.2
2	The status of public interest is not clearly defined and the tax system is not favorable for CSOs.	Area	2
		Subarea	2.1
3	The support of the state is not transparent enough and CSOs are not included in making priorities and developing programs. Budget line 481 is not diversified and non-financial support is not offered in the necessary amount.	Area	2
		Subarea	2.2
4	Civic education is still not a mandatory class for all students in elementary and secondary schools and informal education is not standardized and is not adequately valuable.	Area	2
		Subarea	2.3
5	There is no obligation for including CSOs in all phases of policy-creation and decision-making. CSOs do not receive feedback on their suggestions/comments.	Area	3
		Subarea	3.1
6	CSOs are not in equal position when competing for service provisions.	Area	3
		Subarea	3.3

3. Key recommendations

Key recommendations for the advancement of an enabling environment for the development of civil society in Serbia for 2014, whose realization Civic Initiatives will advocate in the future are as in the following table:

No.	Top 6 recommendations for reform	Reference	
1	Consistent implementation of independent institutions ¹ recommendations regarding freedom of assembly, expression and informing by the public administration on national and local level	Area	1
		Subarea	1.2

¹ Ombudsman, Commissioner for Information of Public Importance and Personal Data Protection, Commissioner for Protection of Equality,

2	Harmonizing the definition of the status of public interest in various laws. Advocating changes for the Corporate Income Tax Law and Property Tax Law aimed to raising the limit for CSOs regarding difference between income and expenditure and relieving CSOs from paying property tax.	Area	2
		Subarea	2.1
3	A consistent and full implementation of Regulation on funds for existing programs of public interest that associations produce on national and local level	Area	2
		Subarea	2.2
4	Introducing Civic education as a mandatory course and introducing the standards and measures for evaluating informal education.	Area	2
		Subarea	2.3
5	Full implementation of the Guidelines for inclusion of civil society organisations in the regulation adoption process and the participation of CSOs in processes of forming a Council for the cooperation with civil society and its work.	Area	3
		Subarea	3.1
6	Promotion of equalizing status of CSOs as social services providers on local level and introduction of social agreements for acquiring and providing social protection (social contracting) through advocating changes of Law on Public-Private Partnerships and Concessions, Law on Social Protection and its additional bylaw.	Area	3
		Subarea	3.3

4. About the project and the Matrix

This Monitoring Report is part of the activities of the “Balkan Civil Society Acquis-Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs” project funded by the EU and the Balkan Trust for Democracy (BTD). This Monitoring Report is the first of this kind to be published on a yearly basis for at least the 48-month duration of the project. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev) developed by BCSDN and ECNL. It is part of a series of country reports covering 8 countries in the Western Balkans and Turkey². A regional Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and subarea at www.monitoringmatrix.net. The Monitoring Matrix presents the main principles and standards that have been identified as crucial to exist in order for the legal environment to be considered as supportive and enabling for the operations of CSOs. The Matrix is organized around three areas, each divided by subareas:

- (1) Basic Legal Guarantees of Freedoms;
- (2) Framework for CSOs’ Financial Viability and Sustainability;
- (3) Government – CSO Relationship.

The principles, standards and indicators have been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They rely on the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries. The Matrix aims to define an optimum situation desired for civil society to function and develop effectively and at the same time it aims to set a realistic framework which can be followed and implemented by public authorities. Having in mind that the main challenges lie in implementation, the indicators are defined to monitor the situation on level of legal framework and practical application. Annual monitoring and reporting in 2014 is focused on 12 core standards and following 12 elected:

- 1.1.1 All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online
- 1.2.2 Representatives of CSOs, individually or through their organizations, have the right to the freedom of expression,
- 1.2.3 Civil society representatives, individually or through their organizations, have the right to safely receive and offer information via every media,
- 2.1.2 Incentive measures are provided for the donations of individuals and corporations,
- 2.2.3 There is a clear system of responsibilities, monitoring and evaluating public financing,
- 2.2.4 The state gives non-financial support
- 2.3.3 The educational system promotes civic engagement
- 3.1.1 Through policies and strategies the state admits the importance of development and cooperation with the sector
- 3.2.2 All draft policies and laws are easily accessible to the public in a timely manner
- 3.3.2 The state is not obligated to finance services and that financing is predictable and available for longer periods,
- 3.3.3 The state clearly defines procedures for contracting services which allows a transparent choice of service providers, including CSOs].
- 3.3.4 There is a clear system of accountability, monitoring and evaluation of service provision

² Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

II. Introduction

1. About the Report and the Monitoring - a concise summary of the Monitoring Report

Civic Initiatives (CI) have an eighteen-year-long experience in promoting civil society in Serbia. As one of the leading actors in the field of civil society in Serbia, CI has a mission to strengthen civil society through monitoring, education and training, promoting democracy and supporting an active participation of citizens. The organization is especially expert in areas of civic participation, human rights and youth policy and working with youth.

Civic Initiatives have contributed to the development of civil society by organizing campaigns, advocating more favorable laws that regulate and directly influence the work of civil society organizations. The main achievements of Civic Initiatives over the last years can be summed up in the following way:

- They have lead numerous advocacy and campaigns for strengthening capacities of civil society for influencing decision-making on all levels, with a special focus on youth as key agents of change;
- They initiated and contributed to the foundation of state and Government institutions, including the Ministry of Youth and Sport and the Office for Cooperation with the Civil Society of the Government of the Republic of Serbia.
- They influenced the establishing and advancement of cooperation between the Government, civil society organizations and businesses, the establishment of an institutional mechanism for cooperation between the government, civil society organizations and founding of institutions;
- Working on the advancement of a CSO enabling environment so that civil society organizations can efficiently advocate the adoption of reform and more favorable solutions (strategic, action, legal).

The Civic Initiatives Project team coordinates and prepares monitoring reports for Serbia. The current report assesses the enabling environment for the development of civil society in Serbia during 2014. The report is based on activities and experiences of CSOs, state and local institutions, independent bodies and media, and offers detailed information about the conditions in legislation and practice for key areas. The report on monitoring for Serbia is based on the assessment of the situation in the sector, obtained by implementing an extensive desk research and comparative analysis to the previous findings, including representative data of the CSO's informal groups and public institutions provided in consultation and through experience in regular cooperation and communication with them.

The report relates to CSOs registered in the Agency for Business Registers of the Republic of Serbia (SBRA) in accordance with the Law on Associations (2009) and the Law on Endowments and Foundations (2010), as well as informal groups that have not been formally registered, but exist in a large number and are important especially in small local communities.

2. The Matrix for monitoring an enabling environment for the development of civil society

The overall objective of the project is to strengthen the foundations for monitoring and advocacy on issues related to enabling environment and sustainability of civil society at regional and country level and to strengthen structures for CSO integration and participation in EU policy and accession process on European and country level.

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The Monitoring Matrix presents the main principles and standards that have been identified as crucial to exist in order for the legal environment to be considered as supportive and enabling for the operations of CSOs. It underscores the fact that enabling environment is a complex concept, which includes various areas and depends on several factors and phases of development of the society and the civil society sector.

This Matrix does not aim to embrace all enabling environment issues, Rather it highlights those that the experts have found to be most important for the countries which they operate in. Therefore, the standards and indicators have been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They have been drawn from the experiences of the CSOs in the countries in terms of the legal environment as well as the practice and challenges with its implementation. The development of the principles, standards and indicators have been done with consideration of the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries.

The Matrix is organized around three areas, each divided by subareas:

1. Basic Legal Guarantees of Freedoms;
2. Framework for CSOs’ Financial Viability and Sustainability;
3. Government – CSO Relationship.

The areas are defined by key principles which are further elaborated by specific standards. In order to enable local CSOs, donors or other interested parties to review and monitor the legal environment and practices of its application, the standards are further explained through indicators. The full Matrix is available in VI. Findings and Recommendation area.

The development of the Monitoring Matrix on enabling environment for CSDev was part of a collective effort of CSO experts and practitioners from the BCSDN network of members and partners and with expert and strategic support by ECNL. The 11-member expert team spanned a variety of non-profit and CSO specific knowledge and experience, both legal and practical, and included experts from 10 Balkan countries. The work on the Matrix included working meetings and on-line work by experts, which was then scrutinized via stakeholder focus group and public consultations. The work on the development of the Matrix was supported by USAID, Pact. Inc, and ICNL within the Legal Enabling Environment Program (LEEP) Legal Innovation Grant and Balkan Trust for Democracy (BTD).

3. Civil Society and the development of the civil society (CSDev) in Serbia

According to the data of the Serbian Business Registers Agency (SBRA), in charge of registering CSOs, there were more than 24.000 registered associations and over 600 foundations and endowments registered in Serbia by the end of November 2014, which is around 2.500 associations, and 105

³ Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

foundations and endowments more than the same period last year, respectively. Regarding active CSOs, according to the official report of the SBRA⁴, financial reports for 2013 were submitted by 16.788 associations (59,3% of the total number of other legal entities) and 425 (70.8%) of foundations and endowments, which is more than 1600, or 54 more than in 2012. According to the data of the SBRA, in 2013 associations employed 6.021 workers (15,9% of the total number of employees in non-profit institutions). Compared with the data from 2012, that's 1.283 workers less. According to the estimates from 2014, there are 150.000 volunteers active in the registered organizations.

Civil society in Serbia is very varied compared to primary area of activities, their date of foundation size, budget and geographic area. Most of associations work in the largest cities. In just several of the central municipalities in the City of Belgrade (Stari grad, Novi Beograd, Savski venac, Palilula, Voždovac, Zvezdara, Zemun) 5.658 associations are registered, in Novi Sad 1.886, Nis 436⁵. These differences affect the organizational level of their development, so various strategies and approaches should be used in order to fulfill those needs. Civil society is relatively young, with majority of organizations formed in 2000s, with an obvious rise in numbers of founded CSOs in the past few years since the resources from the IPA funds became available.

State of enabling environment for the development of civil society in Serbia

The Office for Cooperation with Civil Society of the Government of the Republic of Serbia is still the main institutional mechanism for offering support for the development of dialogue between the Government of the Republic of Serbia and CSOs. The Office offers support to Government institutions in understanding and recognizing the roles of CSOs in decision-making processes. This often creates situations in which other state institutions use it as the only channel of communication and cooperation with CSOs, instead of developing and advancing direct relations with CSOs.

Legal frame for the existence and functioning of CSOs in Serbia is organized in detail. The Law on Associations (2009) and the Law on Endowments and Foundations (2010) are considered to be the most up-to-date laws which offer a frame for non-profit organizations, and have not been changed during the past year. The Law on Accounting (from July 2013) has predicted an easier procedure, accommodated to CSOs needs, to be used for financial reporting and final accounts for 2014. In July 2014, Ministry of Finance announced changes and amendments to by-laws adopted based on the Law on Accounting, that refer to financial reports of CSOs.

The allocation of public funds is regulated by a special regulation, which details the way, steps, deadlines and procedures of transparent allocation of public funds on all levels. However, although the Office for Cooperation with Civil Society has prepared a Guide for transparent financing of associations and other CSOs from the budget of local self-governments,⁶ a complete and consistent application of this regulation, which, first of all, relates to the obligation of having a public competition for funds allocation and calls for public procurement.

A harmonized and unique definition of the concept of public interest is still missing (the definition is different in the Law on Associations, the Law on Endowments and Foundations, the Law on Chance Games), which results in unequal tax treatment of both associations as receivers of funds from various donors and donors themselves (organizations and companies) which donate funds to associations working in different areas.

The need for changes of the existing Law on Volunteering (2010) was recognized by the state during the floods that hit Serbia in May 2014. However, until the end of November the topic was not brought up again

⁴ Report of the SBRA about the business of nonprofit institutions in 2013

<http://www.apr.gov.rs/Portals/0/Saopstenje%20o%20poslovanju%20neprofitnih%20institucija%20u%20Republici%20Srbiji%20u%202013.%20godini.pdf>

⁵ Proposal of National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia, 2014, <http://strategija.civilnodrustvo.gov.rs/>

⁶ <http://civilnodrustvo.gov.rs/media/2012/10/Vodic-za-transparentno-finansiranje-OCD-iz-budzeta.pdf>

nor was it specified. The initiative for necessary changes to the Corporate Profit Tax Law and the Property Tax Law was initiated by CSOs with the support from the Office for Cooperation with Civil Society in November 2014.

The situation of financing CSOs in Serbia is still difficult, which is why strategic thinking is necessary about the future of financing with a special focus on domestic sources, in the context of European integrations. The total amount of financial support offered to the civil society by the business sector is difficult to estimate, because there is still no systematic monitoring of corporate support. In 2013 there were no singular donations by the private sector (companies and enterprises) to CSOs. From the provided data can, however, be concluded that companies donate as part of larger fundraising campaigns, organized jointly with citizens (eg. Jana water).⁷

In 2014, the state became more open to include civil society in the consultation process, especially the negotiation process with the EU and regarding topics within the interest of state administration. The SEKO mechanism⁸, which from July 2014 has a slightly different structure (considering the forming of new areas and the choice of new leading organizations) will continue to offer CSOs the possibility to participate in the programming of Instruments for Pre-accession Assistance (IPA).

When it comes to the cooperation between the Government and civil society, it is still more formal than influential, keeping in mind that various public authority units unevenly respect the obligation of organizing public debates and public hearings. In addition, newly adopted Guidelines for inclusion of civil society organisations in the regulation adoption process are non-binding in character, offering insufficiently specific solutions and imprecise information about deadlines. Their point is not to establish clear criteria for cooperation between public administration and organizations and the interested public in procedures of adopting regulations and acts, but to direct work of state administration organs toward including CSOs. They lack parts that explain the goal of informing, of being precise, understandable and making the rules for giving advice more available, and the still most widespread levels of CSO participation in policy-creation and decision-making processes.

The factors that support or interfere with the development of civil society organizations (image, public receptiveness, political situation, culture)

The image of civil society is improving, even though it's still negative in many respects. Conclusions of the public opinion survey conducted in 2014 by Bureau for Social Research, Institute for Sustainable Communities and Pro Positive Agency show that first associations on NGO are more positive than negative. While in 2009 more than half of the citizens did not have any associations on CSOs, now not having any associations is decreasing. Beside, associations on "CSOs" are in 2014 slightly more positive / neutral than on "NGO", and the number of those believing NGOs are interested in the opinion of ordinary people slightly increased in 2014, in comparison to 2009.⁹ This is the result of many factors, including the key lack of public understanding of the term "nongovernmental organization", "civil society organization", a lack of public acknowledgement of diversity/differences of CSOs and their activities, including a lack of acknowledgement of CSO contributions to changes in the society in Serbia by the government, and poor reporting from the media. CSOs have not been able to increase direct contact with citizens, and weak skills of CSOs in the field of public relations contribute to the overall bad image of the civil society. In the last couple of years, new leaders of CSOs have stood out by participating in debates on national television, leading websites and social networks, trying to encourage the public to better understand the work and the role of civil society in Serbia. Today, the public recognizes various local campaigns, humanitarian activities, initiatives for economic development and other efforts as CSO activities which have a positive effect on the image of the entire society. The government and the business sector representatives, on the other hand,

⁷ 2013 Annual Report on Philanthropy in Serbia, Catalyst Balkans, 2014

⁸ Sectoral organizations of civil society

⁹ Public Perception and Attitudes towards the NGO Sector in Serbia, Institute for Sustainable Communities, Bureau for Social Research and ProPositive Agency, 2014

more often recognize leaders and not just CSOs as being of key importance for dialogue and cooperation. Their perception of the credibility of CSOs' leaders has remained the most important in determining whether the government or the corporation will cooperate with a certain organization. As a result of this, some smaller and younger organizations feel excluded from communication with public authorities and businesses. Both the CSOs and the media recognize the need for building capacities of civil society for public relations, but in practice, the relations between CSOs and the public are still weak. Even when the activities of CSOs are covered by the media, the published information is often not understandable. Since organizations lack their own PR resources, they expect from journalists to translate formal project proposals and report in a way which would attract the attention of the public. Using internet resources and social media compensates these deficiencies to some extent, enabling CSOs to send their messages to a wider audience. The most influential bloggers, as well as Facebook and Twitter users, have also advanced their cooperation with CSOs. CSOs are more present on TV, in printed and electronic media, especially on a local level, than in the previous years. The media have begun to support CSO initiatives (mostly on a local level), however the quality of reporting is still bad. The information is often unclear and presented in a way that emphasizes the dependency of CSOs on the donors.¹⁰

It is important to mention that the trend of establishing organizations which can be directly linked with political parties, especially those participating with leading coalitions, has intensely continued both on the national and local level in 2014. The right of freedom of association is being violated in favor of political parties that have the power of decision-making, mostly in the allocation of financial funds from the budget line 481. Also, there were reports about cases of newly-found organizations close to the political majority, as legitimate representatives of the public to participate in bylaw-making processes, at the expense of other organizations, with long-term experience or expertise in certain areas (for instance during the creation of the Strategy for the reform of the legal system). On the other hand, the initiation of and the process of drafting National Strategy for an Enabling Environment for Civil Society Development in Serbia, coordinated by the Office for Cooperation with Civil Society, is in itself encouraging. By end of November 2014, the first phase has finished, which included wide and high quality consultations with civil society. Areas covered by the proposal of the Strategy, problem descriptions and measures and activities suggested correspond opinions and needs of civil society in Serbia, findings of this report and other similar reports and researches.

Historical digressions about the state of civil society development in the state (to the extent needed for the readers to understand the findings or the current situation described)

The sector of civil society organizations is relatively young, because most of the organizations were established in 2000s, while only a quarter of organizations were founded before 1990. Most civil society organizations are located in Vojvodina, followed by Belgrade, while the rest are equally distributed between regions. The civil society organizations established before 1990 include organizations which are usually not seen as civil society organizations (by the public, themselves or another part of the civil society); such organizations are the Red Cross, hunting societies, voluntary firefighting associations, automobile clubs, professional associations, associations of pensioners, cultural and sport clubs and hobby groups. Most often these civil society organizations are conservative and often socially and politically passive. They usually have a strong membership with a small number of employees, but they have a wide network of volunteers and enough capacities to organize activities in the community; they are financed through membership fees, Government support and in some cases through delegated organs for providing services to their members (for example the Automobile club).

Many civil society organizations established before 1990 are so-called self-help organizations for people with disabilities or organized as part of unions or associations across the country, according to structures inherited from the communist period. These organizations are represented all over Serbia and have affiliates in almost every city and municipality. Typically, these groups are included in national and

¹⁰ 2013 CSO Sustainability Index, National Coalition for Decentralization, 2014

international leagues and networks, based on sectorial connections and specialization in the group they primarily work with (youth, women, individuality, profession associations etc.). More than 50% of this part of the civil society basically consists of associations which have been established during the 90s and later. Many of them have developed into professional, modern civil society organizations, engaged in advocating and building capacities in a large number of areas of social policy, good conduct, human rights and economic development. They are usually socially progressive and well-informed about international influences and social-political events, both regionally and in the context of European integrations. Another subgroup was established as a new wave after the political and social changes that came about in October 2000, joining the previous group. The number of those organizations is smaller, those are initiatives and organizations based on community, focused on various questions within the community – social, ecological, economic and others. Recently registered civil society organizations represent a special case (as was already mentioned, there are 6000 organizations registered in the past several years, about which very little is known and can only be speculated about their capacities, structure, area of interest).

Other important characteristics that ought to be mentioned

The Office for cooperation with Civil Society continued to advance its cooperation with the civil society. However, public authorities, and very often the donors, see it as the only channel of communication with civil society organizations. The consequence of this can have a negative influence on representatives of other organizations and institutions within the public administration, which have both become interested in development of cooperation with CSOs, keeping in mind that there is an institution which deals with that. Regarding this, additional effort is needed to avoid such an outcome, and establish a direct mechanism of communication between public authorities and the CSOs. Representatives of state institutions and civil society should have as a common goal the advancement of citizens' living standards. This goal can be achieved only if there are clear and direct procedures/mechanisms for a constructive and productive dialogue and lasting development of information.

The negotiation process with the EU and the participation of civil society organizations, in opening certain chapters of negotiations, has opened the possibility of speeding up the reform process. This can result in development of specific mechanisms in cooperation with leading ministries (ministries that are more intensely and directly included in the negotiations themselves and for instance in financing CSOs or are in some other way connected with their work).

An important factor influencing the work of civil society organizations in 2014, both through direct influence to activities and organizations' capacities and on the framework in which CSOs operate, were May floods. These exceptional circumstances have set new standards, not only for the civil society, but for different state structures on local and national level. Civil society showed its potentials, volunteer resources, capacity for fast and efficient response, strategic thinking in the field, and partnership with the state. In some cases, it can freely be stated that local authorities delegated a part of their operations to local CSOs, due to its inability for personal efficient consolidation and lack of coordination with national authorities

4. Specific features and challenges in applying the Matrix in Serbia

The Matrix represents a complex instrument that requires a diverse professionalism and engagement of various actors. With limited funds established, the real state in which Serbia has found itself during 2014 (parliamentary, local, presidential elections, constituting new national and local organs and floods during May 2014) it was difficult to organize a universal consultation process which would reflect the opinions of the entire civil society and a more intense advocating campaign towards implementing key recommendations. Because of this, existing data about the state of the civil society from other reports and polls were used, data used for the preparation of suggestions of the National Strategy for an Enabling Environment for Civil Society Development in Serbia, reports on the work of independent bodies, Offices for the Cooperation with the Civil Society and Serbian Business Register Agency reports. Information on problems and difficulties in implementing regulations, was received from a wide consultation process with numerous civil society organizations active at the national and local level.

5. Acknowledgements and thanks

We are immensely grateful to the Office for cooperation with civil society of the Government of the Republic of Serbia, the Business Registers Agency, the Republic Institute for Social Protection, the Ombudsman, Commissioner for Information of Public Importance and Personal Data Protection, the Commissioner for Protection of Equality, Technical Assistance to Civil Society Organizations – TACSO Serbia, the Association of Independent Electronic Media, the Independent Association of Journalists of Serbia, the Belgrade Open School, Catalyst Balkans, Trag Foundation, National Coalition for Decentralization, whose reports and analysis we used for monitoring. Also, we would like to thank all other representatives and experts from numerous civil society organizations who have contributed to the development of this report through offering experiences about the way that certain regulations are being implemented in practice.

III. Methodology

1. Overview of the methodological approach

The process of the development of the monitoring Report was based on the analysis of existing legal and strategic documents regulating CSOs work, on one side, and analysis of numerous CSOs or independent institutions' surveys and reports, as well as questionnaires and interviews, on the other. Relevant documents (laws, by-laws, strategies, action plans, reports – TACSO Need Assessment 2011 and CSO Sustainability Index 2013, surveys etc) were collected through desktop research; all were available on the state institutions', independent institutions', numerous CSOs' web sites and on-line legal data base Paragraf Lex ([www. paragraf.rs](http://www.paragraf.rs)). Data on implementation of current legal and strategic framework were collected during different public events organized throughout the entire year (both by the state authorities and CSOs), as well as in daily communication with numerous CSOs, institutions, representatives of donor community, independent experts and consultants. Information was often gathered during discussions at different press conferences and presentations of reports and previous work done both by institutions and CSOs, such are presentation of 2013 Sustainability Index, Sectorial Civil Society Organizations local meetings, and similar.

2. Participation of the CSO community

Once the Monitoring Matrix on Enabling Environment for Civil Society Development in Serbia has been presented and published on Civic Initiatives' website, the opportunity for CSOs participation and commenting was opened. CSOs were invited to send comments, findings and recommendations. Questionnaires were sent to civil society community with aim to collect different experiences regarding laws' implementation and cooperation with Government. As mentioned above, being a resource type of organization for CSDev, CI were in daily communication with different CSOs who approached with questions and their experiences on different issues.

3. Lessons-learnt

- Matrix as a tool is a comprehensive tool that has establish a baseline of the CSDev in Serbia, using well developed indicators, which provide comparison from year to year, monitoring of CSDev progress and role of different actors in that process. Regional approach and exchange of information among peers is very useful in this process.

- Stronger inter-sector cooperation for analysis of environment for CSDev and advocacy for improvement is needed to introduce a diverse expertise (by legal, tax and constitutional law experts, economists, etc.)

IV. Findings and Recommendations

Area 1: The basic legal guarantees of freedoms

Sub-area 1.1: Freedom of association

The legal framework which regulates the freedom of association in Serbia has not been modified in 2014. The Constitution of the Republic of Serbia (2006), the Law on Associations (2009) and the Law on Endowments and Foundations (2010) guarantee the freedom of political, syndical and any other association and the right to remain outside any association, define three kinds of associations, regulate their establishment and legal status, registration and removal from the registry, membership and organs, status changes, cessation, status and activities of foreign associations/endowments and foundations, as well as other questions relevant for their work.

However, certain visible faults in the implementation of these umbrella laws are still present. The possibility given to every legal person to establish an association, in practice creates a situation of a potential undiscovered conflict of interest in cases when the civil society organization is financed by some political party. All civil society organizations can sign up to receive funds from the national or local budgets, and the decisions about those funds are made, as a rule, by people from political parties. Regulations that manage the economic activity of CSOs are unclear and can be interpreted differently, and the consequence of this is the unbalanced application of tax regulations and understanding the status of the public good/interest. The status of public good/interest is defined, apart from the Laws on Association and Endowments and Foundations, by the Law on Public Information and Media (Official Gazette, no. 83/2014, Article 15) so the adoption of a unique definition is needed. Trag Foundation, Civic Initiatives and another 113 civil society organizations have in that respect submitted an initiative to the Ministry of Finance with the request to provide a **wider sphere of activities of public interest**, in order for the law to be in accordance with the provisions of the Law on Association and the Law on Endowments and Foundations. These goals can be easily achieved, with minimal changes to the text of article 15 (1) of the law. For example: *expenses intended for health, education, science, humanitarian and religious purposes, the protection of the environment and for sport, as well as expenses in the field of social protection and other purposes of public interest in accordance with the regulations which manage the legal status of associations, endowments and foundations, are accepted as expenses up to a maximum of 5% of the total income.*

When it comes to using public funds by the CSO, a registration of the public funds beneficiaries and registration in the Registry of Public Funds in the Treasury, as well as opening a special purpose account for the special users of public funds (such are associations and other civil society organizations receiving funds from the state budget) – as of beginning of 2014 is officially not implemented. By adopting the amendments of the Rules on the mechanisms for determining and keeping record of beneficiaries of public funds and the conditions and ways for opening and closing subaccounts in the Treasury, which were put into effect on January 30th 2014, associations, foundations and endowments are no longer obligated to have an open special purpose subaccount with the Treasury. Associations, endowments and foundations (as well as entrepreneurs, churches and religious communities and political parties), with an open subaccount, are obligated to close the subaccount after the completion of a project and erase it from the Treasury Record, and transfer the remaining funds to a commercial bank account, and to supply the Treasury with a signed order for closing the subaccount and the request for erasure form the Record. Opening a special purpose account will from now on be reserved for businesses which do not belong to the public sector.

Even though the The Law on Official Use of Language and Alphabets, (2010)¹¹ allows an organ, organization and other subjects to use their name, company or other public title in Latin as well as Cyrillic

¹¹ http://www.paragraf.rs/propisi/zakon_o_sluzbenoj_upotrebi_jezika_i_pisama.html

(Article 4), the Law on Associations¹² explicitly states that the name of the association must be in Serbian and written in Cyrillic (Article 13).

According to the data from the SBRA from February 2014 (officially introduced at the conference of the Office for cooperation with CSOs regarding the beginning of the development of the National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia), of almost 23000 associations listed in the Register, 5.929 (1/4) of them registered a business. Other legal persons (political parties, associations, sports associations, societies and unions in the field of sport, endowments and foundations, institutions and other forms of association) have achieved in 2013 only a modest increase in the extent of their activities, balanced means and capital. However, contrary to the previous years when more was invested than it was earned, in 2014 they operated with a profit. Other legal entities in the Republic of Serbia have in 2013 only barely increased their scope of activities, so their total revenue of 165,925 million dinars and total expenditures of 162,136 million dinars, are only 4.4%, or rather 2.2% higher than in the previous year. Other legal entities have increased their revenues from business activities at an annual level for two fifths, so in the previous year it amounted to 15,364 million dinars. A significant scope of activities also took place within associations and sport associations, societies and unions in the area of sport, which register a total revenue of 24,753 million dinars, or rather 23,759 million dinars and total expenditures of 24,035 million dinars, or rather 23,921 million dinars, so together they carry 29, 2% of total revenues and 29, 6% of total expenditures of all other legal persons. From the aspect of forms of organizing, profitable businesses were maintained by associations whose revenue of 650 million dinars has been more than compared to the previous year. Sport associations, societies, unions in the area of sport, still operate without any profits, with their 283 million dinars loss was drastically decreased compared to the previous year, when it amounted to 2,413 million dinars¹³.

Sub-area 1.2: Related freedoms

The freedom of assembly is guaranteed by the Constitution of the Republic of Serbia and the Law on Public Assembly from 2005, both still in effect. The competent government organ has the right to temporarily forbid a public assembly whose goal is to violently bring down the constitutional order, violate the territorial integrity and independence of the Republic of Serbia, violate the rights and freedoms of people and citizens guaranteed by the Constitution, encourage national, racial and religious hatred and intolerance. One of the examples of the violation of the freedom of assembly during 2014 was the Higher Court in Belgrade refusal to give consent to organization of *"One Billion Rising for Justice"* public event, which would add Belgrade on the map of cities marking the seeking justice for women surviving violence in front of the main Courthouse. The meeting was planned for February 14th, when events all over the world took place in front of relevant institutions¹⁴. On the other hand the competent organ did not intervene nor did it prevent the spontaneous gathering of participants in the international conference "The Future Belongs to Us – LGBT rights on the road to the EU" organized mid-September 2014 in Belgrade by Labris and the Hirschfeld Eddy Foundation from Germany. Namely, the participants of the conference organized a protest march after the attack on a German citizen who, came to participate in the conference with a friend from the same country. Apart from the members of the LGBT community and the associations working to protect their rights, the attack on the German LGBT activist was condemned by the Ombudsman, Sasa Jankovic. He expressed hope that Serbia will with each day become a safer country to live in for every citizen, LGBT or straight, domestic or foreign, and that because of those reasons nobody would be a target for anyone and he reminded us that all citizens, regardless of their personal qualities, have an equal right to protection from violence. Additionally, Belgrade Pride Parade was successfully held this year. The Organizing committee of the Pride Parade expressed its satisfaction with the first Pride Parade which took place without any incidents and was not surrounded by organized violence. The Head of the EU Delegation to the Republic of Serbia, Michael Davenport, greeted the steps that the government in Serbia took in order to enable the Pride Parade and has called everyone to fight against homophobia in the society. This sent a clear message to the region, the EU and wider, that basic human rights and freedoms should be

¹² http://www.paragraf.rs/propisi/zakon_o_udruzenjima.html

¹³ Report on the businesses of non-profit institutions in the Republic of Serbia in 2013, Business Registers Agency, August 2014

¹⁴ <http://www.crnps.org.rs/wp-content/uploads/izvodizkonvencije.pdf>

respected. Even though up to until the last minute (September 27th at midnight) the organizers did not receive an official confirmation from the competent authority (Bureau for the coordination of security services) that the Parade would be held, the event and the walk took place on Sunday, September 28th. The European Commissioner for Enlargement, Štefan Füle and the US Ambassador to the Republic of Serbia, Michael Kirby, the Commissioner for Information of Public Importance, Rodoljub Šabić and the Ombudsman Saša Janković expressed their support and satisfaction for the Parade taking place.

Only a day before the announced Pride Parade, a manifestation was held in Belgrade titled Family Walk/Protest. The intention of the organizers, the Serbian nationalist group "Dveri", was to demonstrate the need for nurturing marriage, family, giving birth and fighting against white plague and to peacefully demonstrate their disagreement with the policy of promoting the rights of people with different sexual orientation. The walk was held because the negative security assessment was not given in the legal timeframe, which is no later than 12h before the beginning of the walk. The event took place with no incidents, although there was one attempt of breaching at first circle of after the established time for entering the walk..

During the festival "Miredita, dobar dan" organized in September by Civic Initiatives, the Policy Center and Integra from Pristina, with the support of forum ZFD for Western Balkans and the Kosovo Foundation for Open Society, with the aim of bringing the Kosovo cultural scene closer to the citizens of Belgrade, there were calls for boycott and disruptions of the events and mass gatherings of rightist forces. At the festival opening a group of about ten people from the organization Serbian Action tried to organize a protest, but were quickly removed. Thanks to the efficient reaction of the police, whose members stayed close to the guests from Kosovo the entire time, further (more extensive) protests were prevented. However, this led to a troublesome conclusion that the state (police) controls the leaders of the rightist and extremist groups.

Freedom of Opinion and Expression, guaranteed by the Constitution and the Anti-discrimination Law, has repeatedly been threatened. In March the Gay Straight Alliance received death-threats via their mobile SOS hotline (which exists to receive reports about violence and discrimination based on sexual orientation and gender identities, with the number written on the GSA website).¹⁵ Serbian people movement NAŠI published a list on their website "30 of the greatest Serb haters and traitors among public figures". "The greatest number among them is directly financed by the USA and other western countries through various foundations and informative-nongovernmental structures, but often their open anti-Serbian projects are financed by the state itself."¹⁶ A great number of leaders and activists from the Serbian civil society, as well as actors, writers, journalists and political analysts is listed there.

In the last several months pluralism of opinions, ideas, critiques of the government and the fight for public interest has been in rapid decline. Cancelling TV shows like "Utišak nedelje", "Sarapin problem" and "U centru" the public area for exchanging opinions and ideas directly shrunk and idea that Serbian authorities are choking freedom of speech are becoming justifiable. The Independent Journalists Association of Serbia primary concern is the implementation of new media laws adopted without public discussion, especially whether the privatization of media will be finalized within deadlines and with secured basic conditions for equal media market race. By the set deadline - July, 1st 2015, 79 state owned media outlets are to be privatized. They are also worried whether all local self-governments (cities and municipalities) will implement the legislative solutions for transferring from direct budget financing of media outlets to project based financing and/or co-financing under the same conditions and criteria for all media. The key criteria for project based financing of media are the quality of media content and public interest. Another worry lies in the envisaged difficulties in implementation of clauses regarding the transparent media ownership. In the report from the EC it was estimated that there has been deterioration in the area of media freedoms and freedom of expression, especially in the first half of this year. It is stated that the tendency for self-

¹⁵ Gay Straight Alliance Press release, <http://gsa.org.rs/2014/03/pretnje-gej-strejt-alijansi/>

¹⁶ <http://nasisrbija.org/index.php/2014/03/28/spisak-30-najvecih-srbomrzaca-i-izdajnika-medju-javnim-licnostima>

ensorship is getting stronger, combined with an unwanted influence on editorial policies. Also, non-transparent public financing and an unclear legal framework have been criticized. The Prime Minister of Serbia, Aleksandar Vučić, stated that he disagrees with claims in the Report on the progress with the EU about the pressure on the media.

Serbia was struck with great floods May-July, and during those months the Human Rights House (members: Civic Initiatives, YUKOM, Belgrade Center for Human Rights, Helsinki Committee and Policy Center) sent a request to the Government of the Republic of Serbia and all competent organs to urgently stop coercing individuals, organizations and institutions regarding reports on the conditions in the flooded areas. The announcement of Prime Minister Aleksandar Vučić that the public prosecutor's office will investigate the panic spreads, was followed by an express reaction of judicial organs which resulted in suggestions of taking three people into custody for posting news and photographs of affected areas on their social network profiles (Facebook and Twitter). On the other hand, no investigation was conducted against the tabloids which daily published front page titles reading for example "Bodies Floating in Obrenovac", or against the Prime Minister who dramatically called for volunteers to defend Sabac and publically addressed the Chief of the General Staff saying "If Sabac falls, you know what to do". This kind of selective implementation of criminal law is unacceptable especially in cases when the public is not presented with information about where the panic arose and why this prevented authorities from doing their job (which is a qualification for such a criminal act to exist). A similar stand was taken by the OSCE Mission in Serbia with their statement that they will continue to follow those events and that they are ready to help Serbia in this regard in any way possible. The statement also claimed that the journalist of RTV Mladenovac, Dragan Nikolić, was called in for an informative talk because of a Facebook post in which he allegedly offended and compromised the reputation and dignity of public figures. Questioning journalists on their writing along with threats of lawsuits is unacceptable. This case indicates a troublesome situation regarding the freedom of the media. Dunja Mijatović, OSCE representative for freedom of the media, issued a statement in December 2013 in which she expressed concern about the attack on several informative web pages and illegal removal of investigative articles from some internet media. This trend continued with a new element – individuals arrested because of what they had written in their blogs or comments on the internet news. Many other institutions dealing with overlooking media freedoms have also publically spoken about this incident.

In the Ombudsman's Report for 2013¹⁷ stated abuses of the freedom of expression, or rather hate speech and incitement of ethnic, religious and other intolerance, mostly against LGBT groups and individuals and other vulnerable groups – and primarily via the Internet and graffiti, occasionally in the media, as well as direct conflict with the use of violence. It was especially emphasized that in Serbia same-sex couples are not legally accepted nor do people have any rights on those accounts.

According to the data from the Report it can be concluded that the public authorities formally respected the right to information, mostly on a reactive and not proactive basis. The exception to the rule were public enterprises, which showed an obvious resistance to respecting laws and citizen rights to information of public importance. The data of the Commissioner for Information of Public Importance and Personal Data Protection (Commissioner) indicate a resistance of public enterprises and coincide with the findings of the Ombudsman, whose recommendations almost no public enterprise is executing. Personal data, in practice, is not protected enough in the work of public authorities, especially when they are being processed by private subjects. The constitutional guarantees on the privacy of citizen communication, which allow exceptions to the secrecy of communication only by court order, is being violated by an obviously unconstitutional regulation of Article 286 page 3 of the Criminal Code, still enforced, which states that the decision to obtain certain kinds of these data is given to the police by the Prosecutor (not the Court, or rather the judge for the previous case). Unconstitutionality is undisputable as the Constitutional Court, based on the Ombudsman's suggestion and the Commissioner for Information of Public Importance and

¹⁷ Regular annual report of the Ombudsman for 2013, March 2014

Personal Data Protection, due to the same shortcomings, already proclaimed regulations of two laws unconstitutional: the Law on the Military Security Agency and Military Intelligence Agency and the Electronic Communications Law. The Ombudsman and the Commissioner submitted a Proposal for determining the constitutionality of the said regulation of the Criminal Code, but the Court has not made a decision about this proposal in two years. According to the Constitution of the Republic of Serbia, a court decision is needed for encroachment into the privacy of communication (privacy includes, according to the binding opinion of the European Court of Human Rights, the content of the conversation as well as the statistical or meta-data about the communication), regardless of the organ seeking insight into the communication or the reason for the encroachment into privacy.

Area 2: Framework for CSO Financial Viability and Sustainability framework for CSOs' Financial

Sub-area 2.1: Tax/fiscal treatment for CSOs and their donors

Comparing major findings of the BCIF/Trag foundation philanthropy research from 2012 along with the research of Catalyst Balkans on the status of giving for the common good in Serbia in 2013, it can be concluded that the perception of philanthropy among the citizens of Serbia has not significantly changed. In the research of the Catalyst Foundation a parallel was made with 2011 findings and the new report states that the most visible changes are in the larger increase of actions aimed at lowering poverty (increase of 12.5%) and healthcare (increase 9.9%), and the analysis show that these initiatives were mainly singular humanitarian actions in almost all areas. The research claims that the greatest recipients of donations are individuals/families with 43.5% and that number has increased by 13% compared to 2011, and looking at all final recipients, it can be seen that the majority of donations was sent to people with health problems (30.7%) and economically disadvantaged (20.4%). This state can be understood as consequence of the perception of philanthropy as exclusively humanitarian aid, which is further the consequence of a lack of awareness about strategic and planned giving for the common good.

Data from the Catalyst Balkans provides insight into the degree of trust placed in CSOs as recipients of donations. The percentage of donations given to CSOs has decreased from 23,9% to 17% in 2013. The general perception of the character of giving is also mirrored here – the most common receivers are associations directed at social issues and marginalized groups. The good news is that CSOs receive the greatest number of donations from citizens (large individual donations), which indicates that it is possible, with a clear message and trust from the citizens, to attract many smaller donations that could contribute to the sustainability of organizations. Compared to 2011 there is a noticeable increase in the number and percentage of donations for foundations within the non-profit organization category, which shows an increase in trust, given to foundations as mediators.

There has been no change within the legal frame in the area of tax laws, except the opinion of the Ministry of Finance (2013) about submitting a request for tax exemptions for gifts which cost over 100,000 dinars, which is binding for local tax administration offices. The regulations about the use of public funds for employee salaries and freelance workers in civil society organizations, still consider only direct humanitarian help to recipients as public interest. The legal framework in Serbia still offers no possibility for receiving anonymous individual donations from abroad, which is preventing development of individual philanthropy as one possibility for CSO sustainability, nor does the law recognize domestic individual philanthropy as a basis for tax deduction. Trag Foundation started an initiative for changing the Corporate Profit Tax Law and Property Tax Law, supported by Civic Initiatives and 113 other organizations. If these changes are accepted, CSOs will be free from paying property tax.

Having adopted the new Law on Accounting (July 2013), as of 2014 financial bookkeeping has become easier for CSOs. Those will be drafted on the basis of registered business changes in the chart of accounts for other legal entities (differing from the account framework for business subjects and being adjusted to specific features of the civil society) and of the new forms for other legal entities. During December 2014 the Ministry of Finance adopted by-laws based on the Law on Accounting, whose implementation will be mandatory starting with financial reports for 2014 and concerning the financial reports of civil society organizations: 1) the Rulebook for the account framework and contents of the accounts in the account

framework for other legal entities, 2) Rulebook on the contents and models of financial report forms for other legal entities 3) Rulebook on the content of positions in the Statistical report form for other legal entities.

Areas which regulate public interest have still not been worked out in tax regulations. VAT is not being paid for funds supplied via contract based on agreements about donations made with the Republic of Serbia (EU funds, USAID, OEBS, other international and bilateral donors). Tax exemption is in accordance with international agreements that donations can be obtained only by an entity who pays VAT and who directly delivers the merchandise or services to these entities. In practice, however, there are still problems in procedures for VAT exemption, especially for manufacturers. Foreign subventions and donations are not subject to VAT, however, if a donation or humanitarian aid is offered in goods or services (for which exemption from tax is not prescribed), the turnover of goods and services is subject to paying VAT. The use of passive investments by civil society organizations is not regulated by law, but can be regulated by contract with the donor. Among the civil society organizations there is no widespread habit of using funds from passive investments. Most of them have stated that they are not informed of this possibility at all.

It is important to point out that the final beneficiary of over 70% of donations is the state (public institutions and local self-governments)¹⁸ and this is the space for CSOs and other interested parties to continue to lobby in negotiations with institutions for additional incentives and exemptions for donors. The draft of the National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia is in progress, which in the area of philanthropy development includes certain measures at the republic level that ought to solve and improve many issues which complicate the tax treatment of CSOs. The suggested solutions should facilitate donations for public interest which would enable a more efficient sustainability of CSOs with the help of donations from citizens, entrepreneurs, companies and other subjects. Changes in the Corporate Profit Tax Law and Personal Income Tax Law are planned, passing a binding opinion regarding the interpretation of the regulations of the Corporate Profit Tax Law and Property Tax Law, which regulate the tax status of the donation, organizing trainings for employees in the Tax Administration in order to provide a just and uniform application of tax regulations of importance for the development of philanthropy. All these changes should redefine activities in the area of public importance, and to bring back the emphasis on the nature of giving, not the legal forms in which giving takes place within the system of tax exemptions. Until these measures are adopted, the framework in which the CSOs operate has not changed essentially compared to the previous two years.

Sub-area 2.2: State support

Based on the request made by over 100 organizations, in collaboration with the Office for Cooperation with Civil Society, in October 2013 the Government adopted amendments to the Regulation on the means of fostering or missing part of the funding for the program in the public interest implemented by associations. The administrative procedure was simplified, and certain documents previously provided by associations are now provided by relevant institutions and public government organs. However, the existence of a clear regulation that relates to the institutional support for civil society organizations is still missing. Support relates only to programs/projects.

Examples from practice: Different ministries follow procedures differently for calls for CSOs: the Ministry of Labour, Employment and Social Policy on the public call announced on October 27th .2014. demanded a confirmation of registered associations in the SBRA as part of the documentation. Based on the Regulation on the means of fostering or missing part of the funding for the program in the public interest implemented by associations (October 2013) associations are not obligated to obtain facts whether the association was registered with the competent authority (verification, confirmation,

¹⁸Status of giving for the common good in Serbia 2013, Catalyst Balkans 2014

excerpt) when applying for funds for programs of public interest, but that in the future this will be done by the competent authority under official duty.¹⁹

The demands of the CSOs for the fundamental change of articles of the Law on Games on Chances in order to coordinate it with the Law on Associations, Endowments and Foundations were not accepted, nor were the changes of the Law announced or planned by the competent organs, so there is still a need for negotiations.

Even though the Regulation²⁰ states that giving funds for fostering or missing part of the funding for the program is done through public calls announced by the competent government authority, this obligation is not implemented consistently. At the national level there is no mechanism which would regulate the allocation of public funds to civil society organizations within the framework defined by the Regulation, or rather which would coordinate different competent authorities and their activities and prevent abuse.

In February 2014 the City Council of Novi Pazar reached a Decision on the program and project chosen for financing from the City of Novi Pazar budget, without previously announcing a public call for project proposals.

Even though there are six budget classifications (481 – Grants for civil society organizations, 472 – Compensations for social protection, 451 – Subventions to public non-financial corporations, 423 – Contract services, 424 – Specialized services, 462 – Grants for international organizations) through which funds intended for financing associations and other CSOs are allocated, public funds are not clearly planned or set aside within the state budget. Funds from line 481 (grants for civil society organizations) and 472 (financing services of social protection) are still used for financing sport clubs, churches and religious communities, public institutions, the Red Cross, which already have their own line defined within the budget. According to the data from the Annual consolidated report on budget expenditures of the Office for Cooperation with Civil Society of the Republic of Serbia²¹, which have been, as support for program and project activities, provided and paid to associations and other civil society organizations from public funds of the Republic of Serbia in 2012, 8,63 billion dinars was given on all levels of government of the Republic of Serbia, from the total of 9,24 billion dinars that was allowed.

Looking at the distribution from various levels of government, the largest amount of money was paid by national public authorities (5,82 billion dinars), then the Belgrade, Novi Sad and Nis local public authorities (1,53 billion dinars), local self-government (1,23 billion) and the least amount of money was allocated by authorities of the Autonomous Province of Vojvodina. Going back to budget classifications, the greatest amount of funds is allocated for the economic classification 481 (84,49% of all determined funds), then from line 472 (11,81% of determined funds), while the remaining four distributed make up 1,72% of all determined funds. It's important to point out that the funds from economic classification 462 – grants for international organizations were distributed only by the Ministry of Youth and Sport.

In the existing funding framework there is an obvious contempt and abuse of regulations, which can be seen in the analysis of the economic classification 481, where state organs reported 61% of total funds being set aside for this line. Additionally, data shows that the greatest number of organs allowed support outside public calls, by the decision of the coordinator for programs/projects amounting up to 3,61 billion dinars (39,22% of allowed funds). The answer comes based on frequency that 3,43 billion (37,16% of total funds) was given "by the procedure - other". In third place are public calls as a procedure for funding, by which 1,73 billion dinars was given, or 18,8% of total funds.

¹⁹<http://civilnodrustvo.gov.rs/izdvajamo/vlada-srbije-usvojila-uredbu-o-izmeni-dopuni-uredbe-koja-regulise-finansiranje-udruzenja/>

²⁰The regulation on the changes and amendments of the Regulation on funds for existing programs of public interest that associations produce

²¹The annual report on expenses which have been provided as support for project and program activities and paid to associations and other civil society organizations from the public funds of the Republic of Serbia in 2012 – summary

By the Decision of the Mayor of Belgrade, issued May 9th 2014, the Public call for financing projects of associations directed at upgrading the civil society in the process of European integrations of importance for the city of Belgrade in 2014, announced on February 10th 2014 in the newspapers and the official website of the Belgrade City authority was annulled.²²

Co-financing of projects and programs allowed as part of donor assistance is not very widespread, either by value or by the number of co-financed projects – 1,65% of all funds in 2012. There is still no request/duty for the government to consult and include CSOs in all cycles of financing.

During 2012 there were 381 announced calls and other procedures for funding associations and other civil society organizations. The data indicates that the applicants in nearly half of the cases (49%) had a deadline between eight and fifteen days to submit the documentation for the call, while in 31,3% of the cases the deadline was 15-30 days. Progress is visible with only 3,5% of calls open for less than 8 days. In almost half of the cases on all levels of government (47,9%) there was a Commission formed for overseeing and choosing projects, and in 12,1% of the cases that was the job for people whose duty was to cooperate with the CSOs, and a similar statistic is carried over to the process of project assessment and decision-making about the receivers of funds. Written criteria for ranking applications existed in 75,2% of all calls, but there are no data about public awareness about them before the call was published. The projects are ranked by members of public authorities and city administration in two thirds of the cases, and representatives of scientific and professional institutions are incorporated in the teams, as well as independent experts.

Latest available data, shows that 18 millions RSD was spent on co-financed projects (2013). In 2013, according to data gathered by Government Office for cooperation with civil society through the Questionnaire on budget spending for CSOs and other entities, only four national public authority units financed a total of 32 projects approved by international donors, worth overall 18 million RSD²³, while in 2012 four national public authority units financed 21 project approved, overall value of 10.5 million RSD, while 14 local-self governments financed 83 projects worth 24.1 million RSD and three city authorities financed six projects worth 17,6 million RSD. The achieved results of programs/projects in most cases of at the state and local level authorities are estimated by an overview of final reports (61,5% of the total number of responses). Generally speaking, allowed programs/projects do not last long – 93,18% of all projects are implemented within the same year. The basic way of overseeing project implementation is review of submitted financial and narrative reports, while direct supervision of activities during implementation, including polls for project users, is an exception rather than a rule. Via occasional visits to project implementers by state institutions around 10% of all projects were supervised and 25% in local self-government units. The supervision of implemented projects by professional and scientific institutions or independent expert was conducted during the realization of one project at the state level, and three at the local. The lack of an adequate supervision system for the duration of a project implementation deprives the donors of the possibility to occasionally react to the deficiencies in the way projects are realized, so that they would be removed. The practice of ranking the success of implemented projects is not developed enough – implemented in 16% of cases at the state level, 13.5% at the local, non in Vojvodina. This is an indicator that public financing of civil society organizations is still being treated like an expense, instead of an investment in social capital.

When it comes to non-financial support, it is not substantial because it values 6.7 billion dinars, and it was provided by two offices: The Administrative and Professional Service for the Implementation of the Integrated Regional Development Plan of the Autonomous Province of Vojvodina and the Secretariat for Traffic of the city of Belgrade. The Public Property Law („Official Gazette RS”, no. 72/11, 88/13) enables local self-government units to achieve and enlist the right to own the property that they currently use. Thus legal assumptions were made, which ought to be implemented in practice, allowing local self-governments to autonomously use their acquired property, toward the advancement of the social-economic ambient. This broadens the room for partnerships between local self-governments with business companies and civil society organizations and informal initiatives, especially at the local self-government level, and certain

²² <http://www.beograd.rs/cms/view.php?id=1601140>

~~Data provided by the Office for Cooperation with Civil Society.~~

problems have been identified in this area: **a.** a lack of a unique property register and **b.** a lack of unique criteria for providing space. There are no unique criteria or principles for providing space to public administration, nor are these spaces always provided through the institute of public call. This leaves room for discretionary decision-making and favoring individual organizations of civil society and initiatives. The Government Office for Cooperation with Civil Society in the proposal of the Strategy for an Enabling Environment for Civil Society in the Republic of Serbia predicted a solution for these problems, through the following activities: changing the regulation on funds for program incitement or the missing part of funds for financing programs of public interest, which would directly issue that the regulation refers to endowments and foundations which work in the public interest and create a legal basis for allocating institutionalized grants, creating a unique property register for the Republic of Serbia and local self-government units, developing guidelines for criteria for allocating spaces to CSOs by public administration units and organizing training for employees of local self-government units about the principles of transparent provision of space for CSOs.

In regards to training as a form of providing non-financial support, the Government Office for Cooperation with Civil Society is an example of good practice: they organized regular trainings/informative meetings for CSOs toward strengthening their capacities for monitoring negotiation chapters in the process of entering the EU, participation in programs of cross-border collaboration, the role of the media in promoting values of civil dialogue. Also, the Government European Integration Office organized training for members of Sectorial Civic Society Organizations mechanism and the new IPA II regulation (action documents, sectorial working documents).

Subarea 2.3.: Human resources

While there are no issues with employment, in 2014, CSO employees still are treated in practice in discriminative way with different institutions. Prime example are banks, which usually refuse to provide credit for CSO employees.

State policies and legal framework do not separate CSOs from the private sector in regulations which support and ease unemployment and volunteering in CSOs. National Employment Service states there is space for CSOs because in 2014 public action was predicted in the area of social and humanitarian activity, maintaining and renewing of public infrastructure and the maintaining and protection of the environment and nature, in which CSOs will have a right to participate. Program "First Chance", aimed at stopping the trend of unemployment of young people was left out this year again, and only applications for the "Professional Practice" program were available, regarding which no amount of funds and number of participants in 2014 was published, nor was the number of CSOs that have used this program for employment. In 2013, 4,000 unemployed people participated in the program Professional Practice. This program predicts compensation for people undertaking professional training with different levels of higher education respectively and which is open for all entrepreneurs, small and medium businesses and associations under the condition that they currently employ minimum two employees. In practice, however, the situation for CSOs is exceptionally unfavorable, because according to the National Employment Service for employment published in the free employment publication, half of the CSOs work either entirely with volunteers or with an annual budget of 1000 EUR, and this number of organizations competes for funds of 115 international and domestic donors and public funds.

According to the counter of the Serbian Businesses Register Agency²⁴, there are 23.948 associations and 600 endowments and foundations in Serbia, but there is still no regular statistical evidence about the number of employees in the CSO by the National Employment Service.

The Minister of Labour, Employment, Social and Veteran Issues, Aleksandar Vulin, announced the preparation of the new draft of the Law on Volunteering in August 2014, which should eliminate deficiencies of the old Law from 2010 and encourage the participation of young people in volunteer/labour

²⁴ Counter checked on October 30th at 15:32

actions, especially directed at building the country after the catastrophic floods. Within the Ministry of Youth and Sports a working group was formed for the needs of changing the Law on Volunteering, whose activities were postponed by the floods. Currently coordination of activities between these two ministries is taking place. It should be pointed out that CSOs, especially those who gather or work with youth, have shown an extraordinary proactivity regarding this issue and their participation is expected in the activities of the unique working group which will deal with the amendments of the Law on Volunteering. One of the potential novelties could be the very definition of volunteering, which will be considered as voluntary offering of services or activities for the common good or for the good of another individual, without the monetary fee or request for another material benefit. This would make a clear distinction between volunteering and work engagements based on working contracts and working outside of employment. Adopting the new Law on Volunteering, legal protection of volunteers will be ensured, as well as the protection of the beneficiaries of their services from potential damage that could such an activity can result in. Volunteering is recognized by both the National Strategy for Youth 2015 - 2025 and the National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia. Both strategic documents are in the process of development and both predict amendments to the Law on Volunteering.

Demands of the CSOs regarding the changes of this law relate to the precise definition of concepts of short-term and long-term volunteering, the way records are kept about organizers of volunteering and filing reports.

Decisions of competent authorities and their documents show no progress in the field of informal education. Because of this the Government of the Republic of Serbia planned to form the Agency for Education in 2013, whose focus would be placed on higher education and directed in part on promoting informal education in the education of adults, but it has not been established so far.²⁵ On the other hand, in the amendments to the Law on Elementary and Secondary Education from July 2013, there is still no mention of the role of informal education of young people ages 7 to 18. The importance of informal education can be seen by the recent research conducted by the Faculty of Political Sciences in Belgrade which showed that 72% of respondents consider informal education to be very important, with an average mark of 4,67 (on a scale of 1-5).

In the draft of the National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia a special chapter is dedicated to the role of civil society informal education, and key actions which the Strategy predicts include changes and amendments to the Adult Education Law, which could enable the introduction of more flexible demands for organizations for acquiring a publically acclaimed activity organizer, the establishing of an official educational statistics on informal education which includes CSOs as actors in this field, the establishing of a national system for recognizing qualifications acquired through informal education, which would equally treat qualifications acquired through programs of informal education offered by CSOs.

Forming an informal education unit as part of the Ministry of Education is also planned, which would follow and coordinate the activities of all informal education providers, as well as promote intersectoral partnerships in the field of informal education and joint applying to the EU and other funds and the implementation of informative campaigns about the importance of informal education for long-term education and the role of CSOs in offering informal education services.

Civic education as a subject still exists as an elective course, although the choice to attend this class still depends on the parents' preferences or the potential initiative of younger adolescents (ages 15 - 18). The greatest responsibility still lies in the hands of teachers (most often sociology teachers or school psychologists), who ought to motivate students with their teaching methods and class organization to attend this class. A big problem is the descriptive evaluation (active/not active/very active), which

²⁵ www.novosti.rs/vesti/naslovna/drustvo/aktuelno.290.html:437322-Jos-jedna-drzavna-agencija---za-obrazovanje

negatively influences the relation of the students toward the subject in the sense of obligation to attend class.²⁶ What worries the most is the fact that no social science covers civic initiatives (specifically asking questions, launching and initiating campaigns and resolving issues) within the Belgrade University, so this kind of knowledge can only be obtained through the role of a practitioner in some civil society organization or by studying foreign literature on the topic, which also is a form of informal education. The conclusion from practice is then that the educational system of the Republic of Serbia does not have the possibilities for civic engagement in CSOs and the advancement of their development, especially when it comes to competing for accession funds and the implementation of projects and knowledge needed in these areas. Civic Initiatives advocate the introduction of civic education as a mandatory subject, which would be evaluated like the rest of the subjects in the school program, and which would include in its content knowledge about civil society.

Area 3: Government - CSO relationship

Sub-area 3.1.: Framework and practices for cooperation

Necessary changes of the legal framework and building capacities of public administration units and civil society should enable a more efficient inclusion of the public in the processes of adopting laws and other instruments of public policies in all phases of participation: informing, consulting, active participation and partnership. Regarding that, several deficiencies were noticed in the legal framework and cooperation practice between the public administration and the civil society in the process of drafting laws and other instruments of public policies:

- The Law on State Administration (Official Gazette of the Republic of Serbia, number 79/05, 101/07, 95/10 and 99/14) does not define what is considered to be a law which significantly changes the legal regime in an area, or which regulates questions of special interest to the public, regarding which there is a duty of the ministry and special organizations to implement public debate (article 76 I 77). Instead, this question is more closely regulated by the Government's Rules of Procedures, and as a result bylaws regulate, and not just further develop the regulations of the Law. Apart from that, this Law regulates the duty of implementing public debate only when it comes to making laws, but no other instruments of public policy and the Government's Rules of Procedures state that public debate can only be implemented in the preparation of the development strategy, regulation and decision. This way the implementation of public debate about these acts is left to the will of those who are making the laws.
- Government's Rules of Procedures (Official Gazette of the Republic of Serbia, number 61/06, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13 and 76/14) issue the obligation of making an annual working plan of the Government, but not its publication on the Government's webpage. The interested public is therefore deprived of the possibility to prepare in time in order to participate in the consultations. The Rules of Procedures neither issue the obligation for public announcements of initial basis of the working group for developing a draft of the law and other acts, in order for the interested public to have the opportunity to leave their comments and suggestions for the initial basis. This ex ante approach in consultations decreases the expenses for transactions of making an act, because it allows the identification of crucial problems and alternative approaches to their solution in the early stages of making an act. Apart from that, the Rules of Procedures also do not regulate bylaws, along with law drafts, which would provide a better legal security and that the implementation of regulations is up to date. The Rules of Procedures explicitly do not predict that the contents of the public call for participation in the public debate include information on target groups that the draft of the act refers to, the circle of questions about which the organizer especially seeks an opinion of the interested public, as well as contact data of the person responsible for consultations. The Rules of Procedures do not regulate that the report on implemented consultations ought to be a part of the attachment being submitted with the draft of the law, but only regulates the obligation of the person making the suggestion to publish the report

²⁶ www.etssd.edu.rs/dl_poslovnici/pravilnik%20o%20ocenjivanju.pdf

on the implemented public debate on his internet page and EUprava Portal, 15 days from the end of the public debate at the latest. The Rules of Procedures do not regulate the contents of the report on the implemented public debate, including the way comments are grouped and explanations which were or which were not accepted as is issued by the regulation that governs the manner of preparation and mode of public debate on developing documents for regional development.

- The draft of the Action Plan for the implementation of the Public Administration Reform Strategy of the Republic of Serbia for 2014-2016 predicts measures for removing some of the above noticed deficiencies. The Plan predicts changes in the Government's Rules of Procedures which will regulate the obligation of determining the starting basics for the creation of laws, the obligation of making bylaws with a draft of the law and their submission along with the draft of the law, and the obligation of submitting elements of reports on implementation of objectives and compliance and further development of the principles of legislative policy.
- The Government's Guidelines for inclusion of civil society organisations in the regulation adoption process²⁷ also regulate some of the deficiencies noticed in the Rules of Procedures, but in the form of suggestions. The guidelines promote publishing a list of regulations whose adoption is proposed in the calendar year on the internet page of the competent authority of public administration unit and on the EUprava Portal and define the minimum content of feedback about the results of the implemented public debate. The guidelines also contain the recommendation for the organs of the autonomous province and the local self-government unit to uphold the principles in the Guidelines in the process of shaping regulations.
- The National Parliament's Rules of Procedures (Official Gazette of the Republic of Serbia, number 52/10, 13/11) do not regulate the obligation of the Parliament to post its annual plan on its webpage. In relation to the previous, the Strategy for the reform of public administration emphasizes that "for inclusion of the public into the process of making political decisions, it is of great importance to timely inform the public about the annual plans for working, including legislative plans of the National Parliament and Government".
- Regulation on the principles for internal organization and job classification (Official Gazette of the Republic of Serbia, number 81/07, 69/08, 98/12, 87/13) states that the manager, director of office within the Government and the director of the Government service answering to the General secretary of the Government, can form a special working group and name experts in corresponding areas in order to provide professional assistance in the most complex projects. The Regulation does not regulate more closely what is considered as the most complex project, which is left to the discretion of the manager or the director of the office or services. The guidelines for inclusion of civil society organizations in the process of making regulations recommend that, within the process of making a draft or proposal of the regulation, experts as representatives of civil society organizations can be appointed members of working groups in accordance with the current regulations or based on the public call, with clearly defined criteria of expertise and consideration of other relevant facts and circumstances.
- The Strategy of Public Administration Reform states that public debates are organized only in 20% of all drafts. The National Parliament has, from its constitution in April until of 2014, adopted 41 laws after public debates were held, and a total of 105 adopted in an urgent procedure, without maintaining adequate and timely public debates. The Ombudsman also warned about the unfavorable influence of this practice. Apart from the frequency of the urgent lawmaking practice, the irregularities relate to the implementation of public debate outside of the adopted program, a lack of application of other methods of consultations, like organizing round tables in the initiating process of making regulations, forming focus groups toward receiving relevant information at the beginning and during the drafting of regulations etc. Toward the goal of improving the practice of public consultations, the draft of the Action Plan for the implementation of the Strategy of Public

²⁷ Official Gazette of the Republic of Serbia number 90/14

Administration Reform of the Republic of Serbia, sees the continuous professional perfecting of government officials regarding the legislative process as one of the measures.

- The Law on Local Self-government (Official Gazette of the Republic of Serbia, number 129/07 and 83/14) does not regulate the question of consulting units of local self-government with the interested public in the process of adopting bylaws in the jurisdiction of local self-government, but this question is rather regulated by legal acts of local self-governments. A lack of minimal legal principles for the implementation of public consultations on the local self-government level has for a consequence a disharmonized practice in standardization and implementation of these consultations. The implementation of the Government's Guidelines for inclusion of civil society organisations in the regulation adoption process in local self-governments would contribute to the removal of these deficiencies.

The National Parliament of the Republic of Serbia adopted the Resolution on the role of the National Assembly and the principles of the negotiations on the accession of the Republic of Serbia to the European Union²⁸. The resolution defines the goal of the Parliament in negotiations and obligates the Government to give all relevant documents to the competent parliamentary committee (Committee for European Integration), including the negotiation positions determined in Government meetings. The Resolution accepts the importance and role of civil society, professional public and other interested parties in order to achieve their inclusion in all phases of negotiations about Serbia's accession to the EU. Civil society organizations have established several mechanisms for the cooperation with the Government and the coalition in the process of monitoring screening/negotiations like the National convent about the European Union, the coalition PrEUgovor and the initiative and portal Speak out about negotiations.

In February 2014 the Office for Cooperation with Civil Society of the Republic of Serbia began a widespread consultation process toward making the National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia. The initial conference titled "Get Involved – what kind of a civil society do you want?! Civil society in Serbia 2018" gathered 300 civil society representatives who participated in the creation of the framework for the content of a future Strategy, by applying the Open space methodology. During this process the civil society representatives defined 15 priority subjects that ought to be found in the document. In September 2014 the Office published a call for interested representatives of civil society organizations to participate in the consultation process of making the National Strategy and the Action Plan for a civil society enabling environment 2014-2018. During October, consultation meetings were organized in ten cities around the Republic of Serbia in which representatives of civil society organizations could give their comments and suggestions on the first working text of the Strategy, as well as suggestions about the activities and measures. Also, there was an open opportunity for sending comments, suggestions and proposals for the working text of the Strategy through an online form. The deadline for submitting comments lasted until December 1st 2013.

In May 2014 the Ministry of Youth and Sports opened a Public call for candidates from the scientific and professional public for membership in the Working group for the creation of the National Youth Strategy 2015 - 2025 and the accompanying action plan for the period between 2015 and 2017²⁹. Representatives of competent authorities, institutions, business and civil society were included in the working group. The Working group prepared a working draft of the National Youth Strategy 2015-25 which was presented to the interested public in 13 round tables organized in various cities in Serbia over a period of 20 days. Compared to the process of making a still current Youth Strategy in the sense of the width of the consultation process and the degree of participation, this process is a step back.

²⁸ <http://www.parlament.gov.rs/aktivnosti/evropske-integracije/dokumenta.2188.html>

²⁹ <http://www.mos.gov.rs/vesti/omladina/javni-poziv-za-izradu-nacionalne-strategije-za-mlade-2015-2025/?lang=lat>

The Government of Serbia adopted on August 26th 2014 Guidelines for inclusion of civil society organisations in the regulation adoption process³⁰. The adoption of this document was preceded by the process of collecting comments from civil society organizations to the text of the working version during October 2013, led by the Office for cooperation with the Civil Society.

During 2014 the National Parliament continued the practice of adopting laws by emergency procedure without a public debate. From its constitution in April 2014 the National Parliament has, from its constitution in April until end of 2014, adopted 41 laws after public debates were held, and a total of 105 adopted in an urgent procedure, without maintaining adequate and timely public debates. This kind of work of the highest legislative organ seriously violates the principle of civil democracy proclaimed by the Constitution of the Republic of Serbia, as well as a whole number of regulations that manage the work of the National Parliament of Serbia. The Rules of Procedure of the National Parliament state that only laws that regulate the questions and situations caused by unpredictable circumstances can be adopted by urgent procedure, and not adopting laws by urgent procedure can cause damaging consequences for the lives and health of people, the safety of the country and the work of institutions and organizations as well as for the fulfillment of international obligations and harmonizing regulations with the regulations of the EU. Since process laws are on the list of laws adopted in urgent procedure, among which the Litigation Law, which has a regulation identical to the one that the Constitutional Court declared unconstitutional in 2013, it is indicative that there is a danger of abuse of the urgent procedure in order to avoid public debate on certain laws and legal solutions, as well as the danger of a more serious threat to the achieved standard of human rights by the highest representative body in the Republic of Serbia. According to the analysis conducted by the Open Parliament, the only law adopted in this period by standard procedure was the Law on Public Documents. Not only representatives of the civil sector expressed their protest because of this situation (Protest of the Lawyers Committee for Human Rights – YUCOM to the National Parliament of the Republic of Serbia and the Government of the Republic of Serbia) but the Ombudsman as well. ASTRA, the Autonomous Women's Center and the Judges' Association of Serbia directed an initiative in May 2014 for the withdrawal of changes and amendments to a number of legal documents that have been adopted by urgent procedure without a public debate and without consulting the professional public. In their report about the advancement of Serbia the European Commission also regularly criticized the parliamentary practice of adopting a large number of laws by urgent procedure. "Urgent procedure, apart from diminishing the democratic potential of the Parliament, prevents the delegates to work on the laws in detail. In this way, the delegates on average have less than half a day to discuss the law."

All the laws, for which the Ministry of Culture, Information and diaspora organized public debates, were voted for in the Parliament of Serbia. The most zealous in reporting from the public debate was the Ministry of Internal Affairs and Diaspora (4 reports from 4 debates), the Ministry of Defense (also 4 reports from 4 debates), the Ministry of Natural Resources, Mining and Spatial Planning and the Ministry of Foreign and Domestic Trade, published only one report, even though they organized five, or rather thirteen public debates for various laws, drafts, strategies or action plans.

Public debates for said laws lasted on average 2 weeks to a month. One of the shortest deadlines for a public debate was 10 days (public debate about the Action plan for an open administration with the implementation of ICT for 2013, March 10-23 2013)

Sub-area 3.2: Involvement in policy and decision-making processes

The text of the Guidelines for inclusion of civil society organisations in the regulation adoption process that the Government adopted this year, compared to the working text has undergone amendments which changed its character and purpose. The working text from 2013 related to the inclusion of the interested public in regulation-making procedures and documents in a clearly pointed out that this term relates to "citizens, civil society organizations, representatives of the academic community, chambers, public

³⁰ Guidelines - <http://www.srbija.gov.rs/vesti/vest.php?id=218328>

services and other legal entities that undertake activities of public interest or whom a regulation or an act that is being adopted can influence or which will be included in their implementation". The final version of the Guidelines only recognizes CSOs as the only part of the public that needs to be included in the process of adopting regulations and CSOs include: associations, endowments, foundations, unions, and chambers, university conferences or academies for specialized studies, and other organizations whose goals and activities are directed at ensuring public interest. This definition eliminates informal groups from the process of inclusion, as they are created ad hoc, by organizing individuals because of a specific problem whose solution is often connected with the amendment or adoption of some regulation or act. The explanation for what part of the public sector these guidelines relate to has been removed from the final text of the Guidelines. The Guidelines still do not provide definitions of concepts like *regulation* and *act* so it is not realistic to expect that they will harmonize currently very disharmonized practice under which various ministries or public authority units of local self-government in procedures of adopting regulations of the same legal power have different ways of approaching the inclusion of the public. Key objections of Civic Initiatives to the working version of the text of the Guidelines for inclusion of the interested public in the process of adopting regulations and acts from 2013 are related to their non-binding character, an insufficiently specific solution and imprecise declarations about deadlines, which has not been changed even in the final text of the Guidelines. The purpose of the Guidelines was changed – from "establishing clear criteria for the cooperation of authorities and organizations of public administration and the interested public in processes of making regulations and acts" in the working version to "directing the work of the authorities of state administration toward the inclusion of civil society organizations", the way the text adopted by the Government had it planned. Regulations on providing advice and information, as a currently most widespread level of participation of civil society organizations in processes of adopting regulations have suffered non-selective changes with deleting parts of the document which explain the goal of informing, the preciseness, clearness and availability of rules for implementing counseling.

When it comes to the participation of CSOs in the processes of European integration, they participate in monitoring the analytical overview of legislation (screenings) in 35 negotiation chapters, following via web stream the meetings of explanatory screenings, participating in the preparation of bilateral screenings for individual negotiation chapters, and participating in informative meetings about the bilateral screenings for individual chapters. For each of the negotiation chapters meetings are being organized of working group representatives with civil society organizations – participants in the explanatory screenings. Apart from that, based on the call of the Office for the Cooperation with Civil Society, civil society organizations could have submitted their analysis of the harmonization of Serbia's legislation and the EU for chapter 23. According to the report of the Office, 14 organizations submitted their analysis. The report which the Office prepared after the screenings³¹ shows that the CSOs in that process participated first of all through monitoring the internet transmission of meetings for the explanatory analytical overview of the harmonization of legislation of the Republic of Serbia with the legal heritage of the EU (screening), the preparation of bilateral screenings for certain chapters and the briefing of meetings for informing organizations of the civil society about bilateral screenings.

Civil Society organizations were included in the process of programming international development help, with the focus on helping the EU. For this purpose, the Serbia European Integration Office founded a special mechanism in 2011 for consultations with civil society organizations – Sectorial Civil Society Organizations (SEKO). By the end of May 2014 the call of SEIO for choosing new SEKO organizations³² was published, and by the end of July the decision was made about the choice of new members of the SEKO mechanism³³. Eight SEKO sectors were formed. Civic Initiatives are a leading organization in the group consisting of the Independent Association of Journalists of Serbia and the Association of the independent cultural scene of Serbia for SEKO civil society, media and culture. The Government European Integrations Office continued to regularly call and include CSOs in the processes of creating and commenting on documents for

³¹ <http://civilnodrustvo.gov.rs/media/2014/06/izvestaj-o-ucescu-OCD-u-pregovorima.pdf>

³² <http://www.cdspreclaze.org.rs/vesti.asp?Display=191>

³³ <http://www.cdspreclaze.org.rs/vesti.asp?Display=193>

the pre-accession assistance (IPA II) and the Country Action Program for 2014 (within the area of state administration).

Sub-area 3.3: Collaboration in service provision

As it was stated in the draft of the National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia significant results were achieved toward a greater participation of CSOs in offering social services. "The participation of civil society organizations in offering social services at a local level has also increased. The Budget Fund for protection programs and the advancement of the position of persons with disabilities, who are under the jurisdiction of the Ministry of Labour, Employment and Social Issues, offers support to civil society organizations that deal with the issues of people with disabilities through a continuous open competition for financing. Bureaus for social policy at the national, or rather provincial level, offer various types of support for the strengthening of capacities of service providers (including civil society organizations) in the process of licensing, through trainings, publications, instructions and online counseling"³⁴

However, not even after more than three years since the Law on Social Protection (2011) took effect, have all sub-legal acts necessary for their full implementation been adopted. One of the most important documents for CSOs as social protection service providers is the Rulebook on minimal standards for offering counseling-therapy and social-educational services. That is a document of key importance for the functioning of CSOs in this area, bearing in mind that ¼ of them deal with activities in the area of social protection, or rather services of social protection (the estimation of the condition in the civil society in Serbia in 2011, the estimation was done by Civic Initiatives in cooperation with the Office for Cooperation with Civil Society). Also, the Regulation on earmarked transfers that are to regulate the method and criteria of offering transfers (earmarked transfers from the national level in order to provide a sustainability of offering social services in less developed local self-governments), which also affects civil society organizations that offer these services.

The process of licensing CSOs as service providers in the system of social protection has not taken root enough, considering the very high functioning standards (in regard to the space for offering services) that must be satisfied, and for which the CSOs have no possibility. A potential solution could be found in the framework offered by the Law on Public-Private Partnerships and Concessions (contractual public-private partnership, institutional public-private partnership, founding of organizations by local self-government units, for managing space and equipment for offering services of social protection are modalities from the Law on Public-Private Partnerships and Concessions, relevant for providing services of social protection) that could ensure a fair competition between different service providers.

Official data of the Ministry of Labour, Employment, Social and Veteran Issues³⁵ (for the housing of adults and elderly in the Republic of Serbia) claim that (until November 2014) 37 service providing organizations were licensed. Of those, 21 was licensed as *Home for housing adults and elderly* and their founders are individual; 1 organization is licensed as the *Institution of Gerontology Center*, whose founder was the Republic of Serbia, or rather the City of Belgrade; 1 organization is licensed as a *Housing Project*, the founder is the Republic of Serbia; 5 associations for the support of mentally insufficiently developed individuals/individuals with developmental disorders) are licensed for offering services *Daily Care Center*, 2 associations are licensed for offering Personal assistance services for people with disabilities; 2 associations have acquired the license for offering services for people with disabilities; 1 Red Cross received a license for offering services to adults and elderly. This is one of the key challenges in systematic reform of social protection which as a consequence has the problem of ordering services, keeping in mind that only a small number of organizations offers services (both as a center for social care and as an association or CSO) has so far obtained a license. The deadline for licensing service providers is May

³⁴ National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia

³⁵ <http://www.minrzs.gov.rs/lat/dokumenti/briga-o-porodici/smestaj-starih-lica-u-dom/Domovi>

2016. Even though the state budget predicts a special instrument for financing social protection (472); the funds given to the CSOs are not enough for the development and providing social services. On one hand, it is a common case that funds intended for these purposes can automatically, without implementing the public acquisition procedure, be given to centers for social care. A center for social care can offer services of social protection only within their special organization unit; if it receives a license to provide a certain service and if the local community has no other licensed service provider of social protection (whether it's an association or an organization from the business sector). The local self-government unit is obligated to first determine if there is another service provider, which is accomplished by announcing a call for public service obtaining.

A temporary organ of the City of Belgrade at the meeting held on April 22 2014, made a decision about changes and amendments to the decision about the rights and services of protection which have cancelled, or deleted, the existence of services of shelters and personal assistance, cancelled subventions based on expenses for utility products, services and lease holding and short-term help for individuals and families of the most vulnerable groups in the population. The mentioned two services from then on have been offered only by citizen associations, financing them as project activities. This decision of the Temporary Authority was made outside of the jurisdiction that, as such, belonged to it.

Irregularities have been noticed during the announcement of the competition for CSO financing that function in this area. The Ministry of Labour, Employment, Social and Veteran Issues has announced by the end of October a public call for offering funds to associations of citizens in order to advance the system of social protection. The call was full of irregularities (not fulfilling formal conditions of the call – a lack of a financial report with newly-formed associations, registering associations after the call was announced) including decisions in allocating money to a large number of newly registered associations (many of which only a month or less before the call), associations with identical statutes and similar. Having the rightfully pointed out the irregularities of the call and an obvious attempt of embezzlement of taxpayers, the Minister , Aleksandar Vulin attacked the entire civil society, threatened with inspections and audit of businesses in the past 10 years and then, completely illegally and without authorization, stated that he has decided to give the money dedicated to social protection to the Fund for the treatment of children suffering from rare diseases.

In addition to that, Trag Foundation, Civic Initiatives and another 113 organizations of the civil society have directed the Initiative for changing tax laws to the Ministry of Finance³⁶ demanding changes of Article 15, point 1 of the Corporate Income Tax Law, which would enable an equal treatment of CSOs and social institutions, when it comes to providing social services, which would inter-alia coordinate with regulations of the Law on Social Protection. The existing solution in the Corporate Income Tax Law recognizes giving to institutions of social welfare established in accordance with the Law governing social protection, but leaves out other subjects in social protection. Namely, along with the Law on Social Protection (Official Gazette no. 24/2011), apart from institutions of social protection (centers for social care, educational centers for children and youth, centers for adoption) these activities can be done by other subjects as well.

Article 17 of this Law states that the activity in the area of social protection, or individual services of social protection can, in accordance with this law, be offered by an association, entrepreneur, business and other forms of organizations determined by law (further: social protection service providers). Associations with a license and accreditation for providing social protection services in a taxation sense are in a disadvantaged position compared with institutions of social protection, so it is necessary to expand to associations as other subjects of social protection.

³⁶ <http://www.tragfondacija.org/pages/posts/trag-fondacija-i-114-organizacija-gradanskog-drustva-uputili-su-danas-inicijativu-za-izmene-poreskih-zakona-ministarstvu-finansija-1646.php>

When it comes to providing services in healthcare, unlike social protection, the legal framework in the Republic of Serbia states that the providers of healthcare can be healthcare workers and associates working in a healthcare institution or another form of private practice.

The proposal for amendments to the Law on Healthcare suggested that the healthcare service providers in the area of palliative treatment can be civil society organizations, or associations. However, the adopted version of the Law predicts only that "citizens, family, employers, educational and other institutions, humanitarian, religious, sport and other organizations, associations, healthcare service, healthcare insurance organization, as well as municipalities, cities, autonomous provinces and the Government participate in providing and implementing healthcare in the State" (Article 4 , Law on Healthcare, OG RS, no. 107/2005, 72/2009 – law, 88/2010, 99/2010, 57/2011, 119/2012, 45/2013 - law and 93/2014). Apart from that, the Ministry of Health has had for some years an open budget line through which it finances civil society organizations which are, in collaboration with medical centers, focused on the advancement of the position of sensitive groups, mostly Roma. Also, there is a good practice of collaboration with numerous associations of patients. In the area of healthcare the question of defining CSOs in healthcare policy and normative acts still remains. A lack of a clear framework for cooperation prevents a more active role of CSOs in healthcare, which is of special importance when it comes to sensitive groups, for support programs in the area of healthcare (and for the protection of patient rights and researching their satisfaction with offered services).

V. Findings and Recommendations (Tabular)³⁷

Area 1: Basic Legal Guarantees of Freedoms

Subarea 1.1.: Freedom of association

Principle: Freedom of association is guaranteed and exercised freely by everybody

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>1. All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework allowing any individual to establish associations, foundations and other types of non-profit, non-governmental entities (e.g., non-profit company) for any purpose is in place 2) The legal framework allows both individual and legal persons to exercise this right without discrimination (age, nationality, legal capacity, gender etc). 3) Registration is not mandatory, and in cases when organizations decide to register, the registration rules are clearly prescribed and allow for easy, timely and inexpensive registration and appeal process. 4) The law allows for networking among organizations in the countries and abroad without prior notification. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Law on Associations and The Law on Endowments and Foundations implemented with no difficulties, considered to be modern laws that provide a framework for CSOs work • Registration process is voluntary, with clear and simple and decentralized procedure and possibilities for a CSO to register in only few days and on line. • Networking is allowed by the Law and supported through a variety of policies and programs 	<p>Legislation:</p> <ul style="list-style-type: none"> • No recommendations

³⁷ Note that the 12 core standards and indicators are marked in violet colour.

	<p>Practice:</p> <ol style="list-style-type: none"> 1) Every individual or legal entity in practice can form associations, foundations or other non-profit, non-governmental organizations offline or online. 2) Individuals and legal entities are not sanctioned for not-registering their organizations. 3) Registration is truly accessible within the legally prescribed deadlines; authorities decide on cases in non-subjective and apolitical manner. 4) Individuals and CSOs can form and participate in networks and coalitions, within and outside their home countries. 	<p>Practice:</p> <ul style="list-style-type: none"> • The opportunity for each legal entity to form an association, foundation or other non-profit in practice leaves room for potential undiscovered conflict of interest in cases when an association is funded by a political party. • Over 24.000 associations and more than 600 endowments and foundations registered. 	<p>Practice:</p> <p>No recommendations</p>
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Area 1: Basic Legal Guarantees of Freedoms

Subarea 1.1.: Freedom of association

Principle: Freedom of association is guaranteed and exercised freely by everybody

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>2. CSOs operate freely without unwarranted state interference in their internal governance and activities</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework provides guarantees against state interference in internal matters of associations, foundations and other types of non-profit entities. 2) The state provides protection from interference by third parties. 3) Financial reporting (including money laundering regulations) and accounting rules take into account the specific nature of the CSOs and are proportionate to the size of the organization and its type/scope of activities. 4) Sanctions for breaching legal requirements should be based on applicable legislation and follow the principle of proportionality. 5) The restrictions and the rules for dissolution and termination meet the standards of international law 	<p>Legislation:</p> <ul style="list-style-type: none"> • Ministry of Finance adopted by-laws of Law on Accounting, regarding financial reporting of CSOs. • Financial, including tax, rules are clear, understandable and proportionate to CSOs' turn-over. New procedures and rules underway, but without different formats of financial reports - every CSO fills in the same documentation regardless of the annual budget. • Adopted Instructions on the method of determining and recording users of public funds and on the conditions and manner of opening and closing the sub-account at the Treasury, entered into force on 30January 2014, no longer require opening of a special purpose account for the special users of public funds or associations and other civil society 	<p>Legislation:</p> <ul style="list-style-type: none"> • Adoption of Guidelines for Implementation of Tax Laws and by-laws • Amendment of Law on Accounting so to include at least 3 different formats according to CSOs' turn-over

	and are based on objective criteria which restrict arbitrary decision making.	organizations (CSOs). CSOs are now required to close sub-accounts and delete it from the Register of the Treasury, and to transfer the remaining funds to a commercial bank, as well as deliver to the Treasury signed requests to terminate the account and to delete data from the Register. • CSOs' perception of the ease and effectiveness of financial rules and reporting requirements (disaggregated by type / size of CSO)	
	Practice: 1) There are no cases of state interference in internal matters of associations, foundations and other types of non-profit entities. 2) There are no practices of invasive oversight which impose burdensome reporting requirements. 3) Sanctions are applied in rare/extreme cases, they are proportional and are subject to a judicial review.	Practice: • Obligatory registration of users of public funds and registration at the Register of public funds, as well as account opening in Treasury for special users of public funds (such are associations and other CSOs getting funding from the public sources), is not being implemented as of beginning of 2014..	Practice: Monitoring and analysis of reporting of CSOs needed, according to the Law on Accounting and Audit and adopted by-laws.

Area 1: Basic Legal Guarantees of Freedoms

Subarea 1.1.: Freedom of association

Principle: Freedom of association is guaranteed and exercised freely by everybody

STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
3. CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities	Legislation: 1) Legislation allows CSOs to engage in economic activities. 2) CSOs are allowed to receive foreign funding. 3) CSO are allowed to receive funding from individuals, corporations and other sources.	Legislation: • Associations, foundations and endowments pursuing public interest objectives may engage directly in economic activities insofar the prescribed condition are met	Legislation: • Change needed in relevant tax laws

	Practice: <ol style="list-style-type: none"> 1) Legislation on CSOs engaging in economic activities is implemented and is not burdensome for CSOs. 2) There are no restrictions (e.g. administrative or financial burden, preapprovals, or channelling such funds via specific bodies) on CSOs to receive foreign funding. 3) Receipt of funding from individuals, corporations and other sources is easy, effective and without any unnecessary cost or administrative burden. 	Practice: <ul style="list-style-type: none"> • Around 25% CSOs registered economic activity 	Practice: <ul style="list-style-type: none"> • Build capacity of relevant state administration on the topic, as well as CSOs who should be more aware of this opportunity
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Area 1: Basic Legal Guarantees of Freedoms

Subarea 1.2.: Related freedoms

Principle: Freedoms of assembly and expression are guaranteed to everybody

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
1. CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly	Legislation: <ol style="list-style-type: none"> 1) The legal framework is based on international standards and provides the right for freedom of assembly for all without any discrimination. 2) The laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies. 3) The exercise of the right is not subject to prior authorization by the authorities, but at the most to a prior notification procedure, which is not burdensome. 4) Any restriction of the right based on law and prescribed by regulatory authority can be appealed by organizers. 	Legislation: <ul style="list-style-type: none"> • Legal framework for freedom of assembly suffered no changes, peaceful assembly is guaranteed by the Constitution and regulated in detail by The Law on Public Assembly (2005). 	Legislation: <ul style="list-style-type: none"> • No recommendations

	<p>Practice:</p> <ol style="list-style-type: none"> 1) There are no cases of encroachment of the freedom of assembly, and any group of people can assemble at desired place and time, in line with the legal provisions. 2) Restrictions are justified with explanation of the reason for each restriction, which is promptly communicated in writing to the organizer to guarantee the possibility of appeal. 3) Simultaneous, spontaneous and counter-assemblies can take place, and the state facilitates and protects groups to exercise their right against people who aim to prevent or disrupt the assembly. 4) There are cases of freedom of assembly practiced by CSOs (individually or through their organizations) without prior authorization; when notification is required it is submitted in a short period of time and does not limit the possibility to organize the assembly. 5) No excessive use of force is exercised by law enforcement bodies, including pre-emptive detentions of organizers and participants. 6) Media should have as much access to the assembly as possible. 	<p>Practice:</p> <ul style="list-style-type: none"> • A representative example of violation of freedom of assembly during 2014 is the withholding of consent by the management of the Higher Court in Belgrade for the public gathering in the front of the "Palace of Justice" which was meant to show Belgrade's support to a global campaign "Billion stands up for justice" seeking justice for all women survivors of violence • On the other hands, authorities have not intervened or stopped spontaneous gathering of participants of the international conference "Future belongs to us – LGBT rights on the road to European Union". • Belgrade Pride Parade 2014 was successfully held. 	<p>Practice:</p> <ul style="list-style-type: none"> • Advocate for proper and consistent implementation of independent institutions³⁸ recommendations regarding freedom of assembly, by the public administration on national and local level
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Area 1: Basic Legal Guarantees of Freedoms

Subarea 1.2.: Related freedoms

Principle: Freedoms of assembly and expression are guaranteed to everybody

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
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³⁸ Ombudsman, Commissioner for Information of Public Importance and Personal Data Protection, Commissioner for Protection of Equality,

2. CSO representatives, individually or through their organizations enjoy freedom of expression	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework provides freedom of expression for all. 2) Restrictions, such as limitation of hate speech, imposed by legislation are clearly prescribed and in line with international law and standards. 3) Libel is a misdemeanour rather than part of the penal code. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Republic of Serbia Constitution guarantees freedom of opinion and expression, and freedom of speech, writing, painting, or to otherwise seek, receive and impart information and ideas, but includes limitations of those rights as well. • The Anti-discrimination Law forbids expression of ideas, information and opinions that incite discrimination, hatred or violence against a person or group of persons because of their personal characteristics, in the media and other publications, papers and places accessible to the public, by printing and displaying messages or symbols, or otherwise. 	<p>Legislation:</p> <ul style="list-style-type: none"> • No need for changes
	<p>Practice:</p> <ol style="list-style-type: none"> 1) CSO representatives, especially those from human rights and watch dog organizations enjoy the right to freedom of expression on matters they support and they are critical of. 2) There are no cases of encroachment of the right to freedom of expression for all. 3) There are no cases where individuals, including CSO representatives would be persecuted for critical speech, in public or private. 4) There is no sanction for critical speech, in public or private, under the penal code. 	<p>Practice:</p> <ul style="list-style-type: none"> • Gay-straight Alliance received death threats through their SOS line. • Serbian nationalist movement “Naši” published the list of “Top 30 greatest haters of Serbia and traitors among the public”. Many of those are leading activist of civil society in Serbia, as well as actors, journalists, writers and political analysts. 	<p>Practice:</p> <p>Advocate for proper and consistent implementation of independent institutions³⁹, recommendations regarding freedom of expression by the public administration on national and local level</p>

Area 1: Basic Legal Guarantees of Freedoms

³⁹ Ombudsman, Commissioner for Information of Public Importance and Personal Data Protection, Commissioner for Protection of Equality,

Subarea 1.2.: Related freedoms

Principle: Freedoms of assembly and expression are guaranteed to everybody

STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>3. Civil society representatives, individually and through their organizations, have the rights to safely receive and impart information through any media</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework provides the possibility to communicate via and access any source of information, including the Internet and ICT; if there are legal restrictions, these are exceptional, limited and based on international human rights law. 2) The legal framework prohibits unjustified monitoring of communication channels, including Internet and ICT, or collecting users' information by the authorities. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Legal framework guarantees everyone the right to be truthfully, fully and timely informed about matters of public interest and public information are obliged to respect this right • The Electronic Communications Law guarantees the confidentiality of electronic communications 	<p>Legislation:</p> <ul style="list-style-type: none"> • No need for changes
	<p>Practice:</p> <ol style="list-style-type: none"> 1) There are no cases in practice where restrictions are imposed on accessing any source of information, including the Internet or ICT. 2) The Internet is widely accessible and affordable. 3) There is no practice or cases of unjustified monitoring by the authorities of communication channels, including te Internet or ICT, or of collecting users' information. 4) There are no cases of police harassment of members of social network groups. 	<p>Practice:</p> <ul style="list-style-type: none"> • Rapid vanishing of pluralism of opinions and ideas, criticism of the government and fight for public interest is evident, as well as the elimination of television shows. • Reported pressures on individuals, organizations and institutions regarding reporting on the situation in flooded areas. 	<p>Practice:</p> <ul style="list-style-type: none"> • Advocate for proper and consistent implementation of independent institutions⁴⁰, recommendations regarding freedom of information by the public administration on national and local level.

Area 2: Framework for CSOs' Financial Viability and Sustainability

Subarea 2.1.: Tax/fiscal treatment for CSOs and their donors

Principle: CSOs and donors enjoy favourable tax treatment

⁴⁰ Ombudsman, Commissioner for Information of Public Importance and Personal Data Protection, Commissioner for Protection of Equality,

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
1. Tax benefits are available on various income sources of CSOs	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs. 2) The law provides tax benefits for economic activities of CSOs. 3) The law provides tax benefits for passive investments of CSOs. 4) The law allows the establishment of and provides tax benefits for endowments. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Serbia does not stipulate any exemption from property tax on the real estate for associations, foundations and similar CSOs performing activities of public interest. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Amend set of tax related laws
	<p>Practice:</p> <ol style="list-style-type: none"> 1) There is no direct or indirect (hidden) tax on grants reported. 2) Tax benefits for economic activities of CSOs are effective and support the operation of CSOs. 3) Passive investments are utilized by CSOs and no sanctions are applied in doing so. 4) Endowments are established without major procedural difficulties and operate freely, without administrative burden nor high financial cost. 	<p>Practice:</p> <ul style="list-style-type: none"> • No tax benefits for CSO economic activities • Passive investments used only if founders allow. In practice, some difficulties exist in registering endowments due to lack of knowledge of the SBRA 	<p>Practice:</p> <ul style="list-style-type: none"> • Practice should follow changes in the tax related laws • Capacity building of tax administration needed in order for them to understand the specifics of CSOs
Area 2: Framework for CSOs' Financial Viability and Sustainability			
Subarea 2.1.: Tax/fiscal treatment for CSOs and their donors			
Principle: CSOs and donors enjoy favourable tax treatment			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
2. Incentives are provided for individual and corporate giving.	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The law provides tax deductions for individual and corporate donations to CSOs. 2) There are clear requirements/conditions for receiving deductible donations and these include a 	<p>Legislation:</p> <ul style="list-style-type: none"> • Donations are stimulated with adequate legislation and regulations, but there are still large steps to be taken in the field of individual philanthropy and donations from abroad. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Amend tax related laws • Harmonizing definition of public interest in the laws. • Advocate for changes in the

	<p>wide range of publicly beneficial activities.</p> <p>3) State policies regarding corporate social responsibility consider the needs of CSOs and include them in their programs.</p>	<ul style="list-style-type: none"> • Serbia legal framework does not recognize anonymous individual donations from abroad, preventing development of individual philanthropy as a potential for CSOs sustainability, nor is the individual charitable giving recognized by the Law as the ground for tax deduction • Financial, including tax, rules are now clearer, after adoption of new Law on Accounting and bylaws. but are still not proportionate to CSOs' turn-over - every CSO fills in the same documentation regardless of the size/budget • Financial (e.g. tax or in-kind) benefits are available, but are limited to definition of public interest status, which is not clearly defined, which directly influences tax system of CSOs, as only those covered by the legal framework are relieved from paying tax, and only up to the sum of 100,000RSD. 	<p>Corporate Profit Tax Law and Law on Property Tax.</p>
	<p>Practice:</p> <ol style="list-style-type: none"> 1) There is a functional procedure in place to claim tax deductions for individual and corporate donations. 2) CSOs are partners to the state in promoting CSR. 3) CSOs working in the main areas of public interest, including human rights and watchdog organizations, effectively enjoy tax deductible donations. 	<p>Practice:</p> <ul style="list-style-type: none"> • Individual donations are not tax deducted; corporate tax deductions – complicated procedure; quite often, when giving donations, corporations are subject to inspections • There are few CSOs leading in this topic and they are partners to the state in promoting CSR • No specific deductions for these types of organizations 	<p>Practice:</p> <ul style="list-style-type: none"> • Practice will follow changes in the tax related laws

Area 2: Framework for CSOs' Financial Viability and Sustainability

Subarea 2.2.: State support

Principle: State support to CSOs is provided in a transparent way and spent in an accountable manner

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
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1. Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a law or national policy (document) that regulates state support for institutional development for CSOs, project support and co-financing of EU funded projects. 2) There is a national level mechanism for distribution of public funds to CSOs. 3) Public funds for CSOs are clearly planned within the state budget. 4) There are clear procedures for CSO participation in all phases of the public funding cycle. 	<p>Legislation:</p> <ul style="list-style-type: none"> • State support to CSOs is regulated by The Law on Associations, The Law on Endowments and Foundations; By-law/regulation on criteria of financing and co-financing CSOs activities from the national budget, • Funds are provided only for projects/programs, but not for institutional development for CSOs • There is no unique national body/institution with mandate for distribution of public funds to CSOs. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Develop clear procedures for CSO participation in all phases of the public funding
	<p>Practice:</p> <ol style="list-style-type: none"> 1) Available public funding responds to the needs of the CSO sector. 2) There are government bodies with a clear mandate for distribution and/or monitoring of the distribution of state funding. 3) Funding is predictable, not cut drastically from one year to another; and the amount in the budget for CSOs is easy to identify. 4) CSO participation in the public funding cycle is transparent and meaningful. 	<p>Practice:</p> <ul style="list-style-type: none"> • Funds allocated to associations and other CSOs as support to program and project activities from the public funds of Republic of Serbia in 2012, were in total 8,63 billion RSD on all levels of government, out of granted 9,24 billion RSD. • Co-financing of projects and programs allowed as part of donor help is not very widespread, either by value or by the number of co-financed projects – 1,65% of all funds in 2012. 	<p>Practice:</p> <ul style="list-style-type: none"> • Diversify Line 481

Area 2: Framework for CSOs' Financial Viability and Sustainability

Subarea 2.2.: State support

Principle: State support to CSOs is provided in a transparent way and spent in an accountable manner

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
2. Public funding is distributed in a prescribed and transparent manner	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The procedure for distribution of public funds is transparent and legally binding. 2) The criteria for selection are clear and published in advance. 3) There are clear procedures addressing issues of 	<p>Legislation:</p> <ul style="list-style-type: none"> • Government support to CSOs is available and provided in a transparent, accountable, fair and non-discriminatory manner, according to the legal framework, in practice situation varies from case to case. It was determined that guidelines 	<p>Legislation:</p> <ul style="list-style-type: none"> • Consistent implementation of the by-law on all levels of authority • Introduction/establishment and implementation of

	<p>conflict of interest in decision-making.</p>	<p>are to be adopted for non-financial support and donations from the civil society budget lines.</p> <ul style="list-style-type: none"> • The By-law on criteria of financing and co-financing CSOs activities from the national budget prescribes allocation based on public call announced by the competent authority and announced on the official website, as well as criteria, conditions, scope, method, process allocation, and the manner and process of returning funds • Legal framework does not include public funding on the basis of policy papers. Criteria is not always clear. 	<p>public funding on the basis of local and national sectorial policy papers</p>
	<p>Practice:</p> <ol style="list-style-type: none"> 1) Information relating to the procedures for funding and information on funded projects is publicly available. 2) State bodies follow the procedure and apply it in a harmonized way. 3) The application requirements are not too burdensome for CSOs. 4) Decisions on tenders are considered fair and conflict of interest situations are declared in advance. 	<p>Practice:</p> <ul style="list-style-type: none"> • In February 2014 the City Council of Novi Pazar reached a Decision on the program and projects chosen to be financed from the City of Novi Pazar budget, without previously announcing a public call for project proposals • Ministry for Labour, employment, veteran and social rights demanded registration confirmation issued by SBRA on its Call, published on 27 October 2014. Based on the Regulation on the means of fostering or missing part of the funding for the program in the public interest implemented by associations (October 2013) it was planned that associations will not be obligated to obtain facts about whether the association was registered with the competent organ (verification, confirmation, excerpt) when competing for funds for programs of public interest, but that in the future this will be done by the competent organ under official duty. 	<p>Practice:</p> <p>Consistent implementation of the by-law on all levels of authority, monitor implementation of the by-law</p>

Area 2: Framework for CSOs' Financial Viability and Sustainability

Subarea 2.2.: State support

Principle: State support to CSOs is provided in a transparent way and spent in an accountable manner

STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>3. There is a clear system of accountability, monitoring and evaluation of public funding</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The procedure for distribution of public funds prescribes clear measures for accountability, monitoring and evaluation. 2) There are prescribed sanctions for CSOs that misuse funds which are proportional to the violation of procedure. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Beneficiaries are not included in programming tenders • No evaluation of achieved outputs/outcomes, no possibility of prepayments and multi-annual contracts • The procedure and sanctions are prescribed by the By-law on criteria of financing and co-financing CSOs activities from the national budget 	<p>Legislation:</p> <ul style="list-style-type: none"> • Develop a regulation with clear system of accountability, monitoring and evaluation
	<p>Practice:</p> <ol style="list-style-type: none"> 1) Monitoring is carried out continuously and in accordance with predetermined and objective indicators. 2) Regular evaluation of effects/impact of public funds is carried out by state bodies and is publicly available. 	<p>Practice:</p> <p>The achieved results of programs/projects in most cases of state-level and local organs are estimated by an overview of final reports (61,5% of the total number of responses). The basic way of overseeing the realization of projects is by submitting a financial and narrative report, while direct supervision of activities during the realization of projects, including polls for project users, is an exception rather than a rule.</p>	<p>Practice:</p> <p>Regular monitoring and publishing of results and effects of implemented projects</p>

Area 2: Framework for CSOs' Financial Viability and Sustainability

Subarea 2.2.: State support

Principle: State support to CSOs is provided in a transparent way and spent in an accountable manner

STANDARD 4	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
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4. Non-financial support is available from the state	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Legislation allows state authorities to allocate non-financial support, such as state property, renting space without financial compensation (time-bound), free training, consultations and other resources, to CSOs. 2) The non-financial support is provided under clearly prescribed processes, based on objective criteria and does not privilege any group. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Constitution of Serbia, the Law on public property, the Law on local self-government, the Law on local self-government financing, towns' / municipalities' decisions on the use of state-owned property, the national youth strategy are the legal base for non-financial support to CSOs but they are treated in same manner as other legal entities • The Regulation on conditions for obtaining and alienation of immovable property by direct negotiation, public property lease, public bidding procedures and collection of written bids defines procedures for providing property - space for CSOs functioning in mostly cases 	<p>Legislation:</p> <ul style="list-style-type: none"> • Develop clear instructions/procedures for non-financial support • Form unique register of property and adoption of unique criteria for allocation of public space
	<p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs use non-financial state support. 2) CSOs are treated in an equal or more supportive manner as compared to other actors when providing state non-financial resources. 3) There are no cases of state authorities granting non-financial support only to CSOs which do not criticize its work; or of cases of depriving critical CSOs of support; or otherwise discriminating based on loyalty, political affiliation or other unlawful terms. 	<p>Practice:</p> <ul style="list-style-type: none"> • When it comes to non-financial support, it is not substantial because her value is 6.7 billion dinars, and it was given by two organs: The Administrative and Professional Service for the Implementation of the Integrated Regional Development Plan of the Autonomous Province of Vojvodina and the Secretariat for Traffic of the city of Belgrade. 	<p>Practice:</p> <ul style="list-style-type: none"> • Establishing clear criteria should improve the practice • Monitoring implementation

Area 2: Framework for CSOs' Financial Viability and Sustainability

Subarea 2.3.: Human resources

Principle: State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
1. CSOs are treated in an equal manner to other employers	<p>Legislation:</p> <ol style="list-style-type: none"> 1) CSOs are treated in an equal manner to other employers by law and policies. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Policies and legal environment do not stimulate or facilitate volunteering and employment in CSOs particularly. 	<p>Legislation:</p> <p>No recommendations</p>

	<p>Practice:</p> <ol style="list-style-type: none"> 1) If there are state incentive programs for employment, CSOs are treated like all other sectors. 2) There are regular statistics on the number of employees in the non-profit sector. 	<p>Practice:</p> <ul style="list-style-type: none"> • In 2014 public action was predicted in the area of social and humanitarian activity, maintaining and renewing of public infrastructure and the maintaining and protection of the environment and nature, in which the CSOs will have a right to participate. • Program "First Chance", aimed at stopping the trend of unemployment of young people was left out in 2014 as well • According to data provided by SBRA, 6.021 employees worked in a CSO in 2013 (15,9% of all employees in nonprofit institutions). Compared to 2012 there is a drop in numbers for 1.283 employees • CSO employees are treated in practice in discriminative way with other institutions. Prime example are banks, which usually refuse to provide credit for CSO employees 	<p>Practice:</p> <ul style="list-style-type: none"> • Introduce more state incentive programs for CSOs • Introduce regular statistical analysis of the nonprofit sector regarding number of employees and volunteers • Advocating changes in practice with National Bank of Serbia and the Association of Serbian Banks regarding equal treatment of CSOs as other employees by banks in case of credits providing

Area 2: Framework for CSOs' Financial Viability and Sustainability

Subarea 2.3.: Human resources

Principle: State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
2. There are enabling volunteering policies and laws	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Legislation stimulates volunteering and incorporates best regulatory practices, while at the same time allowing for spontaneous volunteering practices. 2) There are incentives and state supported programs 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Law on Volunteering is over-codified and makes it difficult for CSOs in Serbia to engage volunteers in their work; for example the law prescribes obligatory agreements between a 	<p>Legislation</p> <ul style="list-style-type: none"> • Amend or change Law on volunteering

	<p>for the development and promotion of volunteering.</p> <p>3) There are clearly defined contractual relationships and protections covering organized volunteering.</p>	<p>volunteer and an organization that engages him/her</p> <ul style="list-style-type: none"> • Legislation enables reimbursement for travel expenses, accommodation and food (other things as well), it is tax free (CSO treated as other legal entities) 	
	<p>Practice:</p> <p>1) Incentives and programs are transparent and easily available to CSOs and the policy/strategic document/ law is fully implemented, monitored and evaluated periodically in a participatory manner.</p> <p>2) Administrative procedures for organizers of volunteer activities or volunteers are not complicated and are without any unnecessary costs.</p> <p>3) Volunteering can take place in any form; there are no cases of complaints of restrictions on volunteering.</p>	<p>Practice:</p> <ul style="list-style-type: none"> • The Law is putting additional administrative burden to CSOs so that CSOs are trying to avoid these demands by creative implementation • On certain other points, the Law remains unclear; for example, it introduces the division into long-term, short-term and ad hoc volunteering, but without a clear distinction between them (or clear obligations that would arise from the selection of a given form of voluntary engagement) • Volunteer work is not recognized 	<p>Practice:</p> <p>Introduce evaluation and record of volunteer work</p>

Area 2: Framework for CSOs' Financial Viability and Sustainability

Subarea 2.3.: Human resources

Principle: State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs

STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>3. The educational system promotes civic engagement</p>	<p>Legislation:</p> <p>1) Non-formal education is promoted through policy/strategy/laws.</p> <p>2) Civil society-related subjects are included in the official curriculum at all levels of the educational system.</p>	<p>Legislation:</p> <ul style="list-style-type: none"> • There have been no steps forward in decisions and documents on non-formal education in the work of competent bodies. • Draft of National Strategy for Enabling Environment for Civil Society in Serbia contains a special chapter devoted to the role of civil society in non-formal education • Civic education as a compulsory optional subject is being included in the curriculum of elementary and secondary schools 	<p>Legislation</p> <ul style="list-style-type: none"> • Change and amend Law on Education of Adults, which would allow a more flexible demands for CSOs in acquiring the status of publicly acknowledged organizers of activities; establishing official statistics on non-formal education which includes CSOs as

			stakeholders in the field <ul style="list-style-type: none"> • Incorporate non-formal education in strategies and policies to be adopted next year • Civic education as a subject to become obligatory
	Practice: 1) The educational system includes possibilities for civic engagement in CSOs. 2) Provision of non-formal education by CSOs is recognized.	Practice: There is no course offered at the Belgrade University on civic engagement (initiating questions, starting campaigns, dealing with issues of interest to the public), such knowledge can only be acquired through internships in a CSO or through reading foreign literature on the subject, which remains in the field of non-formal education.	Practice: <ul style="list-style-type: none"> • Introduce possibilities for civic engagement in CSOs to the educational system.

Area 3: Government – CSO Relationship

Subarea 3.1.: Framework and practices for cooperation

Principle: There is a strategic approach to furthering state-CSO cooperation and CSO development

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
1. The State recognizes, through policies and strategies, the importance of the development of and cooperation with the sector	Legislation: 1) There are strategic documents dealing with the state-CSO relationship and civil society development. 2) The strategic document includes goals and measures as well as funding available and clear allocation of responsibilities (action plans incl. indicators). 3) The strategic document embraces measures that have been developed in consultation with and/or recommended by CSOs.	Legislation: <ul style="list-style-type: none"> • Public institutions recognize the importance of CSOs in improving good governance through CSOs' inclusion in decision making processes, which will be reflected in the National Strategy for an Enabling Environment for Civil Society Development. • National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia is not adopted yet, the process of finalization and drafting Action plan is in progress 	Legislation: <ul style="list-style-type: none"> • Adopt a strategic document/National strategy

	<p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs from different areas of interest regularly participate in all phases of the strategic document development, implementation and evaluation. 2) There are examples demonstrating that cooperation between state and CSOs and civil society development is improved and implemented according to or beyond the measures envisaged in the strategic document. 3) The implementation of the strategic document is monitored, evaluated and revised periodically. 4) State policies for cooperation between state and CSOs and civil society development are based on reliable data collected by the national statistics taking into consideration the diversity of the sector. 	<p>Practice:</p> <ul style="list-style-type: none"> • Drafting National Strategy for an Enabling Environment for Civil Society Development in Serbia was done through a wide consultation process with representatives of CSOs • CSOs are only involved in phase of commenting and public debate as last stage before proposals are put to vote by the Parliament, and not when policies are created and shape, which leaves very little room for actual impact to laws and policies drafted. • SBRA prepares Report on financial data of the nonprofit institutions in Serbia 	<p>Practice:</p> <ul style="list-style-type: none"> • Involve CSOs in all phases of policy shaping
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Area 3: Government – CSO Relationship

Subarea 3.1.: Framework and practices for cooperation

Principle: There is a strategic approach to furthering state-CSO cooperation and CSO development

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>2. The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a national level institution or mechanism with a mandate to facilitate cooperation with civil society organizations (e.g., Unit/Office for cooperation; contact points in ministries; council). 2) There are binding provisions on the involvement of CSOs in the decisions taken by the competent institution or mechanism(s). 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Office for Cooperation with Civil Society was established in 2010 as national level institution with a mandate to facilitate cooperation with civil society organizations. • SECO mechanism is used to involve CSOs in the IPA programming process 	<p>Legislation:</p> <ul style="list-style-type: none"> • No recommendations

	<p>Practice:</p> <ol style="list-style-type: none"> 1) The national level institution or mechanism(s) has sufficient resources and mandate for facilitating CSO-government dialogue, discussing the challenges and proposing the main policies for the development of Civil Society. 2) CSOs are regularly consulted and involved in processes and decisions by the competent institution or mechanism(s). 	<p>Practice:</p> <ul style="list-style-type: none"> • Office provides support for the governmental institutions to understand and recognize the role of CSOs in decision making processes. At the same time, the Office successfully facilitates communication between two sectors in the process of defining and implementing legislative procedures and public policies 	<p>Practice:</p> <ul style="list-style-type: none"> • Introduce more than one mechanism (Office), to directly communicate with ministries and other bodies • CSOs should be involved in all phases of the process of adoption regulations
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Area 3: Government – CSO Relationship

Subarea 3.2.: Involvement in policy- and decision-making processes

Principle: CSOs are effectively included in the policy and decision-making process

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>1. There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner.</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There are clearly defined standards on the involvement of CSOs in the policy and decision making processes in line with best regulatory practices prescribing minimum requirements which every policy-making process needs to fulfil. 2) State policies provide for educational programs/trainings for civil servants on CSO involvement in the work of public institutions. 3) Internal regulations require specified units or officers in government, line ministries or other government agencies to coordinate, monitor and report CSO involvement in their work. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Guidelines for inclusion of civil society organisations in the regulation adoption process adopted, but as a non-binding document which has not improved the practice in including CSOs in decision making processes 	<p>Legislation:</p> <ul style="list-style-type: none"> • Consistent compliance with the Guidelines for participation of interested public in the decision making processes on national and local level

	<p>Practice:</p> <ol style="list-style-type: none"> 1) Public institutions routinely invite all interested CSOs to comment on policy/legal initiatives at an early stage. 2) CSOs are provided with adequate information on the content of the draft documents and details of the consultation with sufficient time to respond. 3) Written feedback on the results of consultations is made publicly available by public institutions, including reasons why some recommendations were not included. 4) The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/training. 5) Most of the units/officers coordinating and monitoring public consultations are functional and have sufficient capacity. 	<p>Practice:</p> <ul style="list-style-type: none"> • Adopted version of Guidelines for inclusion of civil society organisations in the regulation adoption process, suffered changes which altered its purpose and character • In 2014, National Parliament of Serbia continued its practice of adopting laws under emergency procedures, without public debate – only 41 law was adopted after public debates, and 105 laws were adopted under urgent procedure or without holding timely and adequate public debate. 	<p>Practice:</p> <ul style="list-style-type: none"> • Involve CSOs in decision making process at early stage • Build capacity of public administration to understand importance and role of CSOs
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Area 3: Government – CSO Relationship

Subarea 3.2.: Involvement in policy- and decision-making processes

Principle: CSOs are effectively included in the policy and decision-making process

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>2. All draft policies and laws are easily accessible to the public in a timely manner</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Existing legislation obliges public institutions to make all draft and adopted laws and policies public, and exceptions are clearly defined and in line with international norms and best practices. 2) Clear mechanisms and procedures for access to public information/documents exist. 3) There are clearly prescribed sanctions for civil servants/units for breaching the legal requirements on access to public information. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The National Assembly's Rules of procedures, Government's Rules of procedures, Law on Public Administration, Law on Local Government all prescribe publicity of policy and law drafting processes • Law on Free Access to Information of Public Importance defines clear procedures for access to public information, conditions, exceptions and deadlines to be met, as well as sanctions for civil servants for breaching the 	<p>Legislation:</p> <ul style="list-style-type: none"> • Consistent implementation of laws and by-laws

		legal requirements on access to public information	
	<p>Practice:</p> <ol style="list-style-type: none"> 1) Public institutions actively publish draft and adopted laws and policies, unless they are subject to legally prescribed exceptions. 2) Public institutions answer the majority of requests for access to public information within the deadline prescribed by law, in a clear format, provide written explanations on the reasons for refusal, and highlight the right to appeal and the procedure for appealing. 3) Cases of violations of the law are sanctioned. 	<p>Practice:</p> <ul style="list-style-type: none"> • There are several website/portals publishing legal, strategic documents and public calls (e-uprava/e-government, paragraf.rs, etc) • Annual report on the implementation of the Law on Free Access to Information of Public Importance and the Law on Protection of Personal Data contains relevant data on requests for access to public information and number/reasons of violation. 	<p>Practice:</p> <ul style="list-style-type: none"> • Develop practice of timely publishing of drafts of laws

Area 3: Government – CSO Relationship

Subarea 3.2.: Involvement in policy- and decision-making processes

Principle: CSOs are effectively included in the policy and decision-making process

STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
3. CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Existing legislation requires public institutions to invite CSO representatives on to different decision-making and/or advisory bodies created by public institutions. 2) There are clear guidelines on how to ensure appropriate representation from civil society, based on transparent and predetermined criteria. 	<p>Legislation:</p> <ul style="list-style-type: none"> • There are no formal requirements / obligations for CSOs participation in different decision-making and/or advisory bodies created, nor clear guidelines on how to ensure it. • The Government Rules of Procedure prescribes the mandatory public hearing; proponent is required to conduct a public hearing in preparation of a law that significantly modifies certain issues or 	<p>Legislation:</p> <ul style="list-style-type: none"> • Consist implementation adopted Guidelines and establish clear criteria to ensure appropriate representation of CSOs

		<p>issues of special interest to public</p> <ul style="list-style-type: none"> • A certain level of cooperation has also been established with the Serbian parliament and there are examples of CSOs' Access to Plenary and Committee Sessions and Parliamentary Hearings 	
	<p>Practice:</p> <ol style="list-style-type: none"> 1) Decision-making and advisory bodies on issues and policies relevant for civil society generally include CSO representatives. 2) CSO representatives in these bodies are enabled to freely present and defend their positions, without being sanctioned. 3) CSO representatives are selected through selection processes which are considered fair and transparent. 4) Participation in these bodies does not prevent CSOs from using alternative ways of advocacy or promoting alternative stand-points which are not in line with the position of the respective body. 	<p>Practice:</p> <ul style="list-style-type: none"> • CSOs stated that the practice of consultation with CSOs has not been developed. Calls are not being sent; not enough time is given to comment, calls are sent in later stages of development when only minimal changes can be done. Also, CSOs pointed out that feedback on the outcome of the consultation process, or sent comments is not provided 	<p>Practice:</p> <ul style="list-style-type: none"> • Organize process of consultations in timely manner; feedback should be provided after CSOs submit proposals and comments • Capacity building for state authorities, local self-government representatives and civil society organisations

Area 3: Government – CSO Relationship

Subarea 3.3.: Collaboration in service provision

Principle: There is a supportive environment for CSO involvement in service provision

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>1. CSOs are engaged in different services and compete for state contracts on an equal basis to other providers</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Existing legislation allows CSOs to provide services in various areas, such as education, healthcare, social services. 2) CSOs have no barriers to providing services that are not defined by law (“additional” services). 3) Existing legislation does not add additional burdensome requirements on CSOs that do not exist for other service providers. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Law on Social Protection (March 2011) introduced CSOs as potential service providers, which is a novelty as compared to the previous Law, criteria for standardization and licensing need to be fulfilled first • The Law on Public Procurement (2012), which requires transparent tender procedure in case of bidding for funding services from public sources, with criteria that not many CSOs can meet 	<p>Legislation:</p> <ul style="list-style-type: none"> • Amend Law on social Protection • Adopt by-laws

		<ul style="list-style-type: none"> Amendments to the Law on Health Protection included CSOs as providers of health care in the area of palliative services, but the adopted version excluded them as service providers. 	
	<p>Practice:</p> <ol style="list-style-type: none"> CSOs are able to obtain contracts in competition with other providers and are engaged in various services (e.g., education, health, research, and training). CSOs are included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation). When prior registration/licensing is required, the procedure for obtaining that is not overly burdensome. 	<p>Practice:</p> <ul style="list-style-type: none"> CSOs are not included in all phases of the development and provision of services, having in mind that only state institutions – Centers for Social Work- are authorized to estimate if there is need for social services and for which services Ministry for Labour, Employment, Veteran and Social Rights official data states a total number of 37 licensed providers of social services, 7 of which are CSOs 	<p>Practice:</p> <ul style="list-style-type: none"> Increase capacity of CSOs to perform as service providers

Area 3: Government – CSO Relationship

Subarea 3.3.: Collaboration in service provision

Principle: There is a supportive environment for CSO involvement in service provision

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
2. The state has committed to funding services and the funding is predictable and available over a longer-term period	<p>Legislation:</p> <ol style="list-style-type: none"> The budget provides funding for various types of services which could be provided by CSOs, including multi-year funding. There are no legal barriers to CSOs receiving public funding for the provision of different services (either through procurement or through another contracting or grants mechanism). CSOs can sign long-term contracts for provision of services. 	<p>Legislation:</p> <ul style="list-style-type: none"> Budget lines 472 - Benefits of social protection, 424 - Specialized Services , 423-Contract services from the State Budget No multi-year funding available 	<p>Legislation:</p> <ul style="list-style-type: none"> Amend laws so that multi-year funding is possible

	<p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs are recipients of funding for services. 2) CSOs receive sufficient funding to cover the basic costs of the services they are contracted to provide, including proportionate institutional (overhead) costs. 3) There are no delays in payments and the funding is flexible with the aim of providing the best quality of services. 	<p>Practice:</p> <ul style="list-style-type: none"> • The main problem is that CSOs are not able to get a license for providing services which entails the impossibility of being beneficiaries of public funds. • Funds allocated to CSO are not sufficient; the delays and non-compliance with the deadlines by state institutions are present 	<p>Practice:</p> <ul style="list-style-type: none"> • Provide sufficient funding to cover CSO basic costs, including overheads • Introduce more flexibility in funding
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Area 3: Government – CSO Relationship

Subarea 3.3.: Collaboration in service provision

Principle: There is a supportive environment for CSO involvement in service provision

STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>3. The state has clearly defined procedures for contracting services which allow for transparent selection of service providers, including CSOs</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a clear and transparent procedure through which the funding for services is distributed among providers. 2) Price is not the lead criterion for selection of service providers and best value is determined by both service quality and a financial assessment of contenders. 3) There are clear guidelines on how to ensure transparency and avoid conflict of interests. 4) There is a right to appeal against competition results. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Public Procurement Law prescribes clear procedures and types of procedures for the funds for services distribution; • The Regulation on the means of fostering or missing part of the funding for the program in the public interest implemented by associations directs means and criteria for allocation of public fund • According to law on Social Protection: <i>The purchaser is obliged to provide the highest quality and most cost-effective provision of social services to be procured through the procurement</i> 	<p>Legislation:</p> <ul style="list-style-type: none"> • Introduction of social contracting
	<p>Practice:</p> <ol style="list-style-type: none"> 1) Many services are contracted to CSOs. 2) Competitions are considered fair and conflicts of interest are avoided. 3) State officials have sufficient capacity to organize the procedures. 	<p>Practice:</p> <ul style="list-style-type: none"> • It is often the case that calls for social services are favored by the Centers for social welfare, although most of them do not meet the criteria for service providers 	<p>Practice:</p> <ul style="list-style-type: none"> • Implementation and monitoring of implementation of legal framework

Area 3: Government – CSO Relationship

Subarea 3.3.: Collaboration in service provision

Principle: There is a supportive environment for CSO involvement in service provision

STANDARD 4	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>4. There is a clear system of accountability, monitoring and evaluation of service provision</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is legal possibility for monitoring both spending and the quality of service providers. 2) There are clear quality standards and monitoring procedures for services. 	<p>Legislation:</p> <ul style="list-style-type: none"> • That possibility is prescribed by the Law on Social Protection, as well as by Regulation on licensing CSOs social service providers and Rules on the conditions and standards for the provision of social services 	<p>Legislation:</p> <ul style="list-style-type: none"> • Action plan for Law implementation should be adopted
	<p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs are not subject to excessive control. 2) Monitoring is performed on a regular basis according to pre-announced procedures and criteria. 3) Regular evaluation of quality and effects/impact of services provided is carried out and publicly available. 	<p>Practice:</p> <ul style="list-style-type: none"> • Monitoring is performed during the project implementation, but evaluation of quality and effects/impact of services provided is not being conducted 	<p>Practice:</p> <ul style="list-style-type: none"> • Capacity building of CSOs

VI. Used Resources and Useful Links

List of legal and strategic documents, reports and analyses used

- The Law on Personal Income Tax, Official Gazette No. 57/2014
- The Law on Health Protection, Official Gazette No. 107/2005, 72/2009 – second law, 88/2010, 99/2010, 57/2011, 119/2012, 45/2013 – second law and 93/2014
- The Law on Social Protection, Official Gazette No. 24/2011
- The Law on Official Use of Language and Alphabets, Official Gazette No. 45/91, 53/93, 67/93, 48/94, 201/2005 – second law and 30/2010
- The Law on Local Self-Government, Official Gazette No. 129/2007, 83/14
- The Law on Public Information, Official Gazette No.83/2014
- The Law on Public Property, Official Gazette No. 72/11, 88/2013
- The Law on Public Administration, Official Gazette No. 79/05, 101/07, 95/10, 99/14
- The Law on Compulsory Social Insurance, Official Gazette No. 57/2014
- The Regulation on the means of fostering or missing part of the funding for the program in the public interest implemented by associations, Official Gazette No.16/11
- The Government's Rules of Procedures, Official Gazette No. 61/2013.
- The National Assembly Rules, Official Gazette No. 21/2010,
- Report on the Implementation of the Law on Free Access to Information of Public Importance and personal data protection for 2013
- Draft of National Strategy for an Enabling Environment for Civil Society Development in Serbia
- Guidelines for inclusion of civil society organisations in the regulation adoption process, Official Gazette No. 90/14
- Statement of operations of non-profit institutions in the Republic of Serbia in 2013, Serbian Business Register, August 2014.
- Resolution on the role of the National Assembly and the principles of the negotiations on the accession of the Republic of Serbia to the European Union,
- Regular annual report of the Ombudsman for 2013, March 2014
- Annual summary report on expenditure of funds to support the program and project activities provided and paid to associations and other civil society organizations from the public funds of the Republic of Serbia in 2012 - a summary.
- Individual and Corporate Philanthropy in Serbia, Practice and attitudes of citizens and company representatives, Balkan Community Initiatives Fund (BCIF), 2012
- Status of giving for the common good in Serbia 2013, Catalyst Foundation 2014
- The Sustainability Index, National Office for Decentralization, 2014

2. Useful links

<http://civilnodrustvo.gov.rs/>
<http://www.apr.gov.rs>
<http://www.paragraf.rs/>
<http://www.anem.rs>
www.beograd.rs/cms/view.php?id=1601140
www.mos.gov.rs/vesti/omladina
www.srbija.gov.rs
www.cdspredlaze.org.rs
www.minzrs.gov.rs
www.tragfondacija.org