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K|C|S|F  
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**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 FOR TURKEY 2015**



**B | T | D**

The Balkan Trust  
for Democracy

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# Contents

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<b>I. Executive Summary .....</b>	<b>3</b>
<b>1. Civil Society and Civil Society Development in Turkey .....</b>	<b>3</b>
<b>2. Key Findings .....</b>	<b>7</b>
<b>3. Key Policy Recommendations .....</b>	<b>8</b>
<b>4. About the project and the Matrix .....</b>	<b>9</b>
<b>II. Introduction.....</b>	<b>10</b>
<b>1. About the Monitoring Report.....</b>	<b>10</b>
<b>2. The Monitoring Matrix on Enabling Environment for Civil Society Development.....</b>	<b>10</b>
<b>3. Civil Society and Civil Society Development (CSDev) Turkey .....</b>	<b>11</b>
<b>4. Specific features and challenges in applying the Matrix in Turkey .....</b>	<b>14</b>
<b>5. Acknowledgements and thanks.....</b>	<b>15</b>
<b>III. Methodology .....</b>	<b>16</b>
<b>1. Overview of the methodological approach.....</b>	<b>16</b>
<b>2. Participation of the CSO community.....</b>	<b>17</b>
<b>3. Lessons-learnt.....</b>	<b>18</b>
<b>IV. Findings and Recommendations.....</b>	<b>19</b>

# I. Executive Summary

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## 1. Civil Society and Civil Society Development in Turkey

The year 2015 is marked by the increasing political instabilities and in return constant readiness of government to curb basic freedoms; freedom of association, freedom of assembly and freedom expression for the sake of preserving “national security” or “public order” and “prevention of crime”. Therefore, in 2015, the civil society agenda was merely related to the challenges to basic freedoms and shrinking civic space and activism, rather than set of reforms to be adopted to develop civil society environment. There was neither societal discussion nor concrete step taken towards reforms in 2015 to improve enabling environment for civil society development. In fact, no extensive reforms have been made since the major reform packages accepted in 2004 and 2008 that (for those years) improved the enabling environment of civil society to a great extent.

Throughout 2015, Turkey has been encountering a number of destabilizing pressures: renewed tensions over Kurdish conflict, instability spilling over from neighboring Syria, series of terrorist attacks of ISIL, flow of refugees, political deadlocks; and economic instability. As a result of a political deadlock stemming from the inconclusive June 2015 parliamentary elections in which the ruling Justice and Development Party (AKP) lost its parliamentary majority and in the aftermath four major political parties in the parliament failed to form coalition government, Turkey was headed towards an early general election on November 1, 2015. Against the background of this political uncertainty, there has also been a sharp spike in violence. In June 2015, militants of the outlawed Kurdish Worker's Party (PKK) have killed scores of Turkish soldiers since ceasefire and a series of peace negotiations called off right after Turkey conducted airstrikes on PKK positions. In October 2015, a bomb exploded at a peace rally in the capital, shocked the Turkish public, killing 102 people. This attack was the deadliest of its kind in country's modern history. Amid the atmosphere marked by fear of instability, in the snap elections held November 1, the AKP reversed results of June 2015 elections won back majority, securing nearly 50 per cent of the votes.

Against this background, in December 2015, the new government published the action plan for the planned reform steps to be taken until December 2016. 64th Government's 2016 Action Plan includes actions and reforms to be accomplished in 3 months, 6 months and one year. **A comprehensive Civil Society Law is among the one year commitments of the government.** Further details on the content of this law plan are not yet available. This action plan, first and foremost, undertakes to adopt a “Civil Society Law”. Civil Society Law will aim at regulating legal statutes, institutional structures, activities, financial resources of CSOs; and as well as civil society-public sector relations. There are also several other undertakings of the government under the headings of a) Basic rights and freedoms c) Justice d) Public Administration and d) Economics and Finance that may enhance deliberations and participation of civil society in public policy-making.

The main issues of unequal and arbitrary practices in civic space steam from the fact that **the legal-political environment and socio-cultural context is not conducive for civil society development and there are no rules set to govern relations between state and civil society.**

Laws that directly regulate the freedom of association in Turkey are the Law on Associations (No 5253, 4/11/2004), Law on Foundations (No 5737, 20/2/2008), Law on Collection of Aid (No 2860, 23/6/1983), and relevant articles in the Constitution (No 2789, 18/10/1982), the Civil Code (No 4721, 08/12/2001) and the Penal Code (No 25611, 12.10.2004). However, the legal framework covers a wider set of laws, which include various articles that either directly or indirectly relate to the work or functioning of CSOs. Within the context of the EU accession process, several reform oriented steps were taken to improve the legal framework in the period 2004 - 2008. Despite these steps, problems still exist both in the context and implementation of primary legislation and related secondary legislation. This is also due to the fact that except for few minor improvements in relevant laws, no major improvements have been made since the 2004 and 2008 reform packages.

The definitions of “civil society” and “civil society organization” are absent in the relevant legislation and policy documents. Despite the existence of other forms of organized activity – e.g. civic initiatives, groups, platforms - foundations and associations continue to be the only two legal entity forms recognized by the state as CSOs. However, the organizations lacking legal personalities are not forbidden and no sanctioning for has been reported, yet they are prone to be excluded from public consultations in general. Platforms are also defined in the 5253 Law on Associations, without being granted status of a legal entity. Foundations and associations are subject to different legislations and regulated by different public agencies.

Department of Associations (DoA) and General Directorate of Foundations (GDoF) are the highest public authorities responsible from associations and foundations. These public bodies also have the authority and responsibility to inspect CSOs. With regards to **inspection** practices, inconsistencies are observed in the frequency, duration and scope of inspections, specifically for human rights organizations. Furthermore, **penalties** constitute an important barrier for fully exercising the freedom of association. Penalties and fines are burdensome for breaching the comprehensive bureaucratic requirements laid down in the laws. Reductions in administrative fines, or guidance or warning mechanisms are not effective if not totally absent.

CSOs, human rights defenders, journalists and citizens that publicly oppose government policies and are critical of the President, often face legal and financial obstacles in exercising their **freedom of expression**.

Internet censorship by the government has increased in the last couple of years, posing challenges to exercise of **freedom of expression**.

Although, the Article 34 of the Constitution recognizes the right of citizens to organize an assembly and demonstration without having to obtain any prior authorization, **freedom of peaceful assembly** remains one of the most problematic areas for civil society in Turkey. Various articles of the Law on Meetings and Demonstrations (No 2911, 5/10/1983), related regulations and their further restrictive implementation are not in line with the Constitutional article while also being incompliant with the European Convention on Human Rights and/or European Court of Human Rights rulings.

CSOs face serious problems in their **fundraising** activities mainly due to the highly restrictive, bureaucratic and limiting Law on Collection of Aid (No: 2860). The Law requires receipt of permission for each fundraising activity by a CSO, via an application procedure in which the CSO is requested to provide a set of comprehensive information (e.g. amount of money to be raised, how it will be used, the timeframe of the activity, and where it will be conducted). The decision to evaluate the application and approval or disapproval lies with the local state authority. In recent years, funds raised by several organizations have been confiscated by public authorities because they published their bank account numbers on brochures, Facebook pages and websites in an effort to raise donations.

The tax framework does not provide a supportive environment for the **financial sustainability of CSOs** as well as leading to unequal practices. The regulation that defines procedures for obtaining the '**public benefit**' (for associations) and '**tax exemption**' (for foundations) statuses is vaguely defined and the decision-making process is highly political. The status is granted by the Council of Ministers to a very limited number of organizations. The ratio of the number of tax-exempt organizations is 5% for foundations and 0.4% for associations in 2015. Despite the bureaucratic, non-transparent and long decision making process, privileges provided with these statuses are very limited and far from facilitating the development of philanthropy and financial sustainability of CSOs.

The lack of strategy and coordination also applies to **public funding**. There is no regular and continuous public funding mechanism that supports the institutional infrastructure and activities of CSOs. The total budgets, modality and forms of funding for CSOs are determined at the discretion of Ministries and they are not predictable since the total budget may vary from year to year. Although there is an item in the national budget, referring to cash transfers made to not-for-profit organizations; neither the definition and types of CSOs this budget line refers to exist, nor is a general percentage allocated to this budget item in a systematic manner. There exist major criticisms by CSOs on transparency and accountability of funds allocated by the public bodies.

There is no binding overreaching policy or legal framework in Turkey governing **civil society and government relations**. Accordingly, a strategic approach laying down clear goals, measures, responsibilities, actions does not exist. Thus, participation usually occurs in an ad-hoc and inconsistent manner mostly based on personal relations and initiatives rather than on institutional duties and responsibilities. With regards to institutional framework, there is no specific institution responsible for facilitating, monitoring or reporting relations between the public sector and CSOs, and except for a few examples, there are no relevant units within public institutions to maintain, sustain and foster these relations. The majority of Ministries do not have contact points for CSOs.

There are no specific, continuous and accessible mechanisms regulating **CSO involvement in policy making**. Public institutions may act differently on the same issue area since formalized procedures or frameworks of action to govern civil society-public sector cooperation are not convened. According to the Regulation on Procedures and Principles of Strategic Planning in Public Administration (2006), Clause 5, institutions make sure that the participation of CSOs is ensured and their contributions are received. Thus, this legislation introduces a mandatory consultation process with CSOs to be led by public institutions. However, there is no clear indication regarding the selection process, criteria, or methods and means of integrating received contributions in the regulation. Furthermore, no consistent mechanism for monitoring and reporting the participation of CSOs and/or their contributions has been defined. Thereby, it is not possible to assess the level of CSOs' involvement or participation in these processes. Yet throughout consultations meetings held between 2012-2015, it has been widely reported that, public institutions are more prone to cooperate with CSOs on issue areas that require specialized expertise on social groups such as women, people with disabilities and refugees. CSOs that are critical of government policies and operate in rights-based issues might be treated in discriminatory manners.<sup>1</sup>

The relevant laws and regulations treat CSOs as equal to other legal entities and do not restrict the **provision of services by CSOs** in various areas in cooperation with the public sector.

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<sup>1</sup> *Local Consultation Meeting Outcomes Reports*. TUSEV. <http://www.siviltoplum-kamu.org/en/activities/desktop-research-for-code-of-conduct-is-completed> Access date: December 18, 2015.

Although there are no barriers on competition of CSO for biddings, as there is no practice of promoting such competition either, examples of service provision by the civil society are limited. CSOs can be in disadvantaged positions comparing to private firms when the lead criteria for evaluation for bids is the price.

## 2. Key Findings

No. Top 6 findings from the report	Reference to the Monitoring Matrix	Reference to the EU CS Guidelines
1 The definitions of civil society and civil society organizations are absent in the related legislation. The legal framework only recognizes associations and foundations as CSO legal entities.	Area 1 Sub-Area 1.1	Area No. 1 Result No. 1.1.a
2 The legal framework regulating state inspection of CSOs is complicated, restrictive, and bureaucratic and is focused on limitations rather than freedoms, defining penalties and sanctions that do not meet the principle of proportionality.	Area 1 Sub-Area 1.1	Area No. 1 Result No. 1.1.a
3 The places and duration allowed for meetings and demonstrations are restrictive while the Law provides the administration and security forces with wide discretionary powers. The restrictions and limitations are further intensified via secondary legislation.	Area 1 Sub-Area 1.2	Area No. 1 Result No. 1.1.a
4 Tax exemption and public benefit statuses are granted to very limited number of CSOs by the Council of Ministers. These procedures are highly bureaucratic, political and non-transparent while the privileges brought by these statuses are very limited.	Area 2 Sub-Area 2.1	Area No. 2 Result No. 2.1.a
5 A standardized approach or legislation with respect to state funding does not exist. There is no regular and continuous public funding mechanism that supports the institutional infrastructure and activities of CSOs in Turkey. Major criticisms by CSOs on transparency and accountability of funds allocated by the public bodies exist.	Area 2 Sub-Area 2.2	Area No. 2 Result No. 2.4.b
6 There is neither a government strategy nor relevant legal or operational framework laying out Public Sector-CSO relations.	Area 3 Sub Area 3.1	Area No. 3 Result No. 3.1.a

### 3. Key Policy Recommendations

The section below presents key policy recommendations. The following recommendations are proposed in accordance with findings presented above and are to provide fields of policy interventions in the enabling environment for civil society development in Turkey.

No	Top 6 recommendations for reform	Reference to the Monitoring Matrix	Reference to the EU CS Guidelines	
1	The legal framework should be revised to include the definitions of civil society and civil society organization, which acknowledge a variety of legal entities including foundations, associations as well as initiatives, social enterprises and grant-making foundations. Un-registered civil society activities should also be acknowledged in the legal framework.	Area	1	Area No. 1
		Sub-Area	1.1	Result No. 1.1.a
2	The legal framework regulating inspection of CSOs should be revised and limitations of state interference in internal affairs of CSOs should be clearly laid down. The rules for inspection and the limits of authority of the state inspectors should be clearly defined in the legislation. Since the Penal Code already covers penal sanctioning, the punitive provisions in the Laws on Foundations and Associations should be removed.	Area	1	Area No. 1
		Sub-Area	1.1	Result No. 1.1.a
3	The Law and Regulations for Demonstrations and Meetings should be annulled completely and a new law should be drafted that would allow peaceful assemblies and demonstrations to be held in line with the European Convention on Human Rights and the European Court of Human Rights rulings.	Area	1	Area No. 1
		Sub-Area	1.2	Result No. 1.1.a
4	There should be a comprehensive re-examination of tax laws for supporting financial sustainability of CSOs. Turkey should adopt tax exemption practices that are compatible with EU countries. The Law on Collection of Aid should be amended in a way to exempt civil society fundraising activities from permission requirement.	Area	2	Area No. 2
		Sub-Area	2.1	Result No. 2.1.a
5	A principle law setting forth the process of public funding for CSOs should be adopted.	Area	2	Area No. 2
		Sub-Area	2.2	Result No. 2.4.b
6	The framework of the civil society-public sector cooperation, including provisions ensuring civil society participation in the legislation and formation of public institutions that would directly manage the relationship with civil society should be prepared in a participatory manner. Consultation with CSOs should be mandatory for all law making processes.	Area	3	Area No. 3
		Sub-Area	3.1	Result No. 3.1.a



#### **4. About the project and the Matrix**

This Monitoring Report is part of the activities of the “Balkan Civil Society Acquisition-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 7 countries in the Western Balkans and Turkey<sup>2</sup>. A region Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area at [www.monitoringmatrix.net](http://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 sub-areas:

- (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 lies in implementation, the indicators are defined to monitor the situation on level of legal framework and practical application.

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<sup>2</sup> Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

## II. Introduction

### 1. About the Monitoring Report

### 2. The Monitoring Matrix on Enabling Environment for Civil Society Development

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.<sup>1</sup>

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). It is part of a series of country reports covering 8 countries in the Western Balkans and Turkey<sup>3</sup>. 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 sub-area at [www.monitoringmatrix.net](http://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. 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

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

1. Basic Legal Guarantees of Freedoms;
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3. Government – CSO Relationship.

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 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 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

<sup>3</sup> Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

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 Civil Society Development (CSDev) in Turkey

Development of civic space in Turkey can be traced back to the Ottoman era where foundations were important actors of associational life. Yet, only in the post-1980s, attributions to civil society and contributions of CSOs towards democratization in Turkey have been increasingly discussed by different stakeholders.<sup>4</sup> CSOs' participation in the provision of public services or decision making processes have been increasingly assessed as indispensable input for democracy in Turkey.<sup>5</sup> This can be explained with the accelerated the process of the EU accession process that supposedly enhanced the democratization process and supported the enabling environment for civil society through the political conditionality and measures for capacity building.

Since officially becoming an EU candidate country in 2003, Turkey has implemented a series of reforms that promote democratization, including reforms to its basic framework laws affecting civil society. Turkey still operates, however, under the 1982 Constitution, which was written immediately following a military coup; although there are basic guarantees of rights and freedoms, the Constitution is not up to the standards found in developed democracies. The state still has a dominant influence over society. Up until 2004, when a new Associations Law was enacted in Turkey, the autonomy of the Turkish CSOs was fairly restricted. The new Law was viewed positively by both civil society and the EU. It lifted some of the limitations on civil society. Between 2004 and 2008, within the scope of the EU accession process the regulatory environment of the civil society has been improved and various laws and regulations related to civil society were reviewed and amended, enhancing freedom of association in Turkey. Subsequently, in 2008, Turkey adopted a Foundations Law, which further improved the legal environment.

Today, Turkish CSOs are nonetheless more active than they have ever been before and are more aware of the deficiencies within the laws that still restrict their activities. Although Constitutional regulations are to a great extent in compliance with the European Convention on Human Rights (ECHR), the legal framework still contains numerous incompatibilities with international standards. Since 2008, there have been only slight improvements in the legal framework, mostly in secondary legislation. Therefore, future reforms are both necessary and inevitable.

In terms of the strategies and policies for CSO-Government partnerships, the situation has not been improved in Turkey. By 2015 an overarching national strategic document creating mechanisms for CSO-Government cooperation is still missing. However, on December 10, 2015 the 64th government's action plans made public outlining a set of comprehensive actions to be taken including to enhance civil society environment.

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<sup>4</sup> CIVICUS Civil Society Index (CSI) Project Country Report for Turkey II: Civil Society in Turkey: At a Turning Point. TUSEV. [http://www.tusev.org.tr/usrfiles/files/step\\_eng\\_web.pdf](http://www.tusev.org.tr/usrfiles/files/step_eng_web.pdf) Access date: November 25, 2015.

<sup>5</sup> *Ibid.*

The 'strong state' tradition inherited from the Ottoman era and lack of opposition culture are structural political conditions posing challenges to the development of government-civil society relations and can explain reversals in the democratization processes. Despite the fact that there is an increasingly vibrant and diverse civil society, CSOs have had limited competences to influence policymaking in recent years.<sup>6</sup>

The socio-cultural context is not conducive to civil society development in Turkey. The findings of the 2014 World Giving Index presents that the culture of giving is not cultivated in Turkey (being the 128th in the Index among 135 countries). These findings depict the low level of interpersonal trust in the country. According to study entitled "Citizenship in Turkey and in the World: 2014 ISSP Research Report", as part of the International Social Survey Program (ISSP) implemented in 43 countries. High percentage of respondents (76%) perceives voting as a very important part of being good citizen whereas the situation in Turkey differs from established democracies in respect of participation in politics and civic life. Among 1,509 respondents in 58 Turkish provinces, only 12% cited membership in a political party; only 10% said they had participated in a political demonstration at least once and 72% of respondents said they would not participate in any demonstration and only 14% stated they have signed a petition. Similarly, 88% of Turkish respondents are also not a member of any sports or hobby club or cultural association, and 91% were never become a member of a voluntary organization. These results indicate that citizens merely see elections as a form of meaningful participation in public affairs and civic participation is almost non-existent in practice.<sup>7</sup>

**Civil society in Turkey is not free from ideological, political and cultural divisions, rather remaining as an arena where divergent societal visions compete.**

This situation limits the potential of civil society ensuring democratization since such controversial divisions embedded in the society are replicated and/or reproduced once again in Turkey's public sphere through civil society activism.<sup>8</sup> The link between society and nonprofit organizations is quite weak. This disconnection leads to public mistrust and disappointment, particularly during moments of intense government pressure on some of those CSOs that are critical of policies and agenda of the government. Based on the research on the civil society perception in Turkey, majority of public officials claimed that CSOs should not have political orientations (63.4 %) and should not have the mission to criticize the government (85.8 %).<sup>9</sup> Individuals associate functions of CSOs mostly with charity/philanthropy (63 %), social utility (35.3 %), and professional cooperation (34 %), followed by politics (32.4%) or protests and demonstrations (20.2%). Likewise, this research found that first three critiques of the individuals against CSOs were related to corruption (10.5%), profit/interest orientation (9.8 %) and ideological orientation (8.0 %).

<sup>6</sup> *Transformation Index (BTI) 2014 Turkey report* . Bertelsmann Stiftung.

[http://www.bti-project.org/uploads/tx\\_jdownloads/BTI\\_2014\\_Turkey.pdf](http://www.bti-project.org/uploads/tx_jdownloads/BTI_2014_Turkey.pdf) Access date: February 3, 2014.

<sup>7</sup> The results are based on answers from face-to-face interviews with 1,509 respondents in 58 Turkish provinces, conducted between February and April 2014.

<sup>8</sup> Özler, S. İ and A. Sarkissian. 2011. *Stalemate and Stagnation in Turkish Democratization: The Role of Civil Society and Political Parties*. Journal of Civil Society 7 (4): 363-384.

<sup>9</sup> *Türkiye'de Sivil Toplumun Gelişimi ve Sivil Toplum Kamu İşbirliğinin Güçlendirilmesi Projesi. Sivil Toplum Kuruluşlarına Yönelik Algı ve Yaklaşımlar. [Strengthening Civil Society Development and Civil Society – Public Sector Dialogue in Turkey Project. Perception and approaches towards Civil Society Organizations.]* YADA Foundation.

<http://tr.yada.org.tr/pdf/4537ea420a0c48c9ca6acb81213hdsad2312da.pdf> Access date: November 25, 2015.

**In parallel to the late development of civil society in Turkey, CSOs have only recently been able to gain the attention of policy-makers and academia. Therefore, there is quite limited data on civil society, which is particularly scarce concerning issue-oriented CSOs.**<sup>10</sup>

Within the process of implementation of e-government in Turkey, the Department of Associations (DoA) started to collect data on civil society. An e-registration system (DERBIS) was introduced in 2013 and more than half of associations have submitted their profiles in the system database and submit their annual reports online.<sup>11</sup> The statistics on the number of associations indicate that there are 108.651 active associations in 2015<sup>12</sup>; this number was 72,077 in 2000. Moreover, the number of registered members reached over 8 million in 2012, compared with only 4 million in 2004. According to the information obtained from the database of General Directorate of Foundations (GDoF), there is an increase in the number of foundations, as well. In 2009, number of new foundations was 4.460, reaching to 4.893 by the end of 2014.<sup>13</sup> This change indicates a positive trend and a striking increase in the variety of organizations in Turkey. Currently, there is large number of CSOs promoting the growth of participatory democracy, creating public awareness for socio-political issues and working for improvement of services.

**Despite an overall 100% increase in civil society membership within the last 10 years, participation in civil society is still relatively low in comparison to the EU average or other Enlargement countries.** Only 12% of Turkish citizens are members of CSOs, with one CSO existing for every 800 individuals and 87.8% of the overall population has no membership in any associations.

**Although CSOs are active in all of Turkey's provinces, available data depicts an uneven geographical distribution, with an urban concentration.** Based on official data from DoA, as of December 2015, over 40.000 associations (out of 108.651) are located in the first 5 most populous cities of Turkey.<sup>14</sup>

**CSOs in Turkey are predominantly working in areas such as religious services, sports and social solidarity.** Despite their increasing role and visibility, rights based organizations constitute a very small segment of civil society in Turkey. Based on official data from DoA, as of December 2015, only 1,53 % of associations are registered as rights based organization.<sup>15</sup>

**Gender inequality in civic engagement is also evident.** The data depicts the gender inequality in civil society. Among 9,975,587 association members in Turkey, only 1,922,846 are women (4,8% of the female population), while 8,052,741 are male (20,6% of male population).<sup>16</sup>

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<sup>10</sup> CIVICUS Civil Society Index (CSI) Project Country Report for Turkey II: Civil Society in Turkey: At a Turning Point. TUSEV. [http://www.tusev.org.tr/usfiles/files/step\\_eng\\_web.pdf](http://www.tusev.org.tr/usfiles/files/step_eng_web.pdf) Access date: November 25, 2015.

<sup>11</sup> Associations Information System (DERBIS) became active in 18 February, 2013.

<sup>12</sup> This data is retrieved from Department of Associations as of 01.01.2016.

<sup>13</sup> *The New Foundation Statistics*. General Directorate of Foundations (GDoF).

<http://www.vgm.gov.tr/icerik.aspx?id=192> Access Date: November 15, 2015

<sup>14</sup> *The number of associations per city*. Department of Associations.

<http://www.dernekler.gov.tr/tr/Anasayfalinkler/IlkereGorelstatistik.aspx> Access date: December 27, 2015.

<sup>15</sup> *The number of members of associations*. Department of Associations.

<http://www.dernekler.gov.tr/tr/AnasayfaLinkler/derneklerin-faaliyet-alanina-gore.aspx> Access date: December 21, 2015.

<sup>16</sup> *The number of members of associations*. Department of Associations.

<http://www.dernekler.gov.tr/tr/AnasayfaLinkler/dernek-uye-sayilarinin-turkiye-nufusu.aspx>

Access date: December 5, 2015.

**While civil society is developing rapidly, the majority of CSOs are at an early stage in their organizational development. Restrictions in the legal and fiscal environment along with the lack of financial and human resources and low levels of citizen participation are among the most important challenges faced by CSOs in Turkey.**

**Turkey has the highest number of employees in the non-profit sector in comparison to Western Balkan countries.** This is because of the number of registered CSOs are more than two times more than total number of CSOs in WB countries combined. However, average number of employees per CSO is significantly low in Turkey with an average of 0.5 per organization. Turkey also has the lowest proportion of CSO employees to total employment (0,20%).<sup>17</sup>

**Apart from legal obstacles, limited access to funds and financial capacity pose as the main constraint before institutionalization of CSOs.** Many CSOs do not have strategic plans or policies (i.e. for human resources, communication, and fundraising). Based on official data from DoA, as of 2013 only 9.36 % of associations (or 11.114 associations out of 104.114) have their own websites. According to CIVICUS Civil Society Index Research conducted in 2011, almost 79% of CSOs assess their financial resources to be insufficient and human resources as one of the top organizational weaknesses of CSOs in Turkey.<sup>18</sup> As of 2015, out of 109.391 employees of associations, 75.608 are volunteers and 50.281<sup>19</sup> are paid-staff. According to this data, personnel costs of associations constitute only about 12% of their total revenues. The results of the survey conducted as part of this project confirm these findings. According to results of, 44 CSOs out of 77 do not employ a full time employee and 31,2 % of CSOs participated in this survey stated they have an annual budget less than 3,100 € (10.000 TL).

**The table provided in Annex 3, provides a set of indicators to depict the profile of Turkey with respect to economic, political and social indicators from 2014.**

**The table provided in Annex 4 provides Key Economic Data on the Non-Profit Sector in Turkey from 2013.**

#### **4. Specific features and challenges in applying the Matrix in Turkey**

TUSEV has been working towards improving the enabling environment for CSOs including measures to improve public sector-civil society dialogue, and the legal framework governing freedom of association. Building on its expertise in this field, TUSEV continues monitoring enabling environment for civil society in Turkey and lobbying public institutions to reform the legislation. The Monitoring Matrix methodology allows continuous and consistent national-level monitoring of the enabling environment for CSDev and highlight priority areas to be developed.

Similar to previous year, in 2015, issues related to democratic governance and reforms to enhance accountability and transparency of public policy making have not been among the top priorities of the government. There was neither a public discussion nor a concrete step

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<sup>17</sup> *The Report on the Economic value of the Non-profit Sector in Western Balkans and Turkey. Balkan Civil Society Development Network.* [http://www.balkancsd.net/novo/wp-content/uploads/2015/11/63-12-Report-on-the-Economic-Value-of-the-Non-Profit-Sector-in-the-WBT\\_final.pdf](http://www.balkancsd.net/novo/wp-content/uploads/2015/11/63-12-Report-on-the-Economic-Value-of-the-Non-Profit-Sector-in-the-WBT_final.pdf) Access date: December 23, 2015.

<sup>18</sup> *CIVICUS Civil Society Index (CSI) Project Country Report for Turkey II: Civil Society in Turkey: At a Turning Point.* TUSEV. [http://www.tusev.org.tr/usrfiles/files/step\\_eng\\_web.pdf](http://www.tusev.org.tr/usrfiles/files/step_eng_web.pdf) Access date: November 25, 2015.

<sup>19</sup> *The number of members of associations.* Department of Associations. <http://www.dernekler.gov.tr/tr/AnasayfaLinkler/calisan-sayisi.aspx> Access date: December 5, 2015.

taken to improve enabling environment for civil society development in Turkey. The political scenery was preoccupied with the general elections and then with the snap elections. Thus, political scenery was mostly occupied with the election agenda bringing further tensions between the government and the opposition. Under these circumstances, no major reform process to strengthen enabling environment for civil society development in Turkey found its way in the political agenda. Thus, to locate or identify new data or information on civil society in 2015 presented a greater challenge than previous reporting years.

Apart from the political outlook, the major challenge in conducting the research stems from the methodology presented in the Monitoring Matrix Toolkit. The methodology and MM allows reaching comparable results across countries of Western Balkans and Turkey. However, each country has their own specificities and face diverse challenges in applying the MM methodology to collect data and derive generalizable conclusions. As an example, there are two types of CSOs (associations and foundations) in Turkey with separate legislation and practice, necessitating separate monitoring while generating different findings of each indicator. This does not only bring about double work but also makes sectoral generalizations difficult.

In 2014, DoA has provided access to further data on associations from 2013 reporting period which were not available before. These data reflects upon the number of volunteers, the number of full time employees, the sources of income and the number of penalties sanctioning associations. Nevertheless, in conducting the research, TUSEV team has also come across several challenges mostly based on the absence of reliable data and problems in accessing civil society related data and information. First and foremost, data from DoA and GDoF are compilation of the data provided by associations and foundations in their reporting period. There is no control over quality of data provided by CSOs. For instance, it has been found that the number of volunteers in Turkey is also questionable because there is no legal definition of volunteers, so there is a high level of discretion in reporting number of volunteers.<sup>20</sup> Another problem is that there is possibility that CSOs can declare data from previous years in a retrospective manner which leads to changes in overall data. Lastly, DoA continues working on betterment of their online portals that can cause some problems in data collection and making comparisons from one year to another. As an example, DoA updated the statistical information regarding associations in Turkey in 2014, altering the categorizations of the dataset used in previous years, which makes it very difficult for annual comparisons.

## 5. Acknowledgements and thanks

We would like to thank first to the Balkan Civil Society Development Network (BCSDN), and the European Centre for-Not-for Profit Law (ECNL). We are particularly thankful to Tanja Hafner-Ademi, Iлина Nesik, Biljana Spasovska, Anja Bosilkova-Antovska, Tina Divjak and TUSEV staff for their guidance and help in the implementation process of the project. We thank all CSO representatives, TACSO Turkey, experts and policy makers that attended national level consultation meetings (See [Annex 1](#) for the list of interviews and consultations) and participated in the survey for the Balkan Civil Society Acquis project, for their valuable contributions, feedback and guidance. Last but not least, we thank TACSO Turkey for their support assisting us in the implementation phase of this project.

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<sup>20</sup> *The Report on the Economic value of the Non-profit Sector in Western Balkans and Turkey*. Balkan Civil Society Development Network. [http://www.balkancsdn.net/novo/wp-content/uploads/2015/11/63-12-Report-on-the-Economic-Value-of-the-Non-Profit-Sector-in-the-WBT\\_final.pdf](http://www.balkancsdn.net/novo/wp-content/uploads/2015/11/63-12-Report-on-the-Economic-Value-of-the-Non-Profit-Sector-in-the-WBT_final.pdf) Access date: December 23, 2015.

# III. Methodology

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## 1. Overview of the methodological approach

This project employed the following research methods in collection of data and analysis: desk research on the existing laws and their implementation, review of results conveyed in existing secondary research and consultation meetings and a survey with CSOs as well as expert interviews. The primary data collection method is the desk research and analysis of legislation regulating foundations and associations in Turkey. To crosscheck the results, the EU documents and reports, reports and publications published by relevant state bodies, country-specific reports and other reports published by international organizations and CSOs were also reviewed as part of this research.

This project and report is being produced with TUSEV's know-how on enabling environment of civil society. With its unique methodology to assess the enabling environment for civil society developments, this report cross-cuts all other publications produced by TUSEV. As a recent example, Civil Society Monitoring Report 2013-2014 was published and presented to wider audiences in December 2015. This report presents developments and achievements in the area of civil society, as well as the shortcomings and difficulties observed in practice with deriving annual comparisons. Furthermore, findings and reports of the Strengthening Civil Society Development and Civil Society Public Sector Dialogue in Turkey Project (implemented by TUSEV, STGM and YADA since June 2012 in Turkey) were of important benefit for this report. As part of this project, Active Participation in Civil Society: International Standards, Obstacles in National Legislation and Proposals Report that was authored by law scholars published was in 2015. This report reviews the legislation on associations and foundations, identifies the legal obstacles for active participation in civil society in Turkey and present recommendations to overcome these obstacles.<sup>21</sup>

The national level consultation for Balkan Civil Society Acquis project has been conducted via an online survey targeting representatives from associations, foundations, platforms and other type of CSOs to have further information on different aspects of standards and indicators. 77 respondents (representing 53 associations, 17 foundations, 2 initiatives, 1 federation and 1 other type of organization) have participated in this survey. The first five operation areas of these organizations are: Education (44,2 %), Culture (31,2 %), Youth (29,9 %), Human Rights (24,7 %) and Enabling environment for Civil Society (24,7 %).<sup>22</sup> The geographical distribution of CSOs participated in this survey is moderate with coverage of 18 cities from all 7 geographical regions of Turkey.

The survey consists of questions covering 3 main areas of MM 2014 report Area 1: Basic Legal Guarantees of Freedoms; Area 2: Framework for CSOs' Financial Viability and Sustainability and Area 3: Government – CSO Relationship (except Sub-area 3.3.: Collaboration in service provision).

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<sup>21</sup> Ayata G. Ç. & U. Karan. 2014. *Active Participation to Civil Society: International Standards, Obstacles in National Legislation and Recommendations*. <http://www.tusev.org.tr/usrfiles/images/MevzuatRapor.15.09.15.pdf> Access date: December 19, 2015.

<sup>22</sup> Respondents could choose more than one field.



## 2. Participation of the CSO community

In preparation of the MM report, the project team benefitted from the findings of TUSEV's Civil Society Monitoring Report 2012 and case studies of Civil Society Monitoring Report 2013-2014. The methodology of these reports includes desk research, media review and in depth interviews (via face-to-face, e-mail or phone interviews) with more than 80 representatives who actively work in civil society. This report feeds the MM report in terms of data collected from various public institutions in line with the criteria defined by the Right to Information Law. A media review has been conducted for over a period of three months and 16 extensive case studies from the report relevant to the scope of the MM report were examined.

The survey addressing the representatives from associations and foundations was conducted to gather further information and enable participation of the CSO community in the monitoring process.

Another project of TUSEV that brought further data, enabling civil society voices to be covered in this report, has been the Strengthening Civil Society Development and Civil Society-Public Sector Dialogue in Turkey mentioned above. Within this project, TUSEV has the responsibility to conduct legal studies and activities to enhance legal environment and to galvanize civil society public sector cooperation. Towards this end, between 2012 and 2015 TUSEV have organized 14 local consultation meetings in Adana, Ankara, Diyarbakır, İstanbul, İzmir, Trabzon and Van to discuss the expectations and collective suggestions of CSOs. These consultation meetings were attended by 150 representatives from 118 civil society organizations (CSOs) from 12 cities. In three cities, 47 representatives attended to discuss findings of another TUSEV publication entitled "Active Participation to Civil Society: International Standards, Obstacles in National Legislation and Recommendations" drafted by two legal scholars. Last, but not least, a comparative report was drafted on the primary legislation in Turkey governing enabling environment for CSOs.<sup>23</sup>

In 2015, semi-structured interviews were conducted with more than 5 CSO representatives and 5 public officials from 4 organizations in total; several were consulted via e-mails and phone interviews or via ad hoc consultations conducted in relevant meetings, conferences on the issues related to civil society participation in service provision and provision of non-formal education by CSOs in Turkey.

Local Policy and Advocacy Coordinator of this project, as well as other members of TUSEV team by taking part in different meetings, conferences, working groups and other activities to consult CSOs and other relevant stakeholders and at the same time to enlarge the support base and to raise awareness for prospective reforms. In total, 4 meetings were held throughout Turkey. İstanbul, Ankara and Mersin meetings were attended by 85 CSO representatives, experts and public officials. Initiatives and participation in activities were made to (1) to disseminate information to wider public (e.g. publish articles, social media campaign, present MM and findings in academic, semi-academic or non-academic conferences); (2) to discuss, identify and prioritize issues and problems regarding CS enabling environment; and (3) to build capacity and awareness among related public institutions as well as to build leverage. To illustrate, in this reporting period, TUSEV has continued to take part in the new collaborations with representatives of relevant ministries in guidance of TACSO in the process of determining country objectives for EU Civil Society Guidelines 2020 process. This working group met/communicated occasionally with an agenda to find the ways in which to further legislation affecting civil society environment in a participatory manner. In these

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<sup>23</sup> Please see [Annex 2](#) for details on additional TUSEV research and publications.

meetings, the Monitoring Matrix methodology and the comparable data allowed to analyze the civil society environment in a systematic way.

### **3. Lessons-learnt**

The Monitoring Matrix offers a solid methodological framework with a set of indicators to conduct an overview of the development of enabling environment of civil society in a systematic way. This has been a significant contribution in compiling existing information on civil society and providing further data not just on the existing regulatory framework but its implementation in the context of Turkey. The country-specific knowledge is also comparable to other cases in the Western Balkans within the project framework. Policy notes were drafted based on the Monitoring Matrix standards and indicators, as well as comparative data from other Western Balkan countries to draw attention of relevant authorities and decision makers.

Furthermore, the Monitoring Matrix methodology and the comparable data introduce new research areas to be intensively analyzed and advocated for policy change in Turkey. In the scope of this project, TUSEV reviewed the available legislation and conducted extensive studies on issue areas. These new data feeds into the TUSEV's advocacy agenda. As an example, a workshop on economic activities of CSOs focusing on taxation aspects, possible treatments of the income from economic activities and existing legislation in Turkey took place on 15 December 2014. After the Economic Activities workshop that was held in December 2014, TUSEV contacted the Commissioner (head) of the Revenue Administration to follow up with the results of the workshop. Commissioner undertook to form a working group within the Revenue Administration in order to discuss recommendations of the Economic Activities workshop and produce reports and consolidate further data. However, this working group did not come into force. Yet, in October 2015, Revenue Administration arranged another meeting with the Secretary General and tax consultant of TUSEV to discuss prospects for reform in this field. This meeting was a starting point and it is expected that this process will continue in 2016. The reform agenda of the new government will have a decisive influence on TUSEV's advocacy agenda in this field. It is expected that the research report on "Economic Value of Civil Society in Turkey and Western Balkans" published by BCSDN that consolidate data on civil society (foundations and associations) will be helpful for further reforms.

Thereby, despite challenges, implementation of cross country research with Monitoring Matrix methodology has shown that strong methodological approaches extend the scope of research and support data driven advocacy activities for policy changes at national and international level.

# IV. Findings and Recommendations

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## Area 1: Basic Legal Guarantees of Freedoms

### Sub-area 1.1.: Freedom of association

*The evaluation of this sub-area is based on following standards: (1) All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online; (2) CSOs operate freely without unwarranted state interference in their internal governance and activities; (3) CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities.*

**This section discusses that the lack of definitions of “civil society” and “civil society organization” in the related legislation poses problems to freedom of association. The legal framework only recognizes associations and foundations as legal entities of CSOs. Other organizational forms such as initiatives, social enterprises and grant-making foundations are not recognized by law and they lack legal personality; in return the legal framework contains negative prohibitions against them. They are not eligible for public funding and are prone to be excluded from public consultations in general. Another significant finding is that, the legal framework regulating inspection of CSOs conducted by public authorities is complicated, restrictive, and bureaucratic and is focused on limitations rather than freedoms, defining penalties and sanctions that do not meet the principle of proportionality.**

**No significant developments took place in 2015 related to the enabling environment on the freedom of association. In fact, no extensive reforms have been made since the major reform packages accepted in 2004 and 2008 that (in those years) improved the enabling environment of civil society to a great extent. The planned reforms regarding the legal framework regulating freedom of association, Turkey’s National Action Plan for the EU Accession (Phase- I November 2014 - June 2015) published in November 2014 did not come into force.<sup>24</sup>**

The absence of civil society and CSO definition in the related legislation and policy documents continued to cause major problems and confusions in practice. First of all, the registration imposed on CSOs limits possible associational forms to two: associations or foundations. As such, the legal framework does not necessarily promote unregistered or legally unrecognized informal CSOs such as groups, initiatives and networks not only from civil society activity but also from applying public funding and participation in public policy making. Yet, informal groups are allowed to operate; there are no sanctions upon unregistered organizations.

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<sup>24</sup> As for planned reforms in the foreseeable future, despite slowed down the EU-Turkey relations, Turkey have some commitments regarding civil society environment to align legislation with the EU acquis. Turkey’s National Action Plan for the EU Accession (Phase- I November 2014 - June 2015) committed to revise legislation on freedom of expression and on foundations in line with ECHR and the case of the ECtHR. Turkey’s National Action Plan for the EU Accession (Phase- II June 2015- June 2019) has commitments to revise Law No. 2911 on Meetings and Demonstration Marches to align with the political criteria of the EU.

Along with associations and foundations, platforms<sup>25</sup> are also recognized by law but not accepted as legal entities. Thereby, no collective group other than registered associations and foundations are recognized to pursue any legal purpose (e.g. having a bank account, applying to funds, take legal action). Although not given recognition by state or the legal framework, these forms of organizations are an important part of civil society in Turkey.

**The number of minimum founding members sought by the state for registration of associations is quite high (seven) compared with international and European standards (2-3 people).** Associations are legally accepted to be found on the day founders provide required documents to the Department of Associations. It is widely stated that, for instance, it is quite burdensome for associations to bring together enough members in the initial stage to fill the seats in the mandatory formal committees: Executive Committee, and Internal Audit Committee, which CSOs are legally bound to form to legally pursue their activities. Associations should have at least 16 members to continue operating within six months following their registration.

From the very moment associations start the official procedure for the registrations, according to regulations, the associations are regarded as legal. The Department has up to 60 days to review the application. If the administration decides there are missing documents or the application of association violates the existing rules and regulation, the association is given 30 days to rectify. The associations are obliged to provide their statute along with supporting documents. The legal framework provides a long list of required information to be provided within a statute. These include the definition and procedures of the required bodies (i.e. executive board, inspection board, and general assembly).

As if the relevant laws do not already contain excessive requirements, administrative decrees and legal opinions produced by public institutions make registration requirements more difficult in practice. Some examples include, an official documentation taken from each flat/apartment owner for consenting the CSO to operate in their building; or the place of settlement being solely rented/owned by that CSO according to a legal opinion provided by the Ministry for Internal Affairs on 10/04/2013. According to this legal opinion only one organization can be registered at a particular address/ residence in order to avoid problems that might arise if and when the office needs to be closed down/sealed by the state based on an illegal act or offense.<sup>26</sup> This legal opinion has not resulted as a sanctioning yet since it is not included in a law or regulation, still there are reported cases of organizations that are asked to have a separate address. Not only does such a requirement lay a large financial burden on the shoulders of many under-resourced associations but it also hinders networking, coalition building or co-learning potential of civil society that can be optimized by sharing the same space and resources.

**Registration process for foundations is much more complicated and lengthy than the registration process of associations, since their registration is decided by a court.** The minimum endowment amount to establish a foundation was increased to 19.700€ (55.000TL) in 2014. Foundations are founded by a charter which is verified firstly by a notary and then by a court. This charter contains information on the title, purpose, assets and rights to attain foundation`s goals through their organs and applicable administrative procedures. The foundation is granted legal personality only when approved by a court followed by registration in the GDoF. Article 101 of the Civil Code states that “Formation of a foundation contrary to

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<sup>25</sup> A platform is defined by law as “interim societies formed by associations themselves or with the foundations, unions and similar other civil organizations under the title venture, movement or any other similar name to realize a common objective”.

<sup>26</sup> Please see this legal opinion issues on 10/04/2013 from <http://www.dernekler.gov.tr/tr/Mevzuat/hukukigoruser.aspx> (in Turkish)

the characteristics of the Republic defined by the Constitution, Constitutional rules, laws, ethics, national integrity and national interest, or with the aim of supporting a distinctive race or community, is restricted.” Moreover, the required content of the association by-laws is overly detailed. Claims related to “national security”, “public order”, “protection of morality and the Turkish family structure” continued to be applied by courts to restrict freedom of association in practice.<sup>27</sup>

**There are vague limitations (e.g. general morality, public order) in the law that can lead to subjective registration processes allowing broad scope of discretions for public officials.** Article 56 of Turkish Civil Code states that “No association may be formed for an object contrary to the laws and morality.” Article 101 of the Civil Code states that “Formation of a foundation contrary to the characteristics of the Republic defined by the Constitution, Constitutional rules, laws, ethics, national integrity and national interest, or with the aim of supporting a distinctive race or community, is restricted.” CSOs are required to declare the type of work/activities they intend to carry out in writing in official documents, such as Statutes of Associations or Articles of Foundations. When CSOs (specifically foundations) decide to broaden or alter the scope of their activities, they need to deal with various bureaucratic procedures

According to the results of the survey conducted by TUSEV in 2015, almost half of the CSOs stated they set up between years of 2010-2015 (44 out of 77). In their registration processes, 36,8 % of CSOs stated they experienced some difficulties related to limitations not defined clearly in the relevant legislation. 30,3 % of CSOs stated the registration processes were lengthy and 25% of those experienced problems in accessing information. As extreme cases, 10 CSOs had to make changes in their statutes in order to register. On the other hand, 30,3 % of CSOs declared they did not experience any problems in the registration processes.

**Foreign organizations/representative offices are subject to permission, (provided by the Ministry of Internal Affairs upon the opinion of the Ministry of Foreign Affairs), to operate or open up a branch office in Turkey.** Foreign/international CSOs are legally bound to obtain special permits that domestic CSOs are not liable to acquire. The laws that apply to domestic CSOs also apply to foreign CSOs that establish branches or offices in Turkey however there are special provisions and restrictions that only apply to foreign CSOs establishing in Turkey. Article 22 of the Regulation on Associations restricts the freedom of foreign CSOs from establishing offices in Turkey on the grounds of “reciprocity” and in cases where cooperation via an international organization is preferred. According to data provided by the DoA, as of January 2015, only 138 foreign organizations have been given this permission. The process is highly political, un-transparent and criteria for permission are not clearly defined. Last but not least, the process can take very long time with no proper feedback.

Individuals and legal persons with legal capacity have the right to establish CSOs. **There are certain restrictions in special laws restricting freedom of association of members of the Turkish Armed Forces, police force, civil servants, children and individuals who do not hold Turkish citizenship.**

There are certain restrictions in special laws applicable to the members of the Turkish Armed Forces, the Police force and civil servants. The regulations in Article 43 of the Turkish Armed Forces Internal Service Law and additional Article 11 of the Law on Law Enforcement

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<sup>27</sup> Turkish Civic Code. No: 4721. [http://www.tusev.org.tr/usrfiles/files/Turkish\\_Civil\\_Code.pdf](http://www.tusev.org.tr/usrfiles/files/Turkish_Civil_Code.pdf)

Organization that restrict the right to become association founders. Armed forces officials can only be founders of the amateur military sports clubs and cannot form associations with other purposes. Armed Forces officials may become non-active members of non-political associations and sports clubs whose names have been published by the Ministry of National Defense. Article 11 of the Law on Law Enforcement Organization “Law enforcement officials and bazaar and neighborhood wardens (...) cannot be association founders.”<sup>28</sup>

There are certain restrictions to children’s freedom of association in the Law on Associations. The Law has made a distinction based on age and established a separate category under the title of “children’s associations”. According to Law on Associations Article 3 paragraph 3, children who are over the age of 15 but under the age of 18 and who have the capacity to discern “may either found child associations or be a member in order to enhance their psychical, mental and moral capabilities, to preserve their rights of sport, education and training, social and cultural existence, structure of their families and their private lives with a written permission given by their legal guardians.” The use of the given freedom is only possible with the written permission of legal guardians. Children over 12 years of age but under 15 can become members of children’s associations with the permission of their legal guardians, but cannot be association founders or serve on the boards of directors and auditors. Limiting children’s membership to only children’s associations and delimiting the activity areas of children’s associations is not in line with Article 15 of the Convention on the Rights of the Child.<sup>29</sup>

There are restrictions applicable to people who are not Turkish citizens. According to Article 93 of the Civil Code, “The real persons of foreign origin who possess the right for settlement in Turkey may incorporate association or become a member of the existing associations. As far as foundations are concerned, there are more restrictions for foreigners to be founders of foundations. According to Article 5 of the Law on Foundations, “Foreigners shall be able to establish new foundations in Turkey in accordance with the principle of de jure and de facto reciprocity.”<sup>30</sup>

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<sup>28</sup> The analysis is partially quoted from the part of “Civil Servants” under “Establishment” and “Membership” sections of the report published by TUSEV.

Ayata G. Ç. & U. Karan. 2014. *Active Participation to Civil Society: International Standards, Obstacles in National Legislation and Recommendations*.  
<http://www.tusev.org.tr/usfiles/images/MevzuatRapor.15.09.15.pdf> Access date: December 20, 2015.

<sup>29</sup> The analysis is partially quoted from the part of “Children” under “Establishment” and “Membership” sections of the report published by TUSEV.

Ayata G. Ç. & U. Karan. 2014. *Active Participation to Civil Society: International Standards, Obstacles in National Legislation and Recommendations*.  
<http://www.tusev.org.tr/usfiles/images/MevzuatRapor.15.09.15.pdf> Access date: December 20, 2015.

<sup>30</sup> The analysis is partially quoted from the part on “Foreigners” under “Establishment” and “Membership” sections of the report published by TUSEV.

Ayata G. Ç. & U. Karan. 2014. *Active Participation to Civil Society: International Standards, Obstacles in National Legislation and Recommendations*.  
<http://www.tusev.org.tr/usfiles/images/MevzuatRapor.15.09.15.pdf> Access date: December 19, 2015.

**The legal framework provides only two types of accounting rules and specific nature of grassroots and smaller CSOs are not taken into account.**

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

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

Additionally, unlike businesses, CSOs must complete standard forms before receiving and/or utilizing foreign funding.

In Turkey's National Action Plan for Phase- II June 2015 - June 2019, Turkish Public Oversight, Accounting and Auditing Standards Authority proposes to align "the financial reporting of undertakings that are not within the scope of Turkish Accounting Standards with the EU legislation, following completion of the legal gap analysis with respective to Directive 2013/34/EU." The legislation to be amended is the "Communiqué on accounting standards for different sizes of enterprises, sectors and non-profit organizations." It was proposed that this amendment will be made in the first half of 2016.<sup>31</sup>

**With regards to inspection practices, inconsistencies are observed in the frequency, duration and scope of inspections.**

DoA and the GDoF have the legal authority to inspect associations and foundations. However, neither the limits of interferences of inspectors nor the inspection criteria are clearly defined in the legislation. Inspections are not conducted periodically or within a given schedule; they are either arbitrarily decided by the administration or conducted upon a complaint. The vague clauses of legislation like "general morality", "Turkish family structure", or "public order" creates inconsistent and arbitrary interpretation and implementation by different state institutions and even within the same institution.

Auditing of business/ for-profit entities are applied on the grounds of more established procedures such as with tax related and social security contributions cases. Not-for-profit entities have such responsibilities as well as they can be inspected on the grounds of their political affiliations, right-based issues, proximity to government/opposition and personal complaints. Therefore, they are more prone to face arbitrary implementations/ interpretations of the law and legislations.

Inspection practices can be used as deterrence towards rights-based organizations especially the ones with anti-government stances. At least seven associations dealing with human rights and Kurdish issues have reported facing court cases that intended to close them down.

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<sup>31</sup> Turkey's National Action for Phase- II (June 2015 - June 2019). Ministry of EU Affairs.

[http://www.abgs.gov.tr/files/000etkinlikler/national\\_action\\_plan\\_phase\\_ii\\_en\\_1\\_aralik.pdf](http://www.abgs.gov.tr/files/000etkinlikler/national_action_plan_phase_ii_en_1_aralik.pdf) Access date: November 27,201.

Transformation Index BTI 2014 Turkey reported “CSOs that oppose state policies often face legal and financial obstacles”.<sup>32</sup> Public inspection of business/ for-profit entities is applied on the grounds of more established procedures such as cases related to tax and social security issues. Not-for-profit entities are more prone to face arbitrary implementations/interpretations of the law and legislations. Based on data provided by the DoA, 4648 sanctions were posed upon associations in 2013<sup>33</sup>; majority of them being administrative fees for breaching minor bureaucratic requirements. CSOs frequently are fined for “improper” record keeping. More disturbingly, Article 33 of the Associations Law holds the chair of the executive board of the association responsible – i.e., personally liable – for any sanctions and/or fines assessed against the association.

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

Associations and foundations may also accept donations from corporations, individuals and other sources to realize the purposes set out in their bylaws/charters. Associations and foundations may accept cash and in kind donations from persons, institutions and organizations abroad but such donations are subject to notification to public authorities.

**The main recommendations for Sub-area 1.1 are:**

- 1) The barriers to establishing civil entities in forms other than the two set out by the existing law, should be lifted, enabling citizens to engage in collective action via different forms of association.
- 2) The minimum number of founding members ought not to be more than three. The minimum mandatory number of founding, executive and audit board members ought to be lowered.
- 3) Number of entities necessary for setting up federations and con-federations should be lowered.
- 4) Vague limitations should be amended (e.g. general morality, public order) and/ or clarified to ensure non-subjective registration.
- 5) The procedure for the registration of foreign CSOs should be easier and similar to the one required for national CSOs.
- 6) Explicit provisions prohibiting public administration from interfering with the internal matters of associations and foundations should be introduced to the legislation. The deficiencies in the legislation with respect to the definitions concerning inspections and sanctions should be addressed. In order to ensure that the inspections are not discriminatory or arbitrary, the frequency, duration and the scope of the authority granted to the inspectors should be explicitly regulated under the applicable legislation.
- 7) Special and user-friendly accounting standards should be prepared for CSOs and at least three different accounting procedures should be introduced in order to take into account specific nature of grassroots and smaller CSOs and meet their needs..

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<sup>32</sup>Transformation Index (BTI) *Turkey report* .Bertelsmann Stiftung. [http://www.bti-project.org/uploads/tx\\_jdownloads/BTI\\_2014\\_Turkey.pdf](http://www.bti-project.org/uploads/tx_jdownloads/BTI_2014_Turkey.pdf) Access date: September 5, 2015.

<sup>33</sup> This data for 2015 is not available yet.



- 8) The sanctions should be amended for becoming proportionate, number of sanctions and penalties should be decreased and a warning mechanism should be introduced to give CSOs with correction possibility.
- 9) The legal framework should be amended so that associations will not be terminated by the administration if their aim is against “general morality”. In addition, for foundations, the list of prohibited aims that might result with termination is quite vague and should be made in line with international standards
- 10) Number of mandatory books should be decreased, the annual reporting templates should be made easier and the information requested should be less and more simple.
- 11) Financial reporting should not be mandatory and the administration should retrieve that information from the tax authority. Case-by-case reporting requirement of foreign funding during the year should be annulled and reported in the annual report.
- 12) CSOs’ engagement with economic activities should be made easy.
- 13) The concept of foreign aid should be clearly defined in the legislation in a way that membership fees or small donations from individuals should not be accepted as foreign aid. In addition, rather than case by-case, annual reporting/notification should be the only requirement.

**Sub area 1.1., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020**

**1. An enabling legal and policy environment, for the exercise of the rights of freedom, expression, assembly and association**

**1.1.a. Quality of existing legislation and policy framework**

- 50 % of gaps in national legislation and policy framework were not identified and addressed.
- Associations are registered by submission of documents immediately with no costs.
- Registrations of foundations are decided by a court. The timeline for establishing a foundation varies depending on the work load of the courts. The minimum endowment amount to establish a foundation was increased to 19.700€ (55.000TL). This amount is higher than the maximum of the baseline (17.500 EUR).
- There is no data on the number of inspections held in 2014.
- There are certain restrictions in special laws restricting freedom of association of members of the Turkish Armed Forces, police force, civil servants, children and individuals who do not hold Turkish citizenship.
- Foreign organizations/representative offices are subject to permission, (provided by the Ministry of Internal Affairs upon the opinion of the Ministry of Foreign Affairs), to operate or open up a branch office in Turkey. The legislation does not state how long the applications will be processed by the authorities. However, the Ministry of Interior announces its decision to applicants and to the relevant local governorship within 10 days.
- With regards to inspection practices, inconsistencies are observed in the frequency, duration and scope of inspections. Inspection practices can be used as deterrence towards rights-based organizations especially the ones with anti-government stances. There is no data on the number of inspections of public authorities. However, it is assumed that the target of decreasing the inspections by 80 % was not achieved.
- The number of minimum founding members sought by the state for registration of associations is quite high (seven) compared with international and European standards (2-3 people). Associations should have at least 16 members to continue operating within six months following their registration. (This is not among targets. target revision can be considered).

### **1.1.b. Progress with the adoption and implementation of relevant legislation**

- No significant developments took place in 2015 related to the enabling environment on the freedom of association. In fact, no extensive reforms have been made since the major reform packages accepted in 2004 and 2008 that (in those years) improved the enabling environment of civil society to a great extent. The planned reforms regarding the legal framework regulating freedom of association, Turkey's National Action Plan for the EU Accession (Phase- I November 2014 - June 2015) published in November 2014 did not come into force

### **1.3.a. Quality of the enabling environment for grass-roots organizations**

- Grass-roots organizations are also affected by the gaps and improvements in legal framework on enabling environment for CSOs. No collective group other than registered associations and foundations are recognized to pursue any legal purpose (e.g. having a bank account, applying to funds, take legal action, participate to consultation processes). Although not given recognition by state or the legal framework, these forms of organizations are an important part of civil society in Turkey.

### **2.1.a. CSOs' perception of the ease and effectiveness of financial rules and reporting requirements (disaggregated by type / size of CSO)**

- The legal framework lays down a long list of bureaucratic requirements, which pose obstacles for exercising freedom of association, since CSOs have to spend considerable time and resources to comply with them. Furthermore, the fees for breaching these requirements are disproportionately high, for CSOs in Turkey that operate under a rather disabling financial environment. CSOs frequently are fined for "improper" record keeping. For instance, failing to record an administrative change (such as a change in the board leadership or official address) in due time (15 days) in the official records/books may result with a fine of 835 TL (approximately 300 euros).
- There is no comprehensive data but given the circumstances the target of decreasing the number of issued administrative fines for legal compliance of CSO by 50 % was not achieved.

### **2.1.b. Quality assessment of financial rules (with the focus on built-in mechanisms that financial rules and obligations change as the turn-over and non-commercial activities change)**

- The legal framework provides only two types of accounting rules out of three as in the national target and specific nature of grassroots and smaller CSOs are not taken into account. Additionally, CSOs must complete standard forms before receiving and/or utilizing foreign funding.

## **Sub-area 1.2.: Related-freedoms**

*The evaluation of this sub-area is based on following standards: 1. CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly; 2. CSO representatives, individually or through their organizations enjoy freedom of expression. 3. Civil society representatives, individually and through their organizations, have the rights to safely receive and impart information through any media.*

**Several worrying developments in the region and political deadlocks hit social, political and economic environment of Turkey and resulted in anti-government protests and activities. 2015 period did not witness ground-breaking legislative changes in the legal framework, which directly concerns CSO operations. The government enacted new restrictive laws and the increasing political instability paved way to a state of constant readiness to curb basic freedoms for the sake of the preserving “national security” or “public order”.**

The Article 34 of the Constitution recognizes the right of citizens to organize an assembly and demonstration without having to obtain any prior authorization. In accordance with this clause, rights to assembly and demonstrations may be restricted with a wide range of reasons such as “preservation of national security”, “public order” and “prevention of crime”, protection of “public moral” and “public health”. Although these restrictive measures are in line with the 11th Clause of the European Convention on Human Rights, due to the fact that the legal framework does not define these concepts, at times, they are continued to be interpreted narrowly, restrictively and in an arbitrary fashion. Furthermore, the Law on Meetings and Demonstrations further restricts the freedom of assembly. According to the Article 10 of Law, all of the members of the organizing committee must sign a declaration 48 hours prior to the assembly and submit it to the district Governor’s office during working hours. If not, the administration conceives it as an “illegal” assembly and has the right to take all measures to disperse/dissolve it by means which might also include police intervention.

The “Law Amending the Law on Powers and Duties of the Police, Other Laws and Decrees” that is widely referred as the “Internal Security Reform Package” and fiercely opposed by opposition parties, was passed in Parliament on 27th March, 2015 and 14 different laws and decrees were amended. The Internal Security reform package was proposed following the extensive protests in Turkey's south-eastern provinces in October 2014 as a spillover of the Siege of Kobane by Islamic State militants and Turkish government’s non-intervention policy. These massive pro-Kobane riots have sparked the violence and resulted in over 40 deaths. This reform package has been widely criticized for considerably strengthening the powers of the police during demonstrators and extending the police’s authority to detain anyone without the permission of prosecutor.

In June 2015, the gay parade was interrupted by the police and police fired pepper spray and used water cannons against marchers. Organizers of the parade released a statement reporting that “The 13th Istanbul LGBTI Pride Parade has suddenly been banned by the governorate using the month of Ramadan as the reasoning without any announcement”. The government has not released an official statement addressing whether the parade had been banned.

**Despite this turbulent period with regards to use of freedom of assembly, in June 2015, Turkey’s Constitutional Court had a ruling that served to expand expression and**

**protect right to peaceful protests.**<sup>34</sup> The Court reflected on the 34th article of Turkish Constitution, that protects the right to hold unarmed and peaceful meetings and demonstration marches without prior permission. The ruling stated that the right to organize meetings and demonstrations and the freedom of expression, are among the most fundamental values of a democratic society.<sup>35</sup>

The Constitution guarantees freedom and privacy of communication for all. However, there are regulations granting public institutions the authority to restrict the right to an extent that is not in line with the international standards. **According to Freedom House ratings, internet freedom continues to be “partly free” in Turkey. Internet censorship by the government is common and has increased in the last couple of years.**<sup>36</sup>

An amendment to the internet law in March 2015 allowed the Telecommunications Communications Presidency to remove or block access to content within four hours without a court order. In April and May, respectively, the Constitutional Court ruled the bans unconstitutional. However, the government used special courts to pressure Twitter to block accounts of critical writers and journalists. In April 2015, the government blocked access to Facebook, Twitter and YouTube via a court order until these sites removed images of a prosecutor who was held hostage before being killed in the Palace of Justice in Istanbul. Access to these sites was restored after the outlets removed the images from their websites. In September, a new law giving the Telecommunications Directorate more authority to block websites and collect individuals’ browsing histories was passed.<sup>37</sup>

The government continues blocking advanced web content and applications and prohibits access to websites with opposing views. **According to data of Engelli Web [Database on blocked Websites in Turkey] over 106.212 websites are blocked as of December 2015.** Blocking of websites with or without a court order continues to be implemented. The number of blocked websites by the Telecommunications and Communication Presidency (TİB) is 100.095 as of December 2015. **Turkey has made more requests to Twitter to delete content or suspend accounts than any other country in the world as of 30<sup>th</sup> June, 2015, data published by the Twitter showed.**<sup>38</sup>

**Media blackouts on the information considered as sensitive, including reporting on the terrorist attacks in Ankara and Suruç, are new approaches towards blocking access to information.**

**According to 2015 Freedom of Press Report, ‘media is not free’ and conditions for media freedom in Turkey continued to deteriorate.**

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<sup>34</sup> *The Judgment on Osman Erbil.* The Constitutional Court of the Republic of Turkey. 16/06/2015. <http://www.constitutionalcourt.gov.tr/inlinepages/press/PressReleases/detail/7.html> Access date: December 1, 2015.

<sup>35</sup> The ruling came following the detention of Osman Erbil, a member of the Workers’ Party, along with 24 people who staged a demonstration outside the U.S. embassy in the capital Ankara to protest the detention of several people working at daily Aydınlık and some members from the party.

<sup>36</sup> *Freedom in the World 2015.* Freedom House. [https://freedomhouse.org/sites/default/files/01152015\\_FIW\\_2015\\_final.pdf](https://freedomhouse.org/sites/default/files/01152015_FIW_2015_final.pdf) Access date: December 20, 2015.

<sup>37</sup> *Freedom on the Net 2015.* Freedom House. <https://freedomhouse.org/report/freedom-net/2015/turkey> Access date: December 21, 2015.

<sup>38</sup> Twitter published that between January- June 2015; this micro blogging site received 408 court orders and 310 requests from Turkish government agencies directing Twitter to remove content ranging from violations of personal rights to defamation of private citizens and/or government officials. In total, Twitter received 1003 requests worldwide and the majority of these requests came from Turkey (718). <https://transparency.twitter.com/removal-requests/2015/jan-jun> Access date: December 11, 2015.

Freedom of expression is steadily eroding in Turkey, in particular through arbitrary and restrictive interpretation of the legislation, pressure, dismissals and frequent court cases against journalists. Criminal cases against journalists, writers or social media users are of considerable concern. Report underlines that there are 14 journalists in prison<sup>39</sup>, many of whom face or were convicted for charges under the Anti-Terror Law. There are high numbers of arrests, hearings, detentions, prosecutions; as well as layoffs are common and which leads to self-censorship. It is also known that several international journalists were deported.<sup>40</sup>

Recently, Cumhuriyet newspaper's editor-in-chief Can Dündar and Ankara bureau chief Erdem Gül were arrested on 26<sup>th</sup> November, 2015 as part of an investigation into the newspaper's coverage of a National Intelligence Organization (MİT) operation. They have been charged of being members of a terrorist organization, espionage and revealing confidential documents related to trucks of MİT that were allegedly transferring arms to Syria. Reporters Without Borders (RSF) launched an international appeal for the release of journalists of Cumhuriyet and all other journalists unjustly detained in Turkey.

There have been cases reported that human rights activists and members of human rights civil society associations arrested under the Anti-Terrorism Law (Law No: 3713). These arrests and detentions are seen by CSOs as part of a wide-range anti-terrorism operation, started in late July 2015 under the pretext of countering terrorism.

The main recommendations for Sub-area 1.2 are:

1. Since the Law on Meetings and Demonstrations is very restrictive, limiting and grants the administration with arbitrary powers, it should be annulled completely and a new law recognizing the right to peaceful assembly in line with international standards is accepted.
2. Regulations granting excessive authorities to the government in connection with restriction of the right to use the internet should be limited in order to provide freedom of expression.
3. The Law on the Internet needs to be revised in line with European standards. The definitions of the vague phrases (public order, general morality, etc.) used in the law should be clarified.

## **Sub area 1.2., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020**

### **1.1.a. Quality assessment of existing legislation and policy framework**

There is no overall data but given the circumstances the target of decreasing police interference to peaceful assembly and protests by 90% is not achieved.

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<sup>39</sup> *2015 prison census*. Committee to Protect Journalists. <https://cpj.org/imprisoned/2015.php> Access date: December 21, 2015.

<sup>40</sup> *Freedom on the Net 2015*. Freedom House. <https://freedomhouse.org/report/freedom-net/2015/turkey> Access date: December 21, 2015.

- The Article 34 of the Constitution recognizes the right of citizens to organize an assembly and demonstration without having to obtain any prior authorization. According to the Law on Demonstrations and Meetings (no. 2911), the assemblies are subject to prior notification to the civilian authority 48 hours in advance of the meeting. The meetings and demonstrations should be planned by a committee consisting of seven people with a lead person. There are restrictions with regard to place, route and time of the meetings and demonstrations. Civilian authority is granted the authority to cancel or postpone of meetings and demonstrations if necessary. Officers also have the right to record the meetings and demonstrations.
- There is no overall data but given the circumstances there is no decrease expected in the number of court cases as well as duration of convictions. There have been cases reported that human rights activists and members of human rights civil society associations arrested under the Anti-Terrorism Law (Law No: 3713).
- Several worrying developments in the region and political deadlocks hit social, political and economic environment of Turkey and resulted in anti-government protests and activities. 2015 period did not witness ground-breaking legislative changes in the legal framework, which directly concerns CSOs operations. The government enacted new restrictive laws and the increasing political instability paved way to a state of constant readiness to curb basic freedoms for the sake of the preserving “national security” or “public order”.

#### **1.1.b. Progress with the adoption and implementation of relevant legislation**

- Several worrying developments in the region and political deadlocks hit social, political and economic environment of Turkey and resulted in anti-government protests and activities. 2015 period did not witness ground-breaking legislative changes in the legal framework, which directly concerns CSO operations. The government enacted new restrictive laws and the increasing political instability paved way to a state of constant readiness to curb basic freedoms for the sake of the preserving “national security” or “public order”.

### **Area 2: Framework for CSO Financial Viability and Sustainability**

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

*The evaluation of this sub-area is based on following standards: (1) Tax benefits are available on various income sources of CSOs; (2) Incentives are provided for individual and corporate giving.*

**The tax framework does not provide a supportive environment for the financial sustainability of CSOs and bring certain limitations. The planned reforms related to the tax legislation and environment Turkey’s National Action Plan for the EU Accession**

Phase- I (November 2014 - June 2015) and Phase-II (June 2015 - June 2019)<sup>41</sup> were published in November 2014 but did not come into force yet.<sup>42</sup>

Foundations and associations in Turkey are exempt from the Corporate (Profit) Tax unless they deal with economic activities. Grants and donations received by CSOs are also tax exempt. Tax deduction is only applicable if real or legal persons donate to CSOs that have a tax-exempt status (for foundations) or public benefit status (for associations). Individuals on pay-roll cannot deduct their donations. Tax exemption and public benefit statuses are granted to a very limited number of CSOs by the Council of Ministers. This is a highly bureaucratic, political and non-transparent process and the privileges provided with these statuses are very limited. Although there is a special regulation on tax exempt foundations in the Tax Laws, these are only related to exemption from Corporate Tax. Foundations, tax-exempt or not, are subject to all other taxes. Those taxes include income tax applicable to their earnings including rent, interest and dividends. The tax exempt status grants foundations with an opportunity to provide their donors tax deductions from their taxable income.

Associations and foundations must establish a separate commercial enterprise to carry out economic activities. In terms of taxation, all economic entities of CSOs are treated as for profit businesses.

The Law on Collection of Aid with heavy limitations, bureaucratic rules and procedures creates obstacles for financial viability of CSOs. Associations' and foundations' donation collection outside of their center and income generating activities are regulated under the Law on Collection of Aid. The aforementioned law subject donation collection to heavy bureaucratic rules and does not promote CSOs financial sustainability.

Turkey has scored 3 out of 5 in the overall Philanthropic Freedom Score study conducted and published by the Hudson Institute in 2014. The domestic tax regulation received 2.3 points out of 5 and Turkey was placed among countries with medium to low incentives. The report highlights that, tax incentives for donors exist however receiving these deductions in practice is quite difficult and CSOs that can receive tax deductible donations are very limited in number.<sup>43</sup>

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<sup>41</sup> *Turkey's National Action Plan for Phase- II (June 2015 - June 2019)*. Ministry of EU Affairs. [http://www.abgs.gov.tr/files/000etkinlikler/national\\_action\\_plan\\_phase\\_ii\\_en\\_1\\_aralik.pdf](http://www.abgs.gov.tr/files/000etkinlikler/national_action_plan_phase_ii_en_1_aralik.pdf) Access date: November 27,2015

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

<sup>42</sup> *National Action Plan for the EU Accession (Phase- I November 2014 - June 2015)*. Ministry of EU Affairs.

<http://www.abgs.gov.tr/files/nationalactionplaneng.pdf> Access date: November 24, 2015

In Turkey's National Action Plan for the EU Accession (Phase- I November 2014 - June 2015), Ministry of Interior commits to amend the Law on Collection of Aid (Law No.2860), with the aim to make necessary legal arrangements for compliance with the changing needs and conditions. The National Action Plan also mentions a plan for amending the Regulation on Collection of Aid.

<sup>43</sup> *Philanthropic Freedom: A Pilot Study*. Hudson Institute.

<http://www.hudson.org/files/documents/FinalOnlineVersionPhilanthropicFreedomAPilotStudy3.pdf> Access date: November 30, 2015

Despite the fact that there are some tax exemptions for CSOs defined and provided in the legal framework, they are very limited. Foundations and associations in Turkey are exempt from the Corporate (Profit) Tax unless they deal with economic activities. Grants and donations received by CSOs are also tax exempt.

Economic activities of CSOs are permitted, only if and when they set up a separate economic entity. When they set up such entities, there is no tax exemption for economic activities they carry out. In terms of taxation, all economic entities of CSOs are treated as for-profit businesses. According to data provided by the DoA and GDoF, the total number of associations and foundations is 109.074 and only 3.290 of them (2%) have formed economic entities.<sup>44</sup>

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

In addition to the above mentioned rules, several tax deductions are applied to foundations with tax exemption status and associations with public benefit status. The law in Turkey does provide a public benefit status for CSOs, however the tax exemption and public benefit statutes are granted to a very limited number of CSOs only by the Council of Ministers decision. The selection process is highly bureaucratic and political at times. These statutes are provided by the Council of Ministers upon recommendation/proposal of the relevant Ministry (Ministry for Finance for foundations and Ministry for Interior for associations). Although, the process is clearly and explicitly written in the relevant legal framework, the process is highly political, very bureaucratic and vague. Accordingly, the numbers of CSOs that are able to receive these statuses are very low. In order to assure accountability, this process should be guided by an autonomous, transparent and easily accessible institution. Furthermore, the selection procedures and clearly defined criteria should be set.

For foundations, tax exemption may be granted by the Council of Ministers (upon the proposal of the Ministry for Finance) to foundations established with the purpose of performing a public service or services. Although there is a special regulation on tax exempt foundations in the tax laws, these only confer a general exemption from corporate tax. Foundations, tax-exempt or not, are subject to all other taxes. Those taxes include income tax applicable to their earnings including rent, interest and dividends. The tax exempt status grants donors the opportunity to deduct their donations to tax exempt foundations, to an extent, from their taxable income. In order to receive tax exemption, the activity's purpose must fall within the areas of health, social aid, education, scientific research and development, culture and environmental protection and/or forestation. Foundations serving a specific region or group cannot get tax exemptions. As of 2014, there are only 259 tax-exempt foundations out of 4.893 foundations in Turkey. The ratio of the number of tax-exempt foundations to the total number remained however similar (5%) to previous years.<sup>45</sup>

As of December 2015, the 398 associations with public benefit status constitute only the 0.37% of the total number of 108.651 active associations. The number of associations with

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<sup>44</sup> *New Foundations Statistics*. General Directorate of Foundations (GDoF).

<http://www.vgm.gov.tr/db/dosyalar/webicerik205.pdf>. Access Date: November 25, 2015

<sup>45</sup> *Ibid.*



public benefit status was 403 in 2014.<sup>46</sup> Contrary to very bureaucratic and long selection process, privileges provided with the status are very limited.

Although there is a special regulation on tax exempt foundations in the tax laws, benefits of having these statuses are only limited to exemption from Corporate Tax. All foundations, tax-exempt or not, are subject to all other taxes. Those taxes include income tax applicable to their earnings including rent, interest and dividends. The tax exempt status grants those foundations that have it with an opportunity to provide their donors tax deductions from their taxable income. Legal persons or legal entities receive 5% tax deduction from their annual income only when they donate to tax-exempt foundations or associations with public benefit status. In addition, for donations made by legal persons or entities to foundations or associations for selected projects related to arts, cultural heritage, there is no deduction limitation. Same rule applies to donations made to foundations or associations with the special food banking permit. For their donations that fall into these two categories, they can have 100% tax deductions from their annual income. No tax deduction is available for donations made by individuals who are on payroll.<sup>47</sup> This is a significant limitation to possible donations to be made to CSOs, by excluding the majority of society from tax exemptions.

14,5 % of the organizations that participated in the 2015 survey reported that they choose not to apply for this status since it does not bring any privileges for their organization. 18,4 % of respondents stated their CSOs hold these statuses. 32,9% of respondents have stated that they do not apply since they believe they will not be granted this status and/or they find this status discriminatory and the process of granting is not based on transparent and accountable set of criterion. 13,2 % of respondents claim they do not know that if they can apply for these statuses.

The collection of donations, under this Law is regulated with highly bureaucratic rules and procedures. This brings repressive environment for donation collection and income generating activities of CSOs.<sup>48</sup> The donation collection and income generating activities of associations and foundations generated outside of their center are regulated under the Law on Collection of Aid (Law No: 2860, 23/6/1983). Permission is required when associations and foundations want to collect donations in general public spaces (e.g. activities on the street, public campaigning, internet fundraising, etc.). This law does not apply, when individuals or corporations donate to CSOs voluntarily. They do not have to ask for official permit when they put their bank account number on their website. However, other online forms of collection of donations are regulated. For example, associations cannot start up a SMS donation campaign or a Facebook fundraising campaign without getting permission. There is a special status granted to very few CSOs, which provides the status holder with an exemption from the Law on Collection of Aid. This means that, these CSOs are able to collect donations, as they wish, without prior permission from the related authority. Based on the data provided by the DoA, as of December 2015 the number of such organizations having this status remain limited to only 20, which is strikingly low.<sup>49</sup>

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<sup>47</sup> The major reason why tax deduction for individuals on pay-roll is not easy is that income tax is not levied upon individuals who work on payroll in Turkey but onto their employers, who are held responsible to pay tax on behalf of the employees. However, special regulations were issued for private retirement insurance payments, that do allow employers to deduct them from the income tax they pay on behalf of their staff on their pay-roll. Hence, donations should also be allowed to be deducted in similar fashion.

<sup>48</sup> Sivil Toplum İzleme Raporu 2013- 2014 [*The Civil Society Monitoring Report 2013-2014*]. TUSEV. [http://www.tusev.org.tr/usrfiles/files/Izleme\\_Raporu\\_Yonetici\\_Ozeti\\_2013\\_2014.pdf](http://www.tusev.org.tr/usrfiles/files/Izleme_Raporu_Yonetici_Ozeti_2013_2014.pdf) Access date: December 19, 2015.

<sup>49</sup> *The list associations which collect donations without prior permission*. Department of Associations. <http://www.dernekler.gov.tr/tr/Anasayfalinkler/izin-almadan-yardim-toplama.aspx> Access date: November 10, 2014

To summarize, tax exemption and public benefit statuses are granted to a very limited number of CSOs by the Council of Ministers. The processes of obtaining these statuses are highly bureaucratic, political and non-transparent processes and the privileges they provide are very limited. Furthermore, the Law on Collection of Aid poses heavy limitations, bureaucratic rules and procedures, thus creating obstacles for financial viability of CSOs. A comprehensive review and reform of the relevant laws should be made to create the financial enabling environment with the aim to support financial sustainability of CSOs. Turkey should adopt tax exemption practices that are compatible with the EU countries. The Law on Collection of Aid should be amended in a way to exempt civil society fundraising activities from permission requirements.

The main recommendations for Sub-area 2.1 are

- 1) The scope of tax exemptions should be expanded.
- 2) Economic activities of CSOs should be encouraged and those that are in line with the mission of a CSO should be held exempt from corporate tax.
- 3) Taxes applied to CSOs' passive investments should be removed.
- 4) The Law on Collection of Aid should be revised so that the existing barriers on collecting donations by foundations and associations are removed. In addition, policies and programs should be in place to promote and facilitate corporate and individual philanthropy.
- 5) Existing tax incentives should be increased. Regulations ensuring that the donations made by individual employees are tax deductible should be introduced. Legislation should be amended to become clear and easily comprehensible. Deduction percentages should be increased for a wider range of public benefit thematic activity area.
- 6) Public benefit should be clearly defined in the legislation; and accordingly the statute should be more broadly and easily accessible. The process of defining and status provision should involve meaningful CSO participation at all levels.
- 7) Criteria to obtain public benefit should be clearly defined and accessible for all. The process of criteria identification should involve meaningful CSO participation at all levels.

**Sub area 2.1., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.**

**2.2.a. Quality and applicability/practice of the legal framework for individual and corporate giving**

- Legal entities and legal persons receive a 5% tax deduction from their annual income only when they donate to tax-exempt foundations and associations with public benefit status. No tax deduction for donations made by individuals is available who are on payroll and therefore, the national target for tax relief in the amount of 10% of taxable income for individuals is not established.
- 'Public benefit' (for associations) and 'tax exemption' (for foundations) statuses is vaguely defined and the decision-making process is highly political and the privileges provided with the statuses are very limited. Based on Article 27 of the Associations Law, the Council of Ministers has the authority to grant this status to eligible CSOs. However, the selection process is highly bureaucratic and political at times. This process is not guided by an autonomous, transparent and easily accessible institution. Furthermore, the procedures for these statuses are not clearly defined with a selection criteria list. The conditions for gaining 'public benefit' and 'tax exemption' statuses differ.

- Associations and foundations must establish a separate commercial enterprise to carry out economic activities. In terms of taxation, all economic entities of CSOs are treated as for profit businesses and therefore, the national target for tax exemption up to 5000 EUR is not established. Only 2% of CSOs have formed economic entities.

### 2.3.a. Quality of the system of tax benefits for the CSOs' operational and economic activities

- The donation collection and income generating activities of associations and foundations generated outside of their center are regulated under the Law on Collection of Aid (Law No: 2860, 23/6/1983). The Law on Collection of Aid with heavy limitations, bureaucratic rules and procedures creates obstacles for financial viability of CSOs.
- The law does not provide tax benefits for economic activities of CSOs. Associations and foundations are obliged to start economic enterprises to be able to engage in income-generating activities. The commercial enterprises of associations and foundations are treated as business corporations and the Corporate Tax is levied upon profits of CSOs. This brings heavy burden on CSOs that undertake economic activities to create social benefit.
- Foundations and associations are not exempt from VAT, Consumption, Property, Communication, Stamp, and Motor Vehicle Taxes and Notary fees. Also all kinds of passive investments are subject to income tax.
- CSOs are responsible for paying employers fee for social insurance of employees.

#### Sub-area 2.2.: State support

*The evaluation of this sub-area is based on following standards: (1) Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants; (2) Public funding is distributed in a prescribed and transparent manner, (3) There is a clear system of accountability, monitoring and evaluation of public funding; (4) Non-financial support is available from the state.*

**There are no significant developments that took place in 2015 and the government support to CSOs remains insufficient, unpredictable and not provided in a transparent, accountable, fair and non-discriminatory manner. There are no defined rules setting out CSO involvement on defining priorities and decision-making process of allocation of the public funding As it was reported in local consultation meetings, public funding process to support civil society has been detected as a key problem area in terms of accessibility, transparency and accountability.**

There is no standardized approach with respect to regulation of the public funds granted to CSOs<sup>50</sup>, legislation specifies state institution to coordinate, monitor and facilitate public funding. Major criticisms by CSOs on transparency and accountability of funds allocated by the public bodies exist.

**Public funds allocated to CSOs are not systematically planned in the state budget, and Ministries or Municipalities may set aside a budget for allocation to CSOs. Although there is a budget line in the State budget (Budget no. 5.3.1.1: transfers to organizations such as associations, unions, funds, and etc.) dedicates public funds provided to not-for-profit organizations, but it lacks information to show the total amount provided to associations or foundations. Furthermore, despite the fact that there is a regulation (No. 26231), which holds public institutions accountable to annually publicize the list of**

<sup>50</sup> There is no holistic approach or legislation with the exception of EU funds distributed by the Central Finance and Contracts Unit (CFCU).

**organizations, amount and aim of financial support, other than a few Ministries, the majority of public institutions do not comply with this regulation.**

The funds of Ministries are distributed to CSOs in the form of project partnerships rather than through systematic grant allocations. The budget for such funding is left to the discretion of Ministries and they vary from year to year. The budget allocated to the CSOs are not provided, decided or published as a percentage of the general budget, and it is not possible to identify concretely the amount provided to CSOs. Yet it is widely accepted by CSOs that the budget remains insufficient and not proportional to the size and needs of civil society in Turkey.

Associations Aid Program of the DoA under Ministry of Interior has been implementing a grants programme for associations since 2011. In 2015 through budget of Ministry of Interior, the DoA set aside € 6.44 million (21.200.000 TL) to support projects of associations. In 2015, 362 associations were supported with Associations Aid Program of DoA.<sup>51</sup> Despite the increase comparing to previous year (€ 6.08 million- 20.000.000 TL), when compared with the number of associations (108.651), this amount can be considered as inadequate.<sup>52</sup> Ministry of Development has a funding scheme named as the Social Support Program (SODES) that has been operating since 2008. In 2012, over 30 % percent of total budget of SODES has been allocated to CSOs with the total budget of € 20.4 million (66.505.583 TL) with the rest being allocated to universities, local governments, professional organizations and other public institutions. According to project application toolkit of SODES, in 2015, the minimum amount of public funding is €30.700 (100.000 TL) and the maximum amount is determined at €153.500 (500.000 TL).<sup>53</sup>

Ministry of Culture and Tourism supports projects of foundations and associations, which work for the purpose of arts, culture and tourism development. The total amount of funds to be allocated to CSOs is not yet known and there is no project calendar announced on the website of the Ministry.<sup>54</sup>

The application process to Think Civil (Sivil Düşün) EU Programme present vast number of CSOs competing for scarce resources. This programme designed in a way to support organizations without legal entities and even individuals. Between the period of 9<sup>th</sup> May and 3<sup>rd</sup> June, there have been 108 CSOs and 79 activists that requested € 780.000 (2.296.685 TL) and in return € 110.730 (325.976 TL) had been approved from this total requested amount. Among 116 applications, most frequently thematic fields of submitted projects laid under the following areas: human rights (15), peace, violence and discrimination (14), gender inequalities (14) that are hardly being supported by public funds in general. As an example, for LGBTI organizations, Think Civil EU Programme is increasingly being a significant funding source.<sup>55</sup> This scheme also allows recipients to use this funding to cover their operational

<sup>51</sup> *List of Associations gained support in2015*. Department of Associations.

<https://www.dernekler.gov.tr/tr/AnasayfaLinkler/2015-proje.aspx>

<sup>52</sup> *Project Application Guideline 2015*. Department of Associations.

<http://www.dernekler.gov.tr/media/templates/dernekler/images/folder/prodes-k%C4%B1lavuz.pdf>

Access date: November 10, 2015.

<sup>53</sup> *The Social Support Program (SODES) Application Guide*. Ministry of Development.

<http://www.sodes.gov.tr/PortalDesign/PortalControls/WebIcerikGosterim.aspx?Enc=83D5A6FF03C7B4FCC6E9E0781EE203A976EEA5F1EDC09087FEA77A1D17F580DF> Access date: November 10, 2015.

<sup>54</sup> *Frequently asked questions related to supporting supports projects of foundations and association*.

Ministry of Culture and Tourism. <http://aregem.kulturuzturizm.gov.tr/TR,132606/--yerel-yonetimlerin-derneklerin-ve-vakiflari-kulturel-.html> Access date: 21, December 2015.

<sup>55</sup> Sivil Düşün (Think Civil) EU Programme is an ongoing a civil society support programme aimed at contributing to promote democratic values and structures, human rights, social inclusion and the rule of law, thereby supporting the EU integration process. This report is not online yet.

costs (e.g. rent). CSOs and activists mostly demanded this EU funding scheme to cover their operational expenses (travel expenses, hiring and printing expenditures and consultancy fees) that is in general not supported by international donors and public funding schemes. This programme of EU was designed in a way to support activists, organizations without legal status that are not eligible for public funding.

In general, the funding allocated to CSOs is not predictable from one year to another and the public funding processes do not ensure involvement of CSOs at the programming stage. General principles regarding distribution of public funds, financial accountability, monitoring and evaluation are regulated under the Law No. 5018 on Public Finance Management and Control. There were instances where Ministries and public institutions have issued directives and regulations based on the decision of the Council of Ministers on the regulation of funding of associations and foundations from public administrations' budgets. The Presidency for Turks Abroad and Related Communities<sup>56</sup>, Development Agencies<sup>57</sup> and SODES (social support program) of Ministry of Development<sup>58</sup>, Ministry of Culture and Tourism<sup>59</sup> and Ministry of Youth and Sports<sup>60</sup> have issued regulations to provide project grants or funding. There is no holistic and standardized process or procedures for public funds (other than EU funds) allocated to CSOs.

Despite the lack of holistic approaches, some of the Ministries and other institutions listed above have published application guidelines, announced application criteria, and publicized the amount of support provided in the last years and the names of the projects that they have supported. Ministry of Youth and Sports have issued application manuals for projects.<sup>61</sup> Ministry of Culture and Tourism has published the list of grantees of 2014 and the amounts of the funding on its website. In total 904 projects were supported by the Ministry with a total budget of € 6.1 million (20.464.548 TL).<sup>62</sup> SODES of Ministry of Development published full list of CSOs and other organizations that were entitled to receive funding in 2015 funding cycle.<sup>63</sup>

The DoA of Ministry of Interior announced the 2015 project cycle and published project application guidebook with a manual for using PRODES (Proje Destek–Project Support) which allows online application and reporting. The Ministry of Interior has the right to change these amounts but the conditions under which the Ministry uses these rights are not mentioned. The full list of 2015 grantees is not accessible yet on DoA webpage.<sup>64</sup>

Based on the results of the survey conducted by TUSEV in 2015, majority of respondents (83,1 %) have stated that in last three years their CSOs were not granted public funding. Only 9 CSOs out of 77 used public funding. 35,1 % of the respondents have chosen “not at all” and

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<sup>56</sup> *The regulation on public funding.* The Presidency for Turks Abroad and Related Communities <http://www.ytb.gov.tr/documents/ytb/files/mevzuat/idari-mali-destek-hakkinda-yonetmelik.pdf>

<sup>57</sup> *Regulation on Project and Activity Support Funding of Development Agencies.* Access date: November 17, 2015. <http://www.resmigazete.gov.tr/eskiler/2008/11/20081108-3.htm>

<sup>58</sup> *Social Support Program (SODES).* Ministry of Development. <http://www.sodes.gov.tr/SODES.portal> Access date: December 17, 2015.

<sup>59</sup> *Regulation on funding from Ministry of Culture and Tourism to support projects of local administrations, associations, foundations and private theatres.* <http://www.resmigazete.gov.tr/eskiler/2007/03/20070315-7.htm> Access date: November 17, 2015.

<sup>60</sup> *Regulation on Ministry of Sports and Youth Project Support Programs* <http://www.mevzuat.gov.tr/Metin.Aspx?MevzuatKod=7.5.16014&MevzuatIliski=0&sourceXmlSearch=>

<sup>61</sup> *Ministry of Sports and Youth Project Application Manuals.* <http://www.gsb.gov.tr/Sayfalar/2604/2603/GPDP-2015-1-Donem-program-hakkinda.aspx>

<sup>62</sup> *List of grantees and the amount of the funding.* Ministry of Culture and Tourism. <http://sgb.kulturuzurizm.gov.tr/Eklenti/38891,2014-yilinda-yapilan-yardimlar.pdf?0>

<sup>63</sup> *Social Support Program (SODES).* Ministry of Development. <http://www.sodes.gov.tr/SODES.portal> Access date: December 17, 2015.

<sup>64</sup> *Results of project applications.* Department of Associations. <http://www.dernekler.gov.tr/tr/ebulten/duyurular/proje-sonuc.aspx> Access date: November 10, 2015

29,9% “little” options when they were asked to assess the statement of “Public funds are sufficient enough to meet needs of Civil Society Sector” Majority of the respondents of the survey conducted in 2014 have chosen “not at all” (42,9%) and “little” (27,3 %) options when they were asked to assess the statement of “The process of allocation of public funds is transparent.” % 65 of survey respondents disagree the statement of “CSOs can monitor allocation of public funding process.” 57,2 % of survey respondents find difficult to access information on the public funds available to use of CSOs.

There are Monitoring and Evaluation units under certain Ministries, but there is no data available on the methods they follow or any results of their monitoring on the impact of public funds. As one exception, an extensive study has been conducted for the evaluation of SODES and produced intensive report on the output and impact of the program.<sup>65</sup>

Despite these improvements in this field, CSOs evaluate public funding as a key problem area and public funding to civil society as an issue riddled with many problems and restrictions. Ministries are able to form joint projects with CSOs however, by law; they are permitted to provide only up to the half of the project-related expenses. In general, the criteria for selecting CSOs to enter into joint projects with Ministries are vague. CSO representatives state that public funds within ministries are not distributed to interlocutors within a transparent process.<sup>66</sup> It has been widely reported that Social Support Fund (Sosyal Destek Fonu, SODES) is allegedly not distributed in a transparent and accountable manner, a large chunk of the fund is used to finance projects of public institutions and inquiries on the allocation of these funding schemes are either not responded to or answered with insufficient information.<sup>67</sup> As an example, the DoA’s application manual for PRODES (Proje Destek–Project Support) funding includes evaluation criteria that are not easily measurable and well defined. Such list of criterion may enhance the scope of discretion of public officials in evaluating applicants. In 2015, first examination and scoring was made by independent evaluators. In accordance to results of the first round, the final list of beneficiaries were decided upon decision made by the DoA in accordance to technical and legal criterion.<sup>68</sup>

The Law on the Relations of Associations and Foundations with Public Institutions (No 5072) prohibits state authorities granting in-kind support to CSOs other than pre-determined funding. Despite aforementioned Law, there are examples of cooperation between CSOs and public institutions based on protocols, especially on the local level. There is no data available with respect to personal favoritism and/or discrimination of state authorities against CSOs based on their loyalties or political affiliation. Compared to the relations of CSOs at central level public institutions, CSOs claim that “they work more effectively and closely with municipalities as opposed to governorships. Municipalities are more eager to offer in-kind support to CSOs, often in the form of free travel, meeting rooms, and assistance with announcing CSO activities to larger audiences”.<sup>69</sup> However, the relevant article of the Municipality Law (25874, 13.07.2005), which give responsibility to municipalities to assist and support CSOs, limit the organizations to be supported with the ones having a public benefit or tax exemption statuses. In addition, in 2012, an amendment was made on article 75 of the Municipality Law, which has

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<sup>65</sup> The report published in 2013 is the latest one. SODES funds have not been allocated in 2014 and the report on 2015 funding cycle is not available online yet.

<sup>66</sup> *Local Consultation Meeting Outcomes Reports*. TUSEV. <http://www.siviltoplum-kamu.org/en/activities/desktop-research-for-code-of-conduct-is-completed> Access date: December 18, 2015.

<sup>67</sup> *Ibid.*

<sup>68</sup> *Project Application Guideline 2015*. Department of Associations. <https://www.dernekler.gov.tr/media/templates/dernekler/images/folder/prodes-rehber.pdf>

<sup>69</sup> *The Results of the Consultation Meetings and an Evaluation*. TUSEV.2013. Access date: November 25, 2015. <http://www.siviltoplum-kamu.org/usfiles/files/Civil-Society-Organizations-and-Public-Sector-Relations.pdf>

the possibility to further hamper cooperation between CSOs and municipalities.<sup>70</sup> TUSEV Civil Society Monitoring Report 2012, based on an expert opinion, stated that the new article contains neither a clarification regarding the types and nature of service activities to be supported nor the criteria for permission. In such a context, this revision increases the discretionary power of the central government and accordingly decreases the freedom of association.

In Turkey, the Law on Relations of Associations and Foundations with Public Institutions does not allow CSOs to use equipment that belongs to state authorities; however some exceptions are specified in the secondary legislation. The Municipality Law enables granting of non-financial supports to associations with public benefit status and foundations with tax exemption status. Also, cooperation between municipalities and CSOs is based on protocols. The Municipality Law (Article 75), which is the basis for allocation of non-financial supports, does not specify the forms of these supports or the criteria for obtaining this type of support for associations and foundations.<sup>71</sup>

According to results of the survey conducted in 2014, only 12 CSOs out of 77 were granted in-kind support and 68,8 % (53 out of 77) of CSOs have never in had in-kind supports. 7,8 % of organizations who participated in this survey stated they are not informed about in-kind support. CSOs reported having received printing fee, transportation support and conference venues sponsoring by municipality's administration.

In Turkey, funds from lotteries are not allocated to CSOs. According to a budgetary plan of Ministry of Finance, annual public contribution from lotteries is allocated to support Olympics Game Committee, Turkey Promotion Fund, Social Services and Society for the Protection of Children, Higher Education Loans and Dorms Directorate, which are all state bodies.

#### **SUMMARY:**

**There is no standardized approach or legislation with respect to regulation of the public funds granted to CSO and there are no defined rules setting out CSO involvement. Major criticisms by CSOs on transparency and accountability of funds allocated by the public bodies exist. A regulation on public funding mechanisms based on predetermined, concrete standards should be adopted in order to enhance accountability and transparency of the public funding cycle. The Law of the Relations of Associations and Foundations with Public Institutions (No 5072) should be revised and the monetary and in-kind and other non-financial support to the CSOs by the public institutions should be expanded through defined transparent mechanisms. The information on the projects supported with public funding should be transparent.**

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<sup>70</sup> Municipality Law (No 25874, 2005: previous Article 75): *Municipality, can execute service projects in partnership with vocational/Professional organisations having a public institution nature, associations working for public benefit, disability associations and foundations, foundations provided a tax benefit status by the Council of Ministers and with vocational chambers governed by the Guilds and Small Artisans Law (507) on topics that fall in its duties and responsibilities in line with agreements made and upon the decision of the Municipal Assembly.* Municipality Law ( No 25874, 2005: amended Article 75): *Municipality can execute service projects in partnership with vocational/Professional organisations having a public institution nature, associations working for public benefit, foundations provided tax exemption by the Council of Ministers and with vocational chambers governed by the Guilds and Artisans Organisations Law (5362). For service projects to be executed in partnership with other associations and foundations it is necessary to get the permission of the highest administrative authority of the district.*

<sup>71</sup> *Ways of non-financial gains for CSOs in the Balkans and Turkey.* Balkan Civil Society Development Network. [http://www.balkancsd.net/novo/wp-content/uploads/2015/08/NFS\\_EN\\_web\\_03042015.pdf](http://www.balkancsd.net/novo/wp-content/uploads/2015/08/NFS_EN_web_03042015.pdf)

The main recommendations for Sub-area 2.2 are:

1. A national strategy with respect to public funding and fund distribution should be developed and the applicable legislation should be revised accordingly.
2. A clear procedure should be in place for a uniform, standardized, transparent and binding state support.
3. All public institutions should fulfill their responsibilities under the Regulation No. 26231 namely the "Regulation on Providing Aid from Public Institutions Budgets to Associations, Foundations, Unions, Organizations, Institutions, Endowments and Similar Entities". Standardized procedures should be in place.
4. Funds that will be distributed to CSOs should be announced annually together with the list of names of CSOs, amount of public funding, project aims, etc.
5. Allocation of public funding process should be transparent and open to CSOs' involvement at every stage.
6. A new regulation should be accepted to also hold Municipalities and Provincial Administrations responsible for the accountability of state support.
7. The amount of public funding dispersed to CSOs should be increased, clearly identified within the budget, transparent and accountable. They should be accessible for all.
8. Monitoring mechanisms should involve meaningful CSO participation at all levels.
9. Clear code of conduct or good practices should be available for a standardized and independent system of selection. Project funding decisions, selection of CSOs for project-based collaboration and project management processes ought to undergo independent oversight and inspection.
10. CSOs should have the right to object to disputes that may arise during the selection process. The procedure should be clearly defined in the legislation.

**Sub area 2.2., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.**

#### **2.4.a. Increase of public funding for CSOs**

- According to data of 2013, public funding constitutes 8,45% of total income of CSOs. The national target is %10.

#### **2.4.b. Quality of state funding frameworks for civil society organizations (focusing on procedural document)**

- There is no holistic approach or legislation with respect to regulation of public funding to CSOs, except for EU funds distribution by The Central Finance and Contracts Unit: budget is not planned and funding schemes are determined at the discretion of Ministries which vary annually; budget is distributed through project partnership instead of grant allocation, CSOs inclusion in programing is not regulated, and, decisions deadlines and decisions as such are made by line ministries.
- There is no the coordination structure in place to monitor and report the planning and implementation of the public funding for CSOs.

#### **Sub-area 2.3.: Human resources**



*The evaluation of this sub-area is based on following standards: (1) CSOs are treated in an equal manner to other employers; (2) There are enabling volunteering policies and laws;(3) The educational system promotes civic engagement.*

**Public policies and the legal environment does not provide special provisions for assuring an enabling environment for facilitating employment, volunteering and other engagements in CSOs.**

In Turkey, CSOs are subject to the Labor Law (No 25134, 10.06.2003). CSOs are subject to the same legal requirements and obligations with regards to employment as the for-profit entities.

**There are no special policies to stimulate employment in non-profit sector. For example, if a company operating in the sector that is determined as the priority sector to be supported in development plans of the government, they can enjoy tax and employment incentives. However, similar, incentives are not provided to not-for profit sector.**

The share of total employment in CSOs is only 0,20% of total workforce which is the lowest among the countries covered, although the percentage of total CSO income in Turkey GDP is the highest when compared to other Western Balkan countries. Employees working in associations account for 0,13% (33.783 employees) and those working in foundations for 0,07% (17.193 employees) of the total employment in Turkey in 2013.<sup>72</sup>

In the public policy realm, apart from some initiatives taken recently to promote volunteerism in Turkey, there are no holistic approaches for further actions to be taken in this field. A recent discussion on legal aspect of volunteerism also reflects upon the possible impacts from the adoption of a volunteering law in the long run. Some experts stated CSOs may face possible restrictions that may occur due to having a national and legally binding definition of voluntarism once and if a volunteering law is adopted.

The DoA and the GDoF have recently started to keep statistical data on the CSOs under several items but it is not known whether this information is incorporated to the national statistics system. According to data provided by GDoF as of 2014, there are 599 foundations working with volunteers with a total number of 1.021.801 volunteers.<sup>73</sup> The number of volunteers in Turkey is also questionable because there is no legal definition of volunteers, so there is a high level of discretion in reporting number of volunteers. According to data obtained from the DoA, as of 2013, out of 109.391 employees of associations, 75.608 are volunteers and 33.783 are paid-staff. Based on the same data, personnel costs of associations constitute only about 12 % of their total revenues.<sup>74</sup>

In the national legislation, there is no specific regulation with respect to facilitating volunteering. The legal basis defining the contractual relationship between volunteers and CSOs is not defined or regulated and thus lacking. Based on the set of criterion determined by International Labour Organization (ILO)'s Manual on the measurement of volunteer work, there are no attempts to collect data on "volunteer supplement" to national labour force surveys on a periodic basis. A definition of volunteer work, a measurement methodology to

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<sup>72</sup> *The Report on the Economic value of the Non-profit Sector in Western Balkans and Turkey.* BCSDN. Access date: December 23, 2015. [http://www.balkancsd.net/novo/wp-content/uploads/2015/11/63-12-Report-on-the-Economic-Value-of-the-Non-Profit-Sector-in-the-WBT\\_final.pdf](http://www.balkancsd.net/novo/wp-content/uploads/2015/11/63-12-Report-on-the-Economic-Value-of-the-Non-Profit-Sector-in-the-WBT_final.pdf)

<sup>73</sup> *New Foundations Statistics.* General Directorate of Foundations (GDoF). Access Date: December 25, 2015 . <http://www.vgm.gov.tr/db/dosyalar/webicerik205.pdf>

<sup>74</sup> This is an average ratio. CSO with higher income spend % 19 of their budget for human resources. CSOs with smaller income spend % 5 of their budget for human resources.

identify volunteer workers and their characteristics, and an estimation methodology to value their work are not available.<sup>75</sup> Under these conditions, CSOs working with volunteers can easily be charged with illicit employment.

Despite the lack of an enabling legal environment, there are initiatives to promote volunteerism in Turkey. The National Youth and Sports Policy Document (No 4242, 2012) undertakes to 1) increase the participation of young people in volunteering activities and removing obstacles for volunteering engagement; 2) raise awareness of young people about the participation in voluntary activities for disadvantaged people; 3) support voluntary activities of young people and non-governmental organizations and informing young people about non-governmental organizations and volunteering. The stakeholders of these objectives are determined as: The Ministry of Youth and Sports, the Ministry of Family and Social Policies, the Ministry of Development and non-governmental organizations.<sup>76</sup>

With the efforts of UN Volunteers Program, a National Volunteering Committee was set up in April 2013 with the participation of CSOs and public institutions. In 2015, the Committee continued to initiate several meetings to act as a strategic advisory board for the recognition and empowerment of volunteering. As a positive development, The International Volunteer Day in 2015 was marked by many CSOs that work with large number of volunteers and National Volunteering Committee itself. UN Volunteers Program celebrated International Volunteer Day in Istanbul on 5 December with attendances of these prominent CSOs, members of National Volunteering Committee, experts, public officials and volunteers. On the same day, Culture Education and Research Directorate of the Ministry of Youth and Sports provided one-day training on volunteering for 600 participants. These participants between ages of 18-40 are expected to volunteer for the projects that will be conducted by the Ministry.<sup>77</sup> There is also a web-portal supported by Ministry of Youth and Sports to match volunteers with relevant projects, initiatives and institutions.<sup>78</sup>

Subjects related to civil society are not covered systematically in the official curriculum at different levels of the educational system. The Ministry of Education has initiatives to promote social responsibility in secondary education institutions; however there is no holistic approach. Despite the lack of a holistic approach, The Ministry of Education is conducting pilot studies in the formal education regarding the adaptation of subjects relating civil society to the formal curriculum within the scope of Democratic Citizenship and Human Rights Education.

Education system in Turkey is highly centralized and provision of non-formal education by CSOs is not recognized by law. There are limited numbers of examples where CSOs carry out formal education. Existing examples of cooperation focus on supporting the formal and non-formal education through instructor trainings and capacity development activities by CSOs working in the fields of education and environment. Some prominent CSOs working in the fields of education and environment have signed protocols with related Ministries. Representatives from these organizations stated that these cooperation examples are not systematically applied or regulated. Rather, they claimed cooperation is sustainable if and when public officials perceive CSOs as trustable partners.

The main recommendation for Sub-area 2.3 is:

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<sup>75</sup> *Manual on the measurement of volunteer work*. International Labour Organization (ILO).

[http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_167639.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_167639.pdf)

<sup>76</sup> *The National Youth and Sports Policy Document (2012/4242)*. Ministry of Youth and Sports.

[http://www.gsb.gov.tr/content/files/TheNationalYouthandSportsPolicyDocument\(1\).pdf](http://www.gsb.gov.tr/content/files/TheNationalYouthandSportsPolicyDocument(1).pdf)

Access Date: December 12, 2014.

<sup>77</sup> "Ministry of Youth and Sports provided training to 600 volunteers."

<http://www.gsb.gov.tr/HaberDetaylari/1/3622/Corporate.aspx> Access date: December 25, 2015.

<sup>78</sup> This portal can be reached from: <http://gencgonulluler.gov.tr/>

- 1) Voluntarism should be acknowledged in the Labor Law and should be accepted as a relationship between the CSO and the volunteer. Different forms of voluntarism should be sought for in the legal framework in a flexible manner.
- 2) Greater integration of CSO statistics in the official statistical programme kept by the Turkish Statistical Institute is needed. This also includes data provided by DoA and the GDoF that should be incorporated into the national statistics system, thus increasing the quantity and quality of CSO-related data available for public and avoiding duplication.
- 3) Public institutions should prepare manuals to guide CSOs in the reporting process, in order to obtain high quality data from CSOs.
- 4) Corporate social responsibility policies should be promoted and certain tax exceptions should be introduced.
- 5) Subjects relating to civil society should be included in the curriculum and strategy and documents should be prepared with respect to promoting civic engagement through education.

**Sub area 2.3., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.**

**1.2.a. Number of employees in CSO (permanent and part-time)**

- The share of total employment in CSOs is only 0,20% of total workforce (The national target is 0,5 %). Employees working in associations account for 0,13% (33.783 employees) and those working in foundations for 0,07% (17.193 employees) of the total employment in Turkey in 2013.

**1.2.b. Number of volunteers in CSOs per type of CSO / sector**

- Turkey is the only country (among those covered by this report) that collects data on volunteers in a more systematic way. Officially, 94% of volunteers are engaged in foundations and only 6% in associations. According to data provided by GDoF as of 2014, there are 1.021.801 volunteers in foundations, whereas according to data obtained from the DoA, as of 2013, there are 75.608 volunteers in associations. However, the data are not fully reliable, since there is no official definition of volunteering, and some foundations, for example, declare their founders as volunteers. Under these conditions, there is no assessment if the number of volunteers increased by 100%.

**1.2.c. Quality of legislative framework**

- In Turkey, CSOs are subject to the Labor Law and there are no special provisions with respect to CSO employees.
- The Labor law does not clearly define volunteering and status of volunteering without causing any additional burden /cost for CSOs. There is no practice of tax-free reimbursement of travel expenses and per diems to volunteers.

**Area 3: Government-CSO Relationship**

**Sub-area 3.1.: Framework and practices for cooperation**

*The evaluation of this sub-area is based on following standard: (1) The State recognizes, through the operation of its institutions, the importance of the development of and cooperation*

*with the sector. Standard 2: The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector*

**In 2015, the state of CSO-Government relations has not been improved in terms of adopting new strategies and policies. Contrary to Western Balkan countries where the majority of the countries have concluded or started the process of adoption of strategic documents that regulate the standards and mechanisms for CSOs-Government cooperation, in 2015 an overreaching national strategic document creating mechanisms for CSO-Government cooperation is still missing.<sup>79</sup> In Turkey, public sector-CSO relations are not continuous and are left to the discretion of the public institutions' decision makers. CSOs' involvement in decision-making processes in Turkey is not obligatory and may be realized only through invitation with limited possibility to comment the draft legislation.**

**64<sup>th</sup> Government's 2016 Action Plan:** Recently, in December 2015 the government published the action plan for the planned reform steps to be taken until December 2016. 64<sup>th</sup> Government's 2016 Action Plan includes actions and reforms to be accomplished in 3 months, 6 months and one year. A comprehensive Civil Society Law is among the one year commitments of the government. Further details on the content of this law plan are not yet available. This action plan, first and foremost, undertakes to adopt a "Civil Society Law" as part of strengthening basic rights and freedoms. Civil Society Law will aim at regulating legal statutes, institutional structures, activities, financial resources of CSOs; and as well as civil society- public sector relations. There are also several other undertakings of the government that may enhance deliberations and participation of civil society in public policy making.<sup>80</sup> Despite concrete undertakings of the government, responsible Ministries have not started preparations to adopt reforms yet. Further details on the content of this law plan are not yet available.

At the central level the most important piece of legislation on the issue is Regulation on the Procedures and Principles of Drafting Legislation, which foresees that legislation drafts shall be sent to related ministries and public institutions and organizations to solicit their opinions. According to the Regulation on Procedures and Principles of Strategic Planning in Public Administration (2006), Clause 5, the institution is responsible to ensure the participation of CSOs and that their contributions are received. However, no clear indication regarding the selection process, criteria, or methods and means of integrating the received contributions is available in the regulation. Furthermore, no consistent mechanisms for monitoring and reporting the participation of CSOs and/or their contributions have been defined. Thus, it is not possible to measure the extent of consultations with CSOs or to what extent their contributions were integrated in the plans.

According to the Regulation on Procedures and Principles of Strategic Planning in Public Administration (2006) Article 7 paragraph 2 states, "(...) non-governmental organizations shall

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<sup>79</sup> *Monitoring Matrix on Enabling Environment for Civil Society Development. Regional Report for 2014.* Balkan Civil Society Development Network (BCSDN).

[http://monitoringmatrix.net/wp-content/uploads/2015/06/MM-Regional-Report-2014-final\\_web.pdf](http://monitoringmatrix.net/wp-content/uploads/2015/06/MM-Regional-Report-2014-final_web.pdf)

Access date: December 25, 2015.

<sup>80</sup> *64th Government's 2014 Action Plan.*

<http://www.basbakanlik.gov.tr/docs/KurumsalHaberler/64.hukumet-eylem-plani-kitap.pdf>

The relevant clauses are: a) Adoption of public sector reforms for provision of just, efficient, effective, high quality public services; b) Reforming the law on the establishment and Functioning of the Economic and Social Council; c) Further reforms to revise basic rights and freedoms in line with international standards; d) Adoption of regulation on ethics; e) Adoption of regulation on protection of personal data; f) Preparations of e-government strategy and action plans; g) Adoption of comprehensive Income Tax Law; h) Adoption of Official Secrets Act.

submit their opinions regarding the drafts within 30 days. Where no response is received in this time the lack of response will be treated as an affirmative opinion". These provisions indicate that it is not obligatory to send the legislation amendments to CSOs to solicit their opinion, however, where it is sent and CSOs do not reply within a certain period then their lack of response is treated as an affirmative opinion. Considering their limited institutional capacity, expecting CSOs to respond within 30 days is most often not realistic. The most important underlying reason is the lack of sufficient human and financial resources that would enable the CSOs to evaluate such legal regulations. At this point providing support for CSOs through public resources is of great significance.

Despite the lack of a general strategy document, there is a reference to communication and cooperation with respect to shared goals between the public sector and civil society in the Strategy Plans prepared by the ministries and various organizations in accordance with the Law No 5018 on Public Finance Management and Control. All public institutions including Ministries and municipalities at the local level are required to draft strategic plans. According to the Regulation on Procedures and Principles of Strategic Planning in Public Administration (2006), Clause 5, a public institution is responsible to ensure participation of CSOs and to receive their contributions.

10th National Development Plan of Turkey was drafted by the Ministry of Development in 2012-2013 with broad consultations of CSOs. The plan identified the need for legal and institutional reforms related to civil society; argues a need for a holistic policy for civil society that will also lay down the framework of public sector and CSOs relations including public funding; and for increased capacity of CSOs. The Plan also mentions several goals regarding civil society, specifically at local level. Some of the goals defined are (1) *increasing human, administrative and technological capacities of CSOs at local level*, (2) *increasing participation to civil society* (3) *increasing the participation and contribution of civil society in local level policy processes*. The 10th National Development Plan foresees the following actions: 1) *Comprehensive legal and institutional changes to support institutional capacities of CSOs to enhance their accountability and sustainability*, 2) *Supporting CSOs which pursue public benefit and operate in the line with national priorities*, 3) *Reviewing and revising tax/fiscal treatment of CSOs to support their involvement in development process*, 4) *Revising tax exemption and public benefit statuses in accordance to international standards and practices*, 5) *Determining internal and external auditing standards for CSOs to reach efficient and objective audit practices*.<sup>81</sup> Following 10th National Development Plan of Turkey drafted by the Ministry of Development, other Ministries that would be responsible institutions of the reform steps discussed above have also followed these plans and formulated specific actions in their strategic plans. Ministry of Interior's strategy plan for 2015-2019 includes a separate section on supporting activities of civic initiatives. There are two objectives determined under objective 3: (3.1) to empower capacity of public authorities serving civic initiatives (institutional and human resources capacity) and (3.2) to enable participatory, powerful, dynamic, transparent and accountable civic initiatives.<sup>82</sup> The legal reforms mentioned under 3.2 includes broadening the scope of tax incentives provided for individual and corporate giving, revision of definitions of public benefit and tax exemption statuses in accordance with international standard and practices, legal and institutional reforms to support institutional capacity, sustainability and accountability of CSOs (exemplified as determining internal and external audit standards for efficient and objective auditing). Although this strategy plan includes a performance indicator concerning significance of participation of civil society in decision

<sup>81</sup> 10<sup>th</sup> Development Plan. Ministry of Development.

<http://www.kalkinma.gov.tr/Lists/Kalknma%20Planlar/Attachments/12/Onuncu%20Kalk%C4%B1nma%20Plan%C4%B1.pdf> Access date: November 24, 2014.

<sup>82</sup> Strategy Plan of 2015-2019. Ministry of Interior. <http://www.sp.gov.tr/tr/stratejik-plan/s/958/Icislari+Bakanligi+2015-2019> Access date: November 24, 2015.

making structures, sub-activities to achieve this objective is limited to public sector-civil society collaborations in meetings, workshops. Ministry of Interior's strategy plan for 2015-2019<sup>83</sup> and performance programme for 2015<sup>84</sup> does not include comprehensive provisions to put forward a government strategy nor relevant legal or operational framework laying out public sector-CSO relations.

In summary, Law No 5018 on Public Finance Management and Control requires all public institutions including Ministries and municipalities in the local level to prepare strategic plans and Clause 5 of the Regulation on Procedures and Principles of Strategic Planning in Public Administration (2006) makes public institutions responsible to ensure the participation of CSOs and to receive their contributions. As an example of good practice, the 10th National Plan can be assessed as a progressive plan with regards to its civil society focus and approaches, and in comparison to the 8th National Development Plan of Turkey for the period 2001-2005 which had no reference to CSOs and no single policy action for civil society development<sup>85</sup> and previously 9th National Development of Turkey<sup>86</sup> which had only one single reference to civil society. However, despite these progresses, no clear indication regarding the selection process, criteria, or methods and means of integrating received contributions is available in the regulation. Furthermore, no consistent mechanisms for monitoring and reporting the participation of CSOs and/or their contributions have been defined. Thus, it is not possible to measure the extent of consultations with CSOs or to what extent their contributions were integrated in the plans.

**Except for a few Ministries such as the Ministry of EU Affairs and Ministry for Youth and Sports, the majority of the Ministries do not have contact points for CSOs to maintain, sustain and foster relations with CSOs.** "Civil Society, Communication and Cultural Affairs Directorate" of the Ministry of EU Affairs operates with the aim to facilitate civil society participation in EU accession process, collect their input and opinions and coordinate relations among civil society, private sector, local administrations and universities. Another public institution that has contact points for civil society and has appointed a CSO communication officer to ensure outreach to CSOs in a pro-active manner and to facilitate relations with CSOs.<sup>87</sup> In 2013, the Ministry of Youth and Sports established the Department of Civil Society Organisations under the Directorate of Youth Services (DoCSO). In 2015, there is no new contact point set up to facilitate participation of CSOs other than examples indicated above. According to a research report published by the Yaşama Dair Vakıf (YADA), the majority of the public officials state that the dialogue between CSOs and public institutions is not efficiently maintained. According to the same report dialogue is hindered due to public institutions: (1) lack of knowledge on when and how to include CSOs, (2) lack of information, know-how and tools for maintaining and sustaining an effective dialogue, (3) the limitations in

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<sup>83</sup> 2015-2019 Strategy Plan. Ministry of Interior.

[http://www.sp.gov.tr/upload/xSPStratejikPlan/files/GYd60+Icisleri\\_Bakanligi\\_2015-2019\\_Stratejik\\_Plan.pdf](http://www.sp.gov.tr/upload/xSPStratejikPlan/files/GYd60+Icisleri_Bakanligi_2015-2019_Stratejik_Plan.pdf)

Access date: November 24, 2015.

<sup>84</sup> Performance Programme for 2015. Ministry of Interior.

[http://www.sp.gov.tr/upload/xSPRapor/files/unZIW+Icisleri\\_2015\\_Yili\\_Performans-Programi.pdf](http://www.sp.gov.tr/upload/xSPRapor/files/unZIW+Icisleri_2015_Yili_Performans-Programi.pdf) Access date: November 23, 2015

<sup>85</sup> Long-term Strategy and 8<sup>th</sup> Five-year Development Plan. Ministry of Development. 2001-2005.

Access date: November 24,

2014 <http://www.kalkinma.gov.tr/Lists/Kalkinma%20Planlar/Attachments/2/Eight%20Five-Year%20Development%20Plan%202001-2005.pdf>

<sup>86</sup> 9<sup>th</sup> Development Plan 2007- 2013. Ministry of Development.

<http://www.kalkinma.gov.tr/Lists/Kalkinma%20Planlar/Attachments/1/Ninth%20Development%20Plan%202007-2013.pdf> Access date: November 24, 2015

<sup>87</sup> "Ombudsman Institution has been established". Grand National Assembly of Turkey.

[http://global.tbmm.gov.tr/index.php/EN/ys/haber\\_detay/79](http://global.tbmm.gov.tr/index.php/EN/ys/haber_detay/79) Access date: February 12, 2015

the legal framework and (4) consultation and cooperation with CSOs are not defined in the operational work plans of their institutions.<sup>88</sup>

An important problem raised by CSOs operating in different fields was the fact that the existing legislative framework is inadequate in responding to the needs and demands of CSOs. Deficiencies and shortcomings in the implementation of laws occur because of the fact that public sector employees are not well-informed of the existing legislation. CSO representatives who participated in the meetings expressed that due to the fact that public employees are not well informed of legislation in many areas, a lot of problems in practice occur. Employees in public institutions lack adequate knowledge of the existing laws and legislation and this causes poor utilization of existing rights.<sup>89</sup>

Draft legislation on the Collection of Aid included provisions for establishment of several new bodies such as a Civil Society Council and a Civil Society Board as consultative bodies regarding civil society related matters in general. This draft legislation was expected to be submitted to the Parliament in 2014, yet the current progress is not known.<sup>90</sup>

The main recommendations for Sub-area 3.1 are:

- 1) The legislation defining CSO involvement in decision making is not binding for the public institutions. Provisions ensuring civil society participation should be added to the legislation.
- 2) Relationship with civil society is not an area that the public sector considers strategic. Public institutions/ units that would directly manage the relationship with civil society should be formed.

**Sub area 3.1., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.**

**3.1.b. Quality of structures and mechanisms in place for dialogue and cooperation between CSOs and public institutions in terms of: - CSO representation in general, - representation of smaller/ weaker CSOs, - its visibility and availability, - government perception of quality of structures and mechanisms, - CSOs perception of structures and mechanisms**

- There is no designated body, institution or contact point for maintaining and coordinating dialogue between CSOs and the government. Except for a few Ministries such as the Ministry of EU Affairs and Ministry for Youth and Sports, the majority of the

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<sup>88</sup> YA DA Foundation. 2014. *Türkiye’de Sivil Toplumun Gelişimi ve Sivil Toplum Kamu İşbirliğinin Güçlendirilmesi Projesi. Sivil Toplum Kuruluşlarına Yönelik Algı ve Yaklaşımlar. [Strengthening Civil Society Development and Civil Society – Public Sector Dialogue in Turkey Project. Perception and approaches towards Civil Society Organizations. Access date: December 8, 2015.*

<http://tr.yada.org.tr/pdf/4537ea420a0c48c9ca6acb81213hdsad2312da.pdf>

<sup>89</sup> *Civil Society Public Sector Cooperation Project. Local Consultation Meeting Outcomes Report. TUSEV.*

<http://www.siviltoplum-kamu.org/usfiles/files/Local-Consultation-Meetings-Outcomes.doc> Access date: December 13, 2015

<sup>90</sup> Several criticisms to the draft have been brought by various CSOs such as that these bodies are designed to operate under the Ministry of Internal Affairs, extensive consultation was not conducted during preparation and drafting of the law and CSOs are not meant to be equally represented in the proposed bodies as state representatives. TUSEV brought their recommendations on the basis of results of consultations.

[http://www.tusev.org.tr/usfiles/files/YardimToplamaKanunuTasarisi\\_TUSEV\\_Onerileri\\_16mayis.pdf](http://www.tusev.org.tr/usfiles/files/YardimToplamaKanunuTasarisi_TUSEV_Onerileri_16mayis.pdf) Access date: November 25, 2014

Ministries do not have contact points for CSOs to maintain, sustain and foster relations with CSOs. Thus, in Turkey %70 of Ministries did not set up such bodies/units.

### **Sub-area 3.2.: Involvement in policy- and decision-making process**

*The evaluation of this sub-area is based on following standards: (1) There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner; (2) All draft policies and laws are easily accessible to the public in a timely manner; (3) CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes.*

**There is no standardized approach with regards to participation of CSOs in policy-development and decision making processes due to absence of a holistic legal and institutional framework. Thus, participation usually occurs in an ad-hoc and inconsistent manner mostly based on personal relations and initiatives rather than on institutional duties and responsibilities.**

In the consultations made within the context of the Strengthening Civil Society Development and Civil Society-Public Sector Dialogue in Turkey project<sup>91</sup> CSOs mostly refer to the inadequacy of legal framework regulating state-civil society cooperation, the lack of transparency and accountability of the public sector, low levels of awareness and knowledge of public officials of the role of civil society and the existing laws and rights, non-egalitarian and discriminatory approach of the public sector towards CSOs, and lack of opportunities for CSOs in developing financial and human resources.<sup>92</sup>

According to the Regulation on Procedures and Principles of Strategic Planning in Public Administration (2006), Clause 5, a public institution is responsible to ensure the participation of CSOs and to receive the contributions. Adoption of participatory approaches in the preparation of strategic planning documents of public authorities is required by law. The fieldwork indicates, participatory approaches mostly exemplified with workshops and surveys conducted by public authorities. Yet, strategic planning documents either provide little information on the conclusions of the consultation meetings or in what ways these feedbacks were included in the final versions of the strategic planning documents. Ministry of EU Affairs organized a one day workshop to collect feedback from stakeholders to improve 2013-2017 Strategic Plan and conducted a survey for 204 respondents of which 30% were CSO representatives.<sup>93</sup> Ministry of Science, Industry and Technology organized 23 consultation meetings with stakeholders in 21 cities and has reached 875 representatives from CSOs, universities, organizations that collaborate with the Ministry and other relevant stakeholders. Additionally, 755 respondents have participated in the survey conducted by the Ministry.<sup>94</sup>

With regards to the content of strategic plans, several ministries such as the Ministry of Youth and Sports, Ministry of Family and Social Policies, Ministry of Science, Industry and Technology, and Ministry of Health defined CSOs as stakeholders and lay down relevant activities and goals in their strategic plans covering the period of 2013-2017. A few Ministries,

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<sup>91</sup> Please see the details of this project in Annex 2, Supplementary TUSEV research: Civil Society-Public Sector Cooperation Project.

<sup>92</sup> *Civil Society Public Sector Cooperation. Local Consultation Meeting Outcomes Report.* TUSEV. <http://www.siviltoplum-kamu.org/usrfiles/files/Local-Consultation-Meetings-Outcomes.doc> Access date: December 13, 2015

<sup>93</sup> 2013 – 2017 Strategy Plan. Ministry of EU Affairs. [http://www.sp.gov.tr/upload/xSPStratejikPlan/files/Mtea0+AB\\_Bakanligi\\_2013-2017\\_donemi\\_Stratejik\\_Plan.pdf](http://www.sp.gov.tr/upload/xSPStratejikPlan/files/Mtea0+AB_Bakanligi_2013-2017_donemi_Stratejik_Plan.pdf) Access date: November 23, 2015.

<sup>94</sup> 2013 – 2017 Strategy Plan. Ministry of Science, Industry and Technology. [http://www.sp.gov.tr/upload/xSPStratejikPlan/files/Tbboe+Bilim\\_Sanayi\\_ve\\_Teknoloji\\_Bakanligi\\_2013-2017\\_Stratejik\\_Plan.pdf](http://www.sp.gov.tr/upload/xSPStratejikPlan/files/Tbboe+Bilim_Sanayi_ve_Teknoloji_Bakanligi_2013-2017_Stratejik_Plan.pdf) Access date: November 23, 2015.



such as the Ministry of Youth and Sports<sup>95</sup>, and the Ministry for Family and Social Policies<sup>96</sup> have also identified civil society as both a beneficiary and a partner in service provision.<sup>97</sup> However, although the public institutions are held responsible to publish progress reports regarding their strategic plans, due to the fact that no concrete and transparent monitoring and evaluation mechanism is available, it is not possible yet to assess the level of implementation of the actions and policies foreseen in the plans regarding civil society.

Some participation practices that occur at different levels of participation (information provision, consultation, dialogue and partnership) are consultations held by several Ministries on law and regulation drafts, on preparation of development plans or strategic plans, on EU accession process; consultations held by some Parliamentary Commissions on laws; joint committees held for monitoring implementation of laws and regulations; councils at local level to propose policies and programmes for Municipalities. In majority of these examples, CSOs are not natural and equal parties in decision-making, their engagement stays generally at advisory level and their participation is maintained via invitations from the relevant public body. There are rare examples of CSO involvement in the advisory committees founded under some Ministries (e.g. Ministry of National Education), generally, such committees do not involve CSOs. CSOs state that important reports (e.g. Human Rights Commission Reports, Prison Commissions Reports) are prepared without CSO consultation.<sup>98</sup>

In the consultation meetings with CSOs, it has been widely reported that, CSOs participation in consultations are more welcomed in the field of social policy of which public institutions have limited capacity and expertise. In this field, CSOs offer their technical expertise and capabilities with their limited resources. In return, public sector elaborates on such relation as an indication of increasing civil society-public sector relations, whereas from the perspective of CSOs this is merely a one-sided, on demand technical supervision and cannot be presented as a holistic and meaningful participation.<sup>99</sup>

**The lack of transparency in accessing information hinders the involvement of civil society participation in policy-making.** Based on the Regulation on the Procedures and Principles of Legislation Preparation, policy drafts can be publicized by a ministry through printed or visual media to inform the public and to ask for feedback only if the draft concerns the general public. Accordingly, due to this clause, the publication of the draft laws remains at the discretion of the Ministries. There is an increase in the number of published drafts, yet not all drafts are being published.

45,5 % of survey respondents find difficult to access the draft law and policy documents that are in the agenda of public institutions. Respondents stated that the accesses to the documents prepared in the parliamentary committees are very limited. A respondent claimed the process is almost not traceable, the responsible public institutions for the legislation changes remain unknown and the coordination among public institutions is lacking. Another survey participant claimed to trace the process one should be a lawyer with technical information.

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<sup>95</sup> 2013- 2017 Strategy Plan. Ministry of Youth and Sports.

<http://dergi.gsb.gov.tr/2013-2017-GSB-STRATEJIK-PLAN/> Access date: November 22, 2015.

<sup>96</sup> 2013-2017 Strategy Plan. Ministry of Family and Social Policies.

[http://sgb.aile.gov.tr/upload/Node/20076/files/stratejik\\_plan\\_2013\\_2017.pdf](http://sgb.aile.gov.tr/upload/Node/20076/files/stratejik_plan_2013_2017.pdf) Access date: November 22, 2015.

<sup>98</sup> *Civil Society Organizations and Public Sector Relations: Problems and Expectations. The Results of the Consultation Meetings and an Evaluation.* TUSEV. Access date: November 25, 2014.

<http://www.siviltoplum-kamu.org/usrfiles/files/Civil-Society-Organizations-and-Public-Sector-Relations.pdf>

<sup>99</sup> *Ibid.*

Majority of survey respondents (66,2 %) stated they follow up working plans of public institutions (e.g. draft laws, draft strategy plans, plans for reforms) from the media (printed, visual and social media) and from civil society networks (55,8 %). Third most selected option is the websites of the Ministries (49,4 %).

The Right to Information Law (No. 4982, 9/10/2003) lays down some limitations to access to information. The most important problems in the existing legislation is that it gives the public institutions the right not to disclose information if the information requested (1) necessitates additional research and work, (2) is accepted as a “state secret”, (3) would challenge the “national security” or “economic benefits of the country” or (4) is related with the internal operations of the public institution having no public concern dimension.

The concepts such as state secret, national security or economic benefits of the country are not defined clearly in the legal framework and hence public institutions are given wider interpretation authority and discretionary power. The Grand National Assembly of Turkey published a comprehensive report on the requests for information made in 2014. Out of 3.298.465 requests, 95% (3.118.864) of them accepted and only 3 % (99.166) were rejected. However, only 8.471 (0.27 %) requests were provided with necessary information and documents. Despite low response rate to request to access information requests, this report states the total number of requests for information was increased to 18 % comparing to earlier year.<sup>100</sup>

It is important to note that in scope of the Open Government Partnership (OGP) Initiative<sup>101</sup>, government of Turkey had committed to publicize all draft legislations on a web platform to enable a wide scale consultation. Introduction of different web platforms are also among commitments of the government to increase transparency, accountability and participation.<sup>102</sup> However, in the plan proposed by the Government of Turkey, no specific deadline was presented for the actions. Since 2011, no progress has been announced nor observed regarding the web portals committed in the Plan. In addition, although it is one of the requirements of the Open Government Partnership, no consultation or participation has been achieved for in drafting, implementing or monitoring the action plans.

**At the local level, although still not systematic, some cases of consultation and dialogue with CSOs have been reported in 2015.**<sup>103</sup> Each municipality in Turkey is obliged to establish a City/Urban Council, which allows CSO participation. According to the Law on Municipalities, City Councils should also include representatives from CSOs. Therefore, at local level, maintaining CSO participation in these Councils is held mandatory for municipalities. In addition, the municipalities are held responsible to support (also financially) the activities of the city councils. Last, but not least, the Law makes it mandatory for Municipalities to place opinions adopted by Councils on the agenda of the elected municipal council. However, problems in implementation are observed.

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<sup>100</sup> [https://www.tbmm.gov.tr/bilgiedinme/2014\\_raporu\\_baskanlik\\_aciklamasi.pdf](https://www.tbmm.gov.tr/bilgiedinme/2014_raporu_baskanlik_aciklamasi.pdf)

<sup>101</sup> Open Government Initiative was set up in 2011 and governments of 65 participating countries (by December 2014) set up action plans with participation of civil society to undertake reforms to make governments more accountable, transparent, open and responsive to citizens.

<sup>102</sup> The action plan of Turkey includes setting up websites including; [transparency.gov.tr](http://transparency.gov.tr), [spending.gov.tr](http://spending.gov.tr), [regulation.gov.tr](http://regulation.gov.tr) and electronic public procurement platform. <http://www.opengovpartnership.org/country/turkey>

<sup>103</sup> These cases are being reported through a fieldwork for the research analyzing case Studies on the civil society – public sector cooperation was held between September- December 2015. An expert conducted 35 interviews with public officials and CSO representatives throughout Turkey to reveal practices of the involvement of civil society in public policy making. This report is not available online yet.

The number of municipalities that established city councils is still limited and CSOs argue that participation are not maintained and sustained in a transparent and accountable manner.<sup>104</sup> Another factor demotivating active participation of CSOs is that, although City councils are significant mechanisms for participation of CSOs but the decisions made by them have limited impact upon the policies of the local administration.<sup>105</sup> CSOs mentioned cases of best practices of city councils in Nilüfer, Canakkale, Diyarbakir, Batman and Alanya municipalities where CSO participation were ensured in relatively more standardized processes. City councils are expressed as the best working mechanism in terms of CSO-public sector cooperation. Even though it takes a long time to have positive results about the demands and requests raised by CSOs in the city councils, city councils were expressed as a productive instrument for CSOs who are trying to raise awareness in the public sector.<sup>106</sup> The fieldwork made in 2015 indicated, to comply with the Regulation on Procedures and Principles of Strategic Planning, Metropolitan Municipalities of some cities used participatory methods in the preparation of their 2015-2019 Strategic Plans. Hatay Metropolitan Municipality reached out to 722 citizens in its 15 district via a survey.<sup>107</sup> Kayseri Metropolitan Municipality conducted a survey to gain insights from stakeholders but only Kayseri Chamber of Industry and Kayseri Chamber of Commerce were included in this research as representatives of civil society.<sup>108</sup> Izmir Metropolitan Municipality conducted a research targeting different stakeholders including CSOs following a comprehensive stakeholder analysis in the preparation of 2015-2019 Strategy Plan.<sup>109</sup>

**The relevant law and regulations do not define objective mechanisms, procedures and criteria with respect to the selection processes of CSOs that are to be involved in policy processes (e.g. consultation, dialogue).<sup>110</sup> Thereby, the process of selection process is not transparent and accountable.** In the absence of standards, guidelines and frameworks, dialogue between CSOs and public institutions are maintained and sustained via individual relations between civil servants and CSO representatives. Hence, civil society-public sector cooperation is often built via personal ties and hence especially rights-based CSOs, which do not enjoy some level of proximity to public institutions, can face risk of exclusion from policy-making processes.<sup>111</sup>

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<sup>104</sup> *Civil Society Public Sector Cooperation Project. Local Consultation Meeting Outcomes Report.* TUSEV.

<http://www.siviltoplum-kamu.org/usrfiles/files/Local-Consultation-Meetings-Outcomes.doc> Access date: December 13, 2015

<sup>105</sup> [http://www.siviltoplum-kamu.org/usrfiles/files/TuSEV-yasal-calismalar-Mersin-Toplantisi\\_07042015.pdf](http://www.siviltoplum-kamu.org/usrfiles/files/TuSEV-yasal-calismalar-Mersin-Toplantisi_07042015.pdf)

<sup>106</sup> Good examples mentioned are compiled from nine reports drafted by TUSEV summarizing the 11 local consultation meetings conducted within the Strengthening Civil Society Development and Civil Society-Public Sector Dialogue in Turkey Project. Reports are accessible at [www.siviltoplum-kamu.org](http://www.siviltoplum-kamu.org).

<sup>107</sup> *2015-2019 Strategy Plan. Hatay Metropolitan Municipality.* <http://www.sp.gov.tr/tr/stratejik-plan/s/1129/Hatay+Buyuksehir+Belediyesi+2015-2019> Access date: December 17, 2015

<sup>108</sup> *2015-2019 Strategy Plan. Kayseri Metropolitan Municipality.* [http://www.sp.gov.tr/upload/xSPStratejikPlan/files/fmwAS+IY\\_DosyaGoster.pdf](http://www.sp.gov.tr/upload/xSPStratejikPlan/files/fmwAS+IY_DosyaGoster.pdf) Access date: December 17, 2015

<sup>109</sup> *2015-2019 Strategy Plan. İzmir Metropolitan Municipality.* [http://www.sp.gov.tr/upload/xSPStratejikPlan/files/H00Se+Izmir\\_2015\\_19StratejikPlan\\_web\\_1\\_.pdf](http://www.sp.gov.tr/upload/xSPStratejikPlan/files/H00Se+Izmir_2015_19StratejikPlan_web_1_.pdf) Access date: December 17, 2015

<sup>111</sup> *Civil Society Public Sector Cooperation Project. Mersin Consultation Meeting Outcomes Report.* TUSEV.

[http://www.siviltoplum-kamu.org/usrfiles/files/TuSEV-yasal-calismalar-Mersin-Toplantisi\\_07042015.pdf](http://www.siviltoplum-kamu.org/usrfiles/files/TuSEV-yasal-calismalar-Mersin-Toplantisi_07042015.pdf) Access date: December 17, 2015

**The knowledge level of the civil servants about civil society, means, ways, and methods of involvement of CSOs in policy processes becomes crucially important in the absence of standards, guidelines and frameworks.** State institutions do not prepare, provide or conduct comprehensive and systematic training programs on these topics. In addition, due to the fact that CSO involvement in policy processes are not defined within the responsibilities and work plans of public institutions, when and if a positive relation between CSOs and the public sector occurs, it is because of the approach and voluntary dedication of the civil servants in the process. Thereby, since the dialogue is not institutionalized, the relations are either halted or start from scratch when those civil servants are appointed to another position.

Majority (71, 5 %) of the survey respondents in 2015 have chosen “not at all” and “little” options, when they were asked to assess the statement “The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/training”.

**SUMMARY: Public-CSO relationships are not continuous and are left to the discretion of the public institutions’ decision makers. There is neither a government strategy nor relevant legal or operational framework laying out Public Sector-CSO relations. There are no objective mechanisms and procedures with respect to the selection processes of the CSOs and their representatives that get involved in the consultation processes. Problems regarding applications made in accordance with the Right to Information Law continue to arise in practice. Common problems that arise often include differences in application procedures; instances where no response is provided within the time period prescribed under the law and questions left unanswered or insufficiently answered on the grounds that additional research is required to respond.**

The main recommendations for Sub-area 3.2 are:

1. All draft legislation and policy documents prepared by the public institutions must be accessible by all, required mechanisms for the CSOs to provide their opinions should be developed and a sufficient time (30 days) to respond should be respected.
2. The legislation should be binding in order to be able to solve problems faced during the implementation of the Right to Information Law
3. Provisions with respect to CSOs involvement in the decision-making process should be added to the legislation.

**Sub area 3.2., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.**

**3.1.a. Percentage of law/bylaws, strategies and policy reforms effectively consulted with CSOs in terms of: - 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 / publication of consultation results.**

- The relevant law and regulations do not define objective mechanisms, procedures and criteria with respect to the selection processes of CSOs that are to be involved in policy processes (e.g. consultation, dialogue). Thereby, the process of selection process is not transparent and accountable.

- CSOs are seldom able to participate in legislation and when they do engage in law making processes, they are only able to do so in a limited/one-way consultation. There is no data on the percentage of laws/bylaws, strategies and policy reforms effectively consulted with CSOs.
- CSOs that are consulted prior to or during legislation are not provided regular updates on the progress of the legislative process and are excluded from the further or final steps of the process. There is no objective mechanism that sets out the feedback, negotiation and cooperation methods regarding the consultation process.

### **Sub-area 3.3.: Collaboration in social provision**

*The evaluation of this sub-area is based on following standard: (1) CSOs are engaged in different services and compete for state contracts on an equal basis to other providers; (2) The state has committed to funding services and the funding is predictable and available over a longer-term period; (3) The state has clearly defined procedures for contracting services which allow for transparent selection of service providers, including CSOs; (4) There is a clear system of accountability, monitoring and evaluation of service provision.*

The relevant laws and regulations treat CSOs as equal to other legal entities and do not restrict the provision of services by CSOs in various areas in cooperation with the public sector. Provisions in the relevant regulations are binding with respect to the additional services to be provided by CSOs as well. The relevant legislation and regulations do not discriminate between CSOs and other legal entities. CSOs are entitled to obtain contracts in competition with other providers and engage in provision of various services (e.g., education, environment, research, and training). Yet, the legislation does not include special provisions with respect to service provision by CSOs. However, examples of service provision by the civil society remain very limited.

Although there are no barriers on CSO competition, as there is no practice of promoting such competition either, examples of service provision by the civil society are limited. CSOs can be in disadvantaged positions comparing to private firms when the lead criteria for evaluation for bids is the price.

Thus when expertise and quality of service are not included in the evaluation criterion, contracting services to CSOs is still not a common practice resulting in a limited number of CSOs benefiting public procurement funds.

There is also no general regulation with respect to involvement of CSOs in different stages of service development, from needs assessment to monitoring and evaluation. CSOs are able to contribute to different stages of service provision, if the protocol or tender assign them such duties. The relevant legislation currently in force and the provisions of the regulations provides for legal monitoring of the quality of the services provided by civil society.

CSOs receive public funding for the provision of different services through procurement, contracting or grants mechanisms. The budget enables funding for services by CSOs to be multi-year funding, but there is no holistic approach and terms of funding depend on the conditions of the each contract. There is no data on whether CSOs receive sufficient funding to cover the basic costs of services they are contracted to provide, including proportionate institutional (overhead) costs. There were instances in which CSOs reported there were delays in payments.

There is no regulation specifying the defined procedures for contracting services which allow for transparent selection of CSO to provide services. The procedures with respect to services are regulated under the legislation covers CSOs as well. There is no holistic approach with regard to selection criteria. Yet, in some of the cases price is the lead criterion for selection of

service providers but also there are instances that service providers are selected in accordance to their technical capacities. Ministry of Family and Social Policies publishes the protocol agreements signed with CSOs to implement common projects on its website. These protocols include provisions defining the objectives, scope of cooperation and liabilities of the parties of the protocol.<sup>112</sup> Yet, there is no policy document defining the conditions of selection of CSOs as partners. The monitoring and evaluation procedures of service provision are defined in the relevant legislation. This legislation does not include special provisions with respect to CSOs. There is no sufficient data on the quality of monitoring process since the results are not shared with the public. Monitoring and evaluation conditions with respect to service provision should be explicitly defined and shared with the relevant parties ahead of the tendering process.

The main recommendation for Sub-area 3.3 is:

- 1) CSOs are not excluded from service agreements but the service provision of CSOs is not a common practice. CSOs should be identified as service providers and special provisions with respect to service agreements of CSOs should be included in the relevant texts. As an example, to increase serviced provided for CSOs, instead of price, service quality and a financial assessment of contenders can be lead criterion for selection of service providers.
- 2) A broad policy document should be drafted with respect to public funding which explicitly define the conditions of selection.

## V. Used Resources and Useful Links

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## Useful Links

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Civil Society Index Project in Turkey<http://www.step.org.tr/>

Civil Society Public Sector Cooperation Project <http://www.siviltoplum-kamu.org/en>

Human Rights Joint Platform (IHOP) <http://www.ihop.org.tr/english/>

The International Center for Non-Profit Law ([ICNL](http://www.icnl.org/research/monitor/turkey.html)) [NGO Law Monitor: Turkey](http://www.icnl.org/research/monitor/turkey.html)  
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Istanbul Bilgi University. NGO Training and Research Center.<http://stk.bilgi.edu.tr/>

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Third Sector Foundation of Turkey <http://www.tusev.org.tr/tr>

# Annex 1

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## List of Interviewees

- Interview with Public officials (2 officials, the director and expert)- Istanbul Metropolitan Municipality, Directorate of European Union - 23.12.2015
- Interview with CSO representatives (3 representatives, 2 experts and the director)- Environmental field – 24.12.2015
- Interview with Public officials (3 experts) – Municipality, Equality department – 07.01.2016
- Interview with CSO representatives (2 representatives, Secretary general and Communications director)- Education field -08.01.2016

## List of consultations

- “Civilogue conference”: National conference and workshop with 38 participants on 4-6 November 2015, in Istanbul, Turkey
- “TACSO Turkey Fourth Local Advisory Group Meeting”: Local consultation meeting with 19 participants for a day on 1 July 2015, in Ankara, Turkey<sup>113</sup>
- "Discussing Active Participation in Civil Society: International Standards, Obstacles in National Legislation and Proposals Report with CSOs”: Local Consultation meeting with 11 participants for a day on 7 April 2015 in Mersin, Turkey
- “TACSO Turkey’s Consultative Workshop on Civil Society Guidelines” with 40 participants for 2 days on 16-17 December 2014 in Ankara, Turkey<sup>114</sup>
- “Economic Activities workshop”: TUSEV- ECNL project, a training workshop with 27 participants for a day, on 15th December 2014 in Ankara, Turkey

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<sup>113</sup> Please retrieve more information on this meeting from: <http://www.tacso.org/news/events/?id=12161>

<sup>114</sup> Please see list of participants and report

(in Turkish) from: [http://www.tacso.org/doc/tr20150202\\_annex2.pdf](http://www.tacso.org/doc/tr20150202_annex2.pdf)

# Annex 2

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## **Supplementary TUSEV research**

### **Civil Society- Public Sector Cooperation Project**

Within the context of the project, in 2012-2014, TUSEV has initiated 11 local consultation meetings conducted with 150 participants from 118 different NGOs from 12 cities in Turkey. CSO representatives expressed their positive or negative experiences regarding the public sector and civil society cooperation and discussed principles required to improve such cooperation in Turkey. One of the concrete and important expected outputs of the project is expected to be the drafting of a Code of Conduct for CSO-Public Sector relations. Additional information about the project is available at <http://www.tusev.org.tr/en/civil-society-law-reform/civil-society-public-cooperation-project>.

TUSEV has initiated further consultation meetings in 2014 for drafting amendments based on the results of research entitled “Active Participation In Civil Society: International Standards, Obstacles in National Legislation, Recommendations” conducted by legal scholars (Ayata & Karan, 2014). These meetings were held in Istanbul, Ankara and Bursa and attended by 39 CSOs with 47 representatives from these organizations. In these consultation processes, CSOs mostly refer to the inadequacy of legal framework regulating state- civil society cooperation, the lack of transparency and accountability of the public sector, low levels of awareness and knowledge of public officials on the role of civil society and the existing laws and rights, non-egalitarian and discriminatory approach of the public sector towards CSOs, and lack of opportunities for CSOs in developing financial and human resources.

As part of this project, a fieldwork for the research analyzing case studies on the civil society – public sector cooperation was held between September-December 2015. An expert conducted 35 interviews with public officials and CSO representatives throughout Turkey to reveal practices of the involvement of civil society in public policy making. These cases were included in the relevant sections of this report. This report is not available online yet.

### **Civil Society Monitoring Report Project**

TUSEV has been analyzing the state of civil society in Turkey through the Civil Society Monitoring Project annually since 2011 under the following headlines: Legislative Framework, Institutional Capacity, International Relations and Research. TUSEV shares important analyses report on current developments in the civil society through cases analyses via its website and social media channels (@TUSEV and @stkizleme).

The Civil Society Monitoring Report 2013-2014 (in Turkish) is available online: <http://www.tusev.org.tr/tr/arastirma-ve-yayinlar/sivil-toplum-izleme-raporu-1/sivil-toplum-izleme-raporu-2013-2014>

Some of case studies (in Turkish) are available at <http://www.tusev.org.tr/tr/arastirma-ve-yayinlar/sivil-toplum-izleme-raporu-1/sivil-toplum-izleme-raporu-2013-vaka-analizleri>

# Annex 3

## Turkey: Economic, Political and Social indicators

<b>UN Humanitarian Development Report 2015</b>	Score: 0.761/1 Rank:72 (Among 188 countries)
<b>Freedom House Freedom in the World Report 2015</b>	Status: Partly Free Freedom ranking: 3,5/7 Civil liberties: 4/7 Political rights: 3/7 (1 = BEST, 7 = WORST)
<b>Freedom House Freedom on the Net Report 2015</b>	Status: Partly Free Score: 48 (0 = BEST, 100 = WORST) Obstacles to Access (0-25) : 13 Limits on Content (0-35): 20 Violations of User Rights (0-40): 25
<b>Freedom House Freedom of the Press Report 2015</b>	Status: Not Free Rank: 142 (Among 199 countries) Score: 65 (0 = Best, 100 = Worst) Legal Environment: 24 (0 = Best, 30 = Worst) Political Environment: 27 (0 = Best, 40 = Worst) Economic Environment: 14 (0 = Best, 30 = Worst)
<b>Reporters without Borders . World Press Freedom Index 2015</b>	Rank: 149 (Among 180 countries)
<b>International Transparency Organization - Corruption Perceptions Index 2014</b>	Rank: 64(Among 174 countries)
<b>Charities Aid Foundation - World Giving Index 2014</b>	Rank:128 (Among 135 countries) Donating Money: % 12 Volunteering time rate: % 5 Helping a stranger rate:% 38
<b>Hudson Institute Philanthropic Freedom Index 2013</b>	Rank: 47 (Among 64 countries) Score: 3.1 (1= Best 5= Worst) CSO score: 3.3 (1= Best 5= Worst) Tax score: 3.0 (1= Best 5= Worst) Cross-border score: 3.0 (1= Best 5= Worst)
<b>Bertelsmann Stiftung's Transformation Index (BTI) 2014</b>	Status Index (1-10 ): 7.51      Rank: 20 Political Transformation (1-10 ): 7.55      Rank: 26 Economic Transformation (1-10 ): 7.46      Rank: 22 Management Index (1-10 ): 6.66      Rank: 14 (Among 129 countries)

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## 2014 WORLD BANK DATA

Capital	Ankara
Official Language	Turkish
Population, 2013	76.66 million
GDP,	798.4 billion dollars
GNI per capita, Atlas method (current US\$)	\$10,830
Life expectancy at birth, total (years)	75
Poverty headcount ratio at national poverty line (% of population)	2.3 %

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## CIVICUS CIVIL SOCIETY INDEX (CSI) 2011

### Key data on Civil Society

#### CSI Scores on 5 core dimensions

Total Score: 46,5

Civic Engagement:  
31 % (0 = BEST, 100 = WORST)

Level of  
Organization: 54,6  
% (0 = BEST, 100 = WORST)

Practice of Values:  
49,01 % (0 = BEST, 100 = WORST)

Perception of Effect:  
39,2 (0 = BEST, 100 = WORST)

External  
Environment: 57,5  
(0 = BEST, 100 = WORST)



# Annex 4

## Key Economic Data on the Non-Profit Sector in Turkey (2013)

Population (2013)			76.667.864
Number of CSOs in 2013: (97.970 associations & 4.757 foundations) <sup>115</sup>			102.727
Number of citizens per 1 CSO			746
<b><u>Data on Economic Performances Turkey (2013)</u></b>	<b><u>TOTAL</u></b>	<b><u>Associations</u></b>	<b><u>Foundations</u></b>
<b>GDP<sup>116</sup></b>		616.345.000.000	
<b>% of CSO income in GDP</b>		1,34	
<b>Total CSO Income</b>	<b>8.282.157.668</b>	<b>3.042.800.238</b>	<b>5.239.357.430</b>
	Income structure		
Foreign Donations	99.937.971	53.351.626	46.586.345
Membership Fee	1.242.954.528	281.107.138	961.847.390
Public Funds	700.129.748	148.322.519	551.807.229
Donations	2.852.556.908	1.265.006.707	1.587.550.201
Economic Activity Earnings	143.919.981	79.662.953	64.257.028
Financial Earnings	994.752.282	175.475.173	819.277.108
Other Income	2.178.486.458	970.454.329	1.208.032.129
Rent earnings	69.419.792	69.419.792	
<b>Total CSO Expenditure</b>	<b>4.916.022.161</b>	<b>2.561.770.347</b>	<b>2.354.251.814</b>
	Expenditure Structure		
Expenditures	966.564.472	713.537.088	253.027.385
Expenditure for employees	761.830.594	448.959.578	312.871.016
Expenditures towards fulfilling purpose of the foundations	2.873.008.082	1.084.654.669	1.788.353.414
Other expenditures	314.619.012	314.619.012	

<sup>115</sup> Source: Department of Associations and Directorate of Foundations

<sup>116</sup> <http://countryeconomy.com/gdp/turkey>

<b>Expenditure for taxes (VAT + personal income tax + profit)</b>		N/A	
<b>Number of CSO employees</b>	50.976	33.783	17.193
<b>Total employees in the country</b>		25.933.000 <sup>117</sup>	
<b>% of CSO employees in total employment</b>	0,20%	0,13%	0,07%
<b>Number of volunteers</b>	1.183.435	75.608	1.107.827 <sup>118</sup>
		<i>Exchange rate: 1 EUR = 2,87 TL (in 2013)</i>	

<sup>117</sup> Data is retrieved from Turkish Statistical Institute.  
<http://www.turkstat.gov.tr/UstMenu.do?metod=temelist>

<sup>118</sup> This number is not reliable as it is based on the declaration of foundations. Another issue is the absence of the definition of volunteering/ volunteers - some foundations declare their donors as the volunteers.