

ENABLING ENVIRONMENT FOR CIVIL SOCIETY DEVELOPMENT & PROGRESS REPORTS AND ENLARGEMENT STRATEGY 2015 BACKGROUND ANALYSIS



DEMOCRATIC STANDARDS UNFOLDING, BASIC RIGHTS UNDER THREAT

Civil society development and civil society dialogue are one of the priorities of the Enlargement process since 2007, rising in significance ever since. With the publication of the Communication “The Roots of Democracy and Sustainable Development: Europe’s Engagement with Civil Society in External Relations” in 2012, the European Commission (EC) laid down the set of preconditions that have to be in place in a country for functioning of the civil society. These conditions were developed into more detailed tool for monitoring of the civil society development for Enlargement countries – the Guidelines for EU Support to Civil Society in Enlargement Countries, 2014-2020. The Guidelines seems this year were finally more systematically used for the assessment of the state of civil society in the country progress reports, something which BCSDN has strongly advocated for.

The 2015 Enlargement package, the first one under the new Juncker’s Commission brings few novelties and some changes in the methodology. The Enlargement strategy is now multiannual, covering the whole period of the Commission’s mandate, with a reaffirmed focus on the “fundamentals first”: rule of law, fundamental rights, functioning of democratic institutions and public administration reform, economic development and competitiveness and regional cooperation. In addition, the Commission has strengthened its approach in the assessments introducing harmonized assessment scales for assessing the state of play and the progress in the fundamental areas and related *Acquis* chapters.

The 2015 Enlargement package, compared to last year, puts an **increased attention to civil society development** in the overarching Enlargement strategy and in most of the country progress reports. This can be attributed to the new monitoring methodology, along with the long-term advocacy efforts of civil society reminding that the development of democratic institutions and participatory democracies is condition *sine qua non* for accession. Most significantly though, it is due to the increased invest by the EC in empowering civil society as a “crucial component of any democratic system” (Enlargement Strategy 2015, p.9), and as a tool and a partner in enhancing political accountability in times of diminishing EU leverage and backsliding of the democratic processes in some of the Enlargement countries.

Therefore, it is of great significance that as one of the core Achievements and Challenges of the 2015 Enlargement Strategy is identified the need for governments of all Enlargement

countries “to work even more closely with local civil society actors to anchor reforms across society” (ibid, p.2). Using a very meticulous wording, the Commission sends a clear message that to some extent makes up for the absence of the traditional conclusion on civil society within this year’s Enlargement Strategy:

“A stronger role for civil society organizations and a much more supportive and enabling environment to foster their development is needed in the enlargement countries. This is necessary to enhance political accountability and promote deeper understanding of accession related reforms.” (ibid, p.4)

The **unified approach** the Commission used last year and the structuring of **civil society as separate section** within the Political criteria of the progress report for each country, has continued this year, and it was further **upgraded by** presenting **summaries** alongside **progress assessment** in each report. In comparison to previous years, assessment on the role of civil society has been further mainstreamed in *Acquis* chapters.

Similarly to previous years, this year’s analysis how the EC has treated civil society development in the individual country reports is set in the framework of the Monitoring Matrix on Enabling Environment for Civil Society Development. The Monitoring Matrix, developed by BCSDN members and partners, including ECNL in 2012, provides a set of principles and standards accompanied by 151 indicators for legislation and practice that need to be in place in a country to have an optimum enabling environment for civil society development.

KEY MESSAGES & POINTS

It is the second year in a row the progress reports for each country separates civil society as one of the four pillars of Democracy in the assessment of fulfillment of the Political criteria (the other three being Elections, Parliament and Government). This year, each section contains brief summary on the state of civil society development and assessment of the progress made in each country in the area of cooperation between public institutions and civil society. Furthermore, as in last year reports, each civil society section (except in the Albanian progress report) starts with the unified sentence that “An empowered civil society is a crucial component of any democratic system and should be recognized and treated as such by (state) institutions”. (PR_BiH_2015,p.8; PR_KS_2015,p.9; PR_MK_2015,p.9; PR_MNE_2015,p.8; PR_SRB_2015,p.7; PR_TR_2015,p.1)

STRICT DEFINITION OF EXPECTATIONS

With this, the Commission makes it clear that civil society has become obligation for membership and possible benchmark for negotiations, giving clear political support for the enabling environment for civil society, in line with one of the key recommendations of our 2014 expert Regional Monitoring Report.

The biggest focus this year, similarly to previous ones is again on public institutions – CSOs relationship, especially on the framework and mechanisms for cooperation and the involvement of civil society in policy and decision-making. In 5 out of 7 countries, only “some progress” has been noted, a “good progress” in Albania, and expectedly, “no progress” in Bosnia and Herzegovina. This year it is evident that EC’s has further broadened the focus of monitoring to the other issues influencing the enabling environment: the reports on each country address the tax benefits for CSOs and donors and transparency and accountability of state funding for civil society.

Even though the reports are still not fully aligned with all indicators set in its Guidelines aimed to assess the conducive environment, the monitoring is done in a more systematic manner that it includes all components of an enabling environment. Comparing the methodology and assessment among the different countries, civil society development again has received less attention in Bosnia and Herzegovina, Kosovo, Serbia.

FOCUS ON RELATIONS BETWEEN PUBLIC INSTITUTIONS AND CSOs WITH ENHANCED ATTENTION TO BASIC FREEDOMS AND FINANCIAL VISIBILITY AND SUSTAINABILITY

RELEVANT DOCUMENTS

(AVAILABLE UPON REQUEST)



FULL BACKGROUND ANALYSIS (.DOC)



EC CIVIL SOCIETY ASSESSMENT 2006-2015 DATASET (.XLS)



EC PROGRESS REPORTS & ENLARGEMENT STRATEGY 2015

CIVIL SOCIETY ENABLING ENVIRONMENT

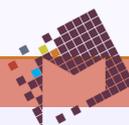
BASIC GUARANTEES TO FREEDOMS OF ASSOCIATION, ASSEMBLY & EXPRESSION

There was increasing number of developments in terms of basic freedoms in Enlargement countries, which is reflected accordingly in the progress reports. Restrictions on the **freedom of association** were this year reported in Montenegro, and again in Turkey. In Montenegro, it was due to reports of unlawful surveillance of CSOs by government instances and the use of administrative intimidation and legal threats proven with court verdicts. In Turkey, freedom of association was restricted particularly vis-à-vis administrative procedures for registration, and in practice through claims relating to national security, morality and the Turkish family structure applied by courts.

The spotlight in the **freedom of peaceful assembly** was this year on Macedonia, where CSOs were praised for their constructive engagement during the

political crisis of 2015 and organization of peaceful protests and the demonstration of cross-ethnic unity in the aftermath of the tragic events in Kumanovo. Restrictions were again also noted in Turkey for the growing intolerance of public protests and restrictive interpretation of the right of assembly.

In assessing whether CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities, the issue which last year was noted as potential concern in Kosovo, the amendment to the Law on money laundering and anti-terrorism, led to a suspension of 14 NGOs this year, allowing for arbitrary decisions on suspensions.



AREA 1: BASIC LEGAL GUARANTEES OF FREEDOMS

Principle

Standard/Benchmark

SUB-AREA 1.1.: FREEDOM OF ASSOCIATION

Freedom of association is guaranteed and exercised freely by everybody

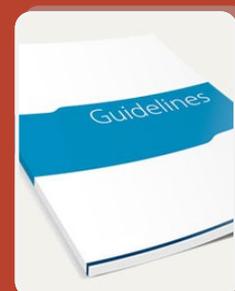
- ⇒ All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online
- ⇒ CSOs operate freely without unwarranted state interference in their internal governance and activities
- ⇒ CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities

SUB-AREA 1.2.: RELATED FREEDOMS

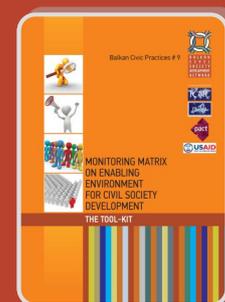
Freedoms of assembly and expression are guaranteed to everybody

- ⇒ CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly
- ⇒ CSO representatives, individually or through their organizations enjoy freedom of expression
- ⇒ Civil society representatives, individually and through their organizations, have the rights to safely receive and impart information through any media

USEFUL RESOURCES



GUIDELINES FOR EU SUPPORT TO CIVIL SOCIETY IN ENLARGEMENT COUNTRIES 2014-2020



MONITORING MATRIX TOOLKIT



MONITORING MATRIX WEB PLATFORM

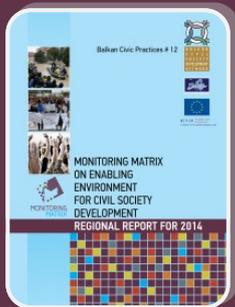
(WWW.MONITORINGMATRIX.NET)

2 FRAMEWORK FOR CSO FINANCIAL VIABILITY AND SUSTAINABILITY: TAX REGIME, STATE SUPPORT & HUMAN RESOURCES

BCSDN

PUBLICATIONS

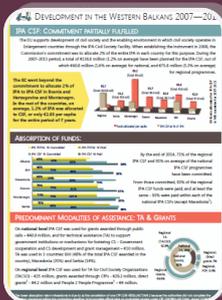
(AVAILABLE UPON REQUEST)



MONITORING MATRIX
REGIONAL REPORT 2014
(FULL)



MONITORING MATRIX
REGIONAL REPORT 2014
(EXEC. SUMMARY)



EU FUNDS FOR
SUPPORTING CSDEV IN
THE WESTERN BALKANS
2007-2013

AREA 2: FRAMEWORK FOR CSOs' FINANCIAL VIABILITY AND SUSTAINABILITY

Principle	Standard/Benchmark
SUB-AREA 2.1: TAX/FISCAL TREATMENT FOR CSOs AND THEIR DONORS	
CSOs and donors enjoy favorable tax treatment	<ul style="list-style-type: none"> ⇒ Tax benefits are available on various income sources of CSOs ⇒ Incentives are provided for individual and corporate giving
SUB-AREA 2.2: STATE SUPPORT	
State support to CSOs is provided in a transparent way and spent in an accountable manner	<ul style="list-style-type: none"> ⇒ Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants ⇒ Public funding is distributed in a prescribed and transparent manner ⇒ There is a clear system of accountability, M&E of public funding ⇒ Non-financial support is available from the state
SUB-AREA 2.3: HUMAN RESOURCES	
State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs	<ul style="list-style-type: none"> ⇒ CSOs are treated in an equal manner to other employers ⇒ There are enabling volunteering policies and laws ⇒ The educational system promotes civic engagement



One of the key issues facing civil society in the region is lack of stimulating fiscal frameworks for giving, transparent access and distribution of public funds and human resources development, all of which make civil society dependent on limited number of donors and other sources, hindering their ability to plan long-term and work independently. This year, the significant improvement and systematic monitoring in all reports on these issues lead us to believe that the EC is finally recognizing the importance of a comprehensive approach toward civil society development and sustainability.

In the area of **tax regime**, shortcomings were identified in almost all countries. In Albania, despite the new law on VAT, no reimbursement of VAT on IPA projects has been done, and the new online tax system “creates an additional administrative burden, particularly for small organizations” (AL_PR_2015, p.8).

In Bosnia and Herzegovina the country wide legislation on tax rules “is not conducive to stimulating private donations to civil society organizations” (BiH_PR_2015, p.8). For Serbia and Turkey it was noticed that tax rules do not encourage private donations to CSOs, while for Kosovo was emphasized that despite the increase of the tax relief for private donations, “the legal framework for tax deductions remains ambiguous and is not harmonized with provisions in the law on freedom of association” (KS_PR_2015, p.9). Interestingly, the Turkish report notes that civil society is financially vulnerable due to the dependency on public project grants.

One of the most common findings in the progress

reports is the lack of transparency and/or efficiency of **public funding**. The public funding system in Macedonia was noted as ineffective and inefficient as “the binding framework of rules for state financing of civil society has not been adopted” (MK_PR_2015, p.9). In Montenegro as challenge is noted the improper implementation of the law on gaming and the decreasing funds which are the only source of public financing for CSOs. In Bosnia and Herzegovina, Kosovo, Serbia and Turkey the reports point to the need for improvement of the procedures for distribution of public funds to CSOs in transparent and unified manner.

The issue of **state non-financial support** was mentioned this year again only in report for Montenegro noting the need for “an institutional culture that facilitates grassroots activities by civil society, through free concessions of public spaces and other forms of support” (MNE_PR_2015, p.8).

Two reports this year take into regard the **human resource development** (employment, volunteering, civic education) aspect for civil society development, concretely regarding the enabling volunteering policies and laws. In Serbia, it was noted that “the law on volunteering has not significantly expanded voluntary work and the law on social protection has yet to be fully implemented as regards CSOs providing social services” (SR_PR_2015, p.8). In Montenegro, the EC urges conditions conducive to voluntary work and social entrepreneurship to be created which involve not only legislation but “an overall change of society’s approach to volunteerism and civic activism” (MNE_PR_2015, p.8).

Traditionally, the **cooperation between state bodies and civil society** receives the biggest focus in the reports, and this year the Commission gave clear assessment of the progress made by each of the countries. Positive steps in the framework and practices for cooperation are noticed most significantly in Albania, with the adoption of the Resolution the role of civil society in the country's democratic development by the Parliament, and the adoption of the Roadmap by the Government that sets its policy towards creating a more enabling environment.

In contrast to Albania, lack of progress was reported in Bosnia and Herzegovina in improving mechanisms for dialogue and cooperation between government and CSOs with no developments for ensuring formalized policy dialogue between the Council of Ministers and civil society, still not adopted national strategy on civil society and State law on joint registry of CSOs. Bosnia and Herzegovina remains the only Enlargement country where official number of registered organizations is not available from state institutions.

In the rest of the countries where "some progress" was noted, it was highlighted the need for more effective and systematic **involvement of CSOs in policy and decision making process** (Macedonia, Kosovo, Serbia and Turkey) greater transparency of the government procedures for cooperation and consultation of CSOs (Kosovo, Montenegro). In Macedonia there was standstill reported for the implementation of the 2012-2017 Strategy on cooperation with civil society, the adoption of the 2015-2017 action plan, the establishment of the Council for cooperation between government and civil society, and the establishment of a working group for monitoring the law on associations and foundations by the Ministry of Justice.

For Kosovo, it was emphasized that the new Assembly should implement standards for consultations with civil society.

In Serbia was noted that Office for cooperation with civil society has no director appointed since March when the previous one resigned.

The area of **service provision by CSOs** this year again remained only rarely mentioned in countries' reports reported only in form of best practices of cooperation between CSO and the State.

AREA 3: GOVERNMENT – CSO RELATIONSHIP	
Principle	Standard/Benchmark
SUB-AREA 3.1.: FRAMEWORK AND PRACTICES FOR COOPERATION	
There is a strategic approach to furthering state-CSO cooperation and CSO development	⇒ The State recognizes, through policies and strategies, the importance of the development of and cooperation with the sector
	⇒ The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector
SUB-AREA 3.2: INVOLVEMENT IN POLICY- AND DECISION-MAKING PROCESSES	
CSOs are effectively included in the policy and decision-making process	⇒ There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner.
	⇒ All draft policies and laws are easily accessible to the public in a timely manner
	⇒ CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes
SUB-AREA 3.3: COLLABORATION IN SERVICE PROVISION	
There is a supportive environment for CSO involvement in service provision	⇒ CSOs are engaged in different services and compete for state contracts on an equal basis to other providers
	⇒ The state has committed to funding services and the funding is predictable and available over a longer-term period
	⇒ The state has clearly defined procedures for contracting services which allow for transparent selection of service providers, including CSOs
	⇒ There is a clear system of accountability, monitoring and evaluation of service provision

MAINSTREAMING CIVIL SOCIETY

Similarly to last year the mainstreaming of the civil society in the other chapters has been increasing, however in almost all countries civil society is related to the “traditional areas’ such as the issues in Chapter 23 and 24: fundamental rights (especially noticeable this year, freedom of expression), minorities, and anti-corruption; mostly related to a lack of or progress in the involvement and consultations with CSOs. This year civil society involvement is mentioned in relation to the public administration reform in Kosovo and Serbia, and in the

area of rule of law in Montenegro and Turkey. In terms of *Acquis* chapters in particular countries, civil society was mentioned in the areas of Social policy and employment in the reports for Macedonia, Albania and Montenegro; Environment and climate change for Albania, Montenegro and Turkey; Consumer and health protection in the reports for Macedonia and Montenegro; and Regional policy and coordination of structural instrument in the progress report for Macedonia.

CONCLUSION

From the analysis of the 2015 Enlargement package it is clear that civil society development and civil society dialogue have become one of the requirements of the enlargement process and it is now expected for EU aspirants to fulfill clear criteria for much more supportive and enabling environment for civil society development and systematic and effective involvement of CSOs in the decision making process.

The only thing missing now is the European Commission to make the Guidelines for EU support to Civil Society official document that will serve as a guide to the accession countries, similarly to the EU Country Roadmaps for Engagement with Civil Society of the ENPI countries.

In this way the Guidelines can serve as an anchor to the Enlargement countries’ democratization processes and to the EU member states in planning of their external assistance as well as in their political efforts in this direction.

Finally, in a situation where there is an increasing demand for democratization of institutions by the citizens across the countries of the region (via frequent protests), and when the elites and institutions respond with closed doors, lack of inclusiveness and limiting of the frameworks for cooperation, the Guidelines can make crucial contribution to detecting systematic challenges that can be addressed through the EU integration process.



BALKAN
CIVIL
SOCIETY
DEVELOPMENT
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