



BALKAN CIVIL SOCIETY  
DEVELOPMENT NETWORK

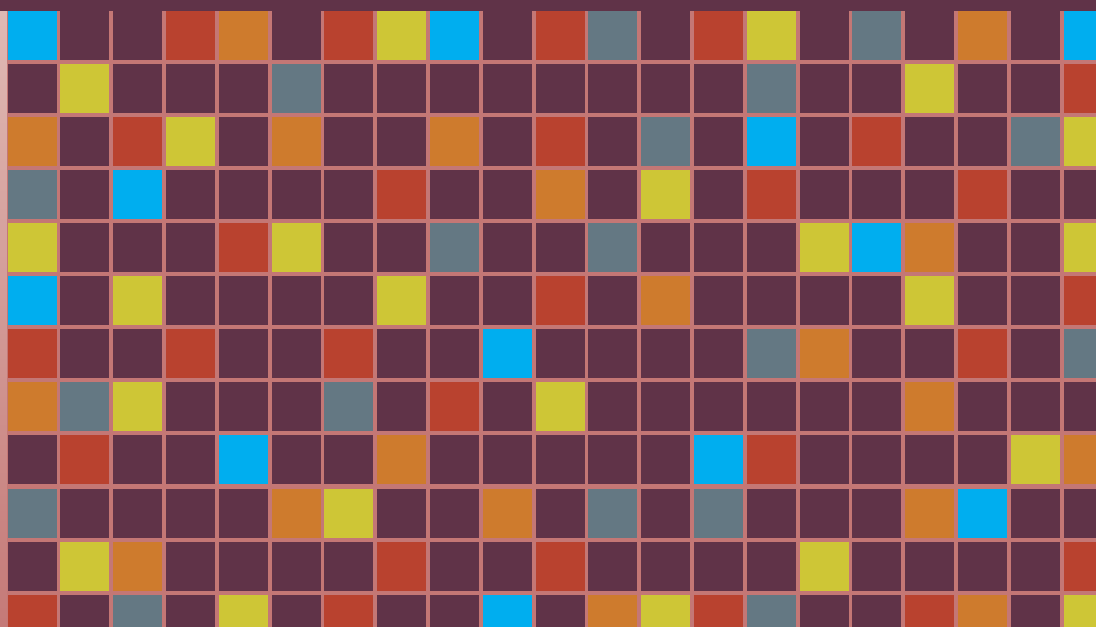
## Balkan Civic Practices # 14



# MONITORING MATRIX ON ENABLING ENVIRONMENT FOR CIVIL SOCIETY DEVELOPMENT



## REGIONAL REPORT 2015







# BALKAN CIVIL SOCIETY DEVELOPMENT NETWORK



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

### Monitoring Matrix on Enabling Environment for Civil Society Development

Regional Report 2015

developed by the European Center for Not-for-Profit Law (ECNL)

Publication date: September 2016



Project funded by the European Union

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Copies of the publication can be ordered by post or e-mail (below).

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**Publisher:** Balkan Civil Society Development Network (BCSDN)

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**Design, preparation and print:** Koma lab

Published in Macedonia, September 2016

CIP - Каталогизација во публикација

Национална и универзитетска библиотека "Св. Климент Охридски", Скопје

342.72/.73:321.7(497.7)"2015"(047)

MONITORING matrix on enabling environment for civil society development : regional report 2015. - Skopje : Balkan civil society development network, 2016. - 50 стр. : табели ; 30 см

Фусноти кон текстот. - Библиографија: стр. 42-43

ISBN 978-608-65991-1-9

а) Граѓанско општество - Човекови права и слободи - Македонија - 2015 - Извештаи

COBISS.MK-ID 101582090

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# Acknowledgments

The Regional Monitoring Report was developed by Ivana Rosenzweigová with the support of Katerina Hadzi-Miceva Evans and Vanja Škorić (European Center for Not-for-Profit Law - ECNL). ECNL would like to thank the Balkan Civil Society Development Network (BCSDN) team and member organizations for their review, support and guidance in the development of the document and formulation of the recommendations.

# I. Executive Summary

Throughout the year 2015, civil society organizations ('CSOs') in the Western Balkans and Turkey operated in a relatively stable and unchanged environment compared to 2014 and 2013. The political calamities, coupled with the rise of citizen unrest and the refugee crisis in the Enlargement countries left little room for improvements of the environment for civil society development. Worrysome are the steps made in several countries in adopting new or amending the existing basic CSO framework laws in the direction of backsliding and restricting civic space for CSOs and citizens.

The area of **basic legal guarantees of freedoms** did not undergo significant changes in 2015. **Freedom of association** continues to be legally guaranteed in the region and CSOs may operate in a variety of legal forms without an obligation to register with state authorities. Unregistered CSOs are not prohibited in Turkey either, but they are still practically excluded from public life as they cannot, among other things, participate in public consultations and apply for public funding. Of special concern are the downward trends in Bosnia and Herzegovina, Kosovo, Montenegro and Serbia, where adoption of new laws and amendments announced restrictive measures towards establishing, operating and funding CSOs. **Freedom of assembly, expression and information** are still not sufficiently respected in practice and there were numerous violations of the legal guarantees reported in 2015, particularly related to the freedom of assembly. These include, for example, arbitrary denials for holding an assembly in some specific location and/or time (Turkey, Montenegro and Serbia) and police brutality, detention and criminal prosecution of demonstrators (Macedonia).

To monitor the enabling environment for civil society development, BCSDN, ECNL and group of experts developed the Monitoring Matrix on Enabling Environment for Civil Society Development and accompanying Toolkit.

This report summarizes the key findings based on the data from 7 Country Reports, prepared by BCSDN members, in the Western Balkans (Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia) and Turkey and compares the findings from 2015 to those from previous Regional Reports 2013 and 2014.

The main purpose of this Regional Report is to identify the key common issues related to the enabling environment for civil society development across the Enlargement region, and through two sets of recommendations, the Report aims to support efforts of CSOs, public authorities and the European Union in the creation of a more conducive environment for civil society.

CSOs' financial viability and sustainability, albeit being flagged as an issue of key concern in the previous monitoring cycles, has still not undergone changes in the direction of creating of legal frameworks that promote CSOs' development. **Financial sustainability** remains to be the most challenging issue in the CSO operation throughout the whole region. Besides the insufficient and non-transparent allocation of public funding and CSOs' overdependence on foreign and state funds, organizations in the region continue to face challenges due to **non-conducive fiscal treatment**. In particular, the tax treatment of their income in all countries of the region is still unfavorable and/or there are insufficient or no tax incentives to stimulate the engagement in philanthropy. While the situation in 2015 is slowly improving and there are several positive developments identified compared to previous years, the changes are rather insignificant and do not substantially change

the state of affairs. Positive development with regards to the diversification of CSOs resources was identified in Albania, Macedonia and Kosovo, with launching the drafting of **social enterprise regulation**. According to the findings of the World Giving Index, people in the region have also been more willing to donate money to CSOs in 2015, which may be a good sign for the development of **philanthropy**.

No improvements have been noticed in the area of **CSO-state relationships**. In all countries in the region, with the exception of Turkey, there are national level policy documents and mechanisms for cooperation. Nevertheless, **State-CSO relationships remain to be underdeveloped and not meaningful enough**. This is particularly due to the insufficient implementation of the mechanisms and cooperation documents and lack of political will to cooperate and respect the established measures. CSOs are also not sufficiently involved in the provision of services on behalf of the state, with the exception of social services.

## 1. CIVIL SOCIETY AND CIVIL SOCIETY DEVELOPMENT IN THE REGION

**The ratio of registered CSOs is annually increasing** in almost all countries of the region. While Montenegro saw an increase of 11 new CSOs per 10,000 inhabitants registered in 2015, Turkey has stagnated and did not report any increase of CSOs per 10,000 inhabitants compared to 2014.

According to the Country Reports, CSOs work mainly in the areas of education, civic participation, gender equality, culture, youth, provision of social services and health. In addition, many CSOs are engaged in the field of democracy and are involved in many awareness raising and advocacy activities to improve the legal and regulatory framework affecting CSOs.

CSOs in the region are typically located in the bigger cities and capitals rather than in rural and remote areas. Compared to urban areas and bigger cities, CSOs operating in rural and remote areas have project-based staff. Due to the **lack of official data and statistics** it remains difficult to determine how many volunteers are engaged in both urban and rural types of CSOs.

A similar problem with the **lack of conclusive data** occurs when studying employment in CSOs. The only information available relates to the people on a payroll that are obligated to submit an annual tax return to the fiscal authorities. However, the number of other persons engaged with CSOs, for instance consultants and project based staff, is not possible to determine.



## 2. KEY FINDINGS

The following table provides a description of key commonalities identified in the region. The trends and challenges summarized in the box are referring to the specific areas of the Monitoring Matrix and the Guidelines for EU Support to Civil Society in the Enlargement Countries, 2014-2020.

No	TOP FINDINGS IDENTIFIED BASED ON THE COUNTRY REPORTS	Reference Monitoring Matrix		Reference EU CS Guidelines
		Area		
1.	Freedom of association, assembly, expression and information continue to be legally guaranteed in all countries of the region with the exception of Turkey. Still, there are continuous challenges with inadequate implementation of the laws and lack of implementing bylaws. In 2015, Bosnia and Herzegovina, Kosovo, Montenegro and Serbia started to review their CSO framework laws, some of them signaling trends towards restricting the civic space in the region.	Area	1	Objective 1
		Sub-area	1.1 1.2	Result 1
2.	Repetitive crackdowns on the exercise of freedom of assembly and breaches of the legal guarantees were identified in a majority of the countries in the region, including Kosovo, Macedonia, Serbia and Turkey. In addition, worrying regulation on police providing more rights to police officers in the course of assemblies has been adopted in Macedonia and Turkey.	Area	1	Objective 1
		Sub-area	1.2	Result 1
3.	Fiscal regulations remain problematic throughout the region. Many country reports, including Albania, Kosovo, Macedonia, Serbia and Turkey expressly stipulated that there are only limited tax benefits available for CSOs. Even in countries with a distinct public benefit status, the available fiscal benefits for public benefit CSOs are limited. In addition, tax incentives for donors still do not sufficiently boost up philanthropy.	Area	2	Objective 1
		Sub-area	2.1	Result 2.2, 2.3
4.	There are challenges related to the financial sustainability of CSOs. Public funding continues to be limited, distributed through non-transparent procedures and not spent in an accountable manner. CSOs still do not sufficiently diversify their funding and overly depend on public funding and foreign funds. A positive trend was identified towards the drafting of social entrepreneurship laws in Albania, Macedonia and Kosovo.	Area	2	Objective 1
		Sub-area	2.2 & 2.3	2.4
5.	CSO- state relationships are regulated by the legal and/or policy documents everywhere with the exception of Turkey. However, they continue to be inefficient, particularly due to the lack of political commitments, allocated resources and skills to implement these. Many countries reported that the dialogue with public authorities has deteriorated compared to 2014, particularly in the involvement of CSOs in the decision-making processes.	Area	3	Objective 2
		Sub-area	3.1 3.2	Result 3.1
6.	Legal frameworks for service provision continue to be non-supportive towards CSOs as service providers, resulting in only a few public service contracts. CSOs are mainly regarded as social service providers, even though they have capacities to provide services in other areas as well, including, for example, education and healthcare.	Area	3	/
		Sub-area	3.3	/

### 3. KEY RECOMMENDATIONS

The following tables provide key recommendations which the local partners consider as priorities for the region. These top recommendations directed towards national governments and relevant EU institutions aim at improving the situation regarding the enabling environment for civil society development in the WBT region. The recommendations are similar to those from the year 2014 and particularly emphasize the need for more enabling regulation affecting CSOs and proper implementation of the legal guarantees for civil society.

KEY RECOMMENDATIONS FROM THE COUNTRY REPORTS	
1.	Legal guarantees for freedom of association, freedom of assembly and other related freedoms to be preserved and properly implemented in practice.
2.	Fiscal regulations on the CSO income and tax incentives for donors need to be revised to provide supportive tax treatment for CSOs.
3.	Public funding mechanisms need to be reformed and their rules properly implemented to ensure relevant, transparent and accountable redistribution processes.
4.	Mechanisms for CSO-state cooperation need to be made functional through sufficient allocation of financial and human resources with adequate capacities.
5.	CSOs to be regularly involved in decision and policy making processes at all levels, including effective access to information and inclusion in early stages of the process.
6.	Involvement of CSOs in provision of services on behalf of the state need to be increased also in areas beyond social services.

KEY RECOMMENDATIONS FOR THE EU INTERVENTION	
1.	Participation of the civil society in the EU accession processes to become obligatory.
2.	The EU to prioritize the enabling environment in the negotiation processes.
3.	The EU funds to be distributed transparently and in a depoliticized manner.
4.	The EU to support diversification of CSO financial resources.

## II. Introduction to the Monitoring Matrix

### 1. ABOUT THE REGIONAL REPORT MONITORING AND THE MATRIX ON ENABLING ENVIRONMENT FOR CIVIL SOCIETY DEVELOPMENT

This Regional Monitoring Report is part of the activities of the “Balkan Civil Society Acquis-Strengthening the Advocacy and Monitoring Potential and Capacities of Civil Society Organizations (CSOs)”, a project funded by the European Union (EU) and the Balkan Trust for Democracy (BTD). The monitoring is conducted based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev). The project was developed as a collective effort of CSO experts and practitioners from the BCSDN network of members and partners and the European Center for Not-for-Profit Law (ECNL). The Monitoring Report is the first comprehensive report on the policy and legal framework that governs the civil society in the Western Balkans and Turkey (WBT) region. The 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 Report summarizes the key findings and recommendations from country based monitoring reports from Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, Serbia and Turkey, prepared by BCSDN member organizations.<sup>1</sup>

The Monitoring Matrix presents the main principles and standards that have been identified by the expert group as crucial 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 8 sub-areas: (1) Basic Legal Guarantees of Freedoms; (2) Framework for CSOs’ Financial Viability and Sustainability; (3) Government – CSO Relationship. The 8 principles, 24 standards and 151 (legal and practice) 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 Monitoring Matrix defines an optimum situation desired for civil society to function and develop effectively and at the same time it sets a framework which can be followed and implemented by public authorities. Having in mind that the main challenges lie in implementation, the indicators are defined to monitor the situation on the level of legal framework and practical application.

For the purpose of this report, the term civil society organizations (CSOs) is understood to encompass the definition of civil society also adopted in the Monitoring Matrix, which relies on the following criteria: 1) it is a voluntary organization established by a private instrument (contract, act on establishment), rather than by law; 2) it may be a membership or non-membership organization; 3) it is not part of the government structure; 4) it is established to pursue public or mutual benefit goals; 5) it is not-for-profit. Therefore, the term includes associations, foundations, private institutions, centers, not-for-profit corporations, and any other organization falling under the above criteria. The Monitoring Matrix recognizes the existence of other forms of CSOs (e.g., political parties, religious organizations, trade unions), but these are omitted from this report in order to provide for in-depth monitoring and advocacy focused only on CSOs.

<sup>1</sup> Croatia was excluded from the 2015 monitoring exercise due to its accession to the EU.

## 2. METHODOLOGY

The Regional Report 2015, particularly the sections presenting key findings and recommendations, were developed primarily based on the 7 Country Reports as its main source of information and data. In addition, the authors used their comparative expertise and involvement in other relevant European projects to enrich the report with further information. However, due to the lack of conclusive data and statistics in several areas covered in the Monitoring Matrix, it was not possible to draw general conclusions applying to all countries of the region on every issue addressed in the Monitoring Matrix or the report. The presentation of the information in this report is following the structure and baseline of the Monitoring Matrix. Specifically, the report reflects the assessment of standards and indicators analyzing the legal framework and practice included in Country Reports and compares them to the findings from the Regional Report of 2013 and 2014. While in 2014 only 12 core standards<sup>2</sup> were subject to obligatory monitoring by all countries, in 2015 all 24 core standards were again monitored by all countries in the region. The authors used an analytical method of elaboration of the information provided in the Country Reports and based on this identified common issues and differences recognized in the region.

The Regional Report 2015, just as in 2014, provides assessment vis-à-vis the objectives set by **the EU Guidelines for Support to Civil Society in the Enlargement Countries (EU CS Guidelines), 2014-2020**. The Monitoring Matrix includes 2 out of 3 components of the EU CS Guidelines, i.e. Conducive Environment and Changing Relations CSOs and Government. The report assesses the state of the enabling environment vis-à-vis the EU CS Guidelines utilizing the data gathered during the Monitoring Matrix exercise in 2015. These assessments are presented in the Key Findings section and enable the Monitoring Matrix results to be directly fed into the EU CS Guidelines monitoring exercise.

Finally, in addition to in-depth and qualitative monitoring, the 2015 introduces the 5-grade scale “traffic light” codes ranging from (1)-fully disabling environment to (5)-fully enabling environment code. The system was created in order to address the need for ‘compressed’ and effective visual communication of findings and systematic presentation of changes in the enabling environment for CSDev on the level of standards across countries and years. Moreover, the introduction of the categorization system enables standardization of quality of the Country and Regional Reports and contributes to more effective evaluation of indicators with the Monitoring Matrix Tool-kit. Since 2015 served as a test year, the report qualitative assessment results are presented in the “traffic light” mode only on the Monitoring Matrix on-line platform<sup>3</sup> only.

2 The 12 core standards are outlined at <http://monitoringmatrix.net/m-m-reports-coded/background/>.

3 The website of the Monitoring Matrix on-line platform is: [www.monitoringmatrix.net](http://www.monitoringmatrix.net)

## III. International and European Guarantees for Association and Assembly

### 1. INTERNATIONAL AND EUROPEAN GUARANTEES FOR ASSOCIATION AND ASSEMBLY

The right to freedom of association and assembly are fundamental rights secured by major international treaties, most notably the *International Covenant on Civil and Political Rights (ICCPR)*<sup>4</sup>, the *European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)* and the *Charter of Fundamental Rights of the European Union*. These freedoms have been upheld by international and European case law, e.g., jurisdiction of the European Court of Human Rights and European Court of Justice. In addition, other international documents and guidelines have been adopted to further strengthen the implementation of these freedoms in practice (e.g., *the Council of Europe Recommendations on the Legal Status of Non-Governmental Organizations in Europe* and *OSCE Guidelines on Freedom of Peaceful Assembly*.) All documents emphasize that the two freedoms belong to everyone without discrimination, and prescribe that restrictions that can be imposed on the freedoms are limited to situations “which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.”<sup>5</sup>

From the newly adopted documents it is worth mentioning the *Joint Guidelines on Freedom of Association*, adopted by OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Council of Europe’s Commission for Democracy through Law (Venice Commission).<sup>6</sup> The purpose of the guidelines is to provide practical support to legislators, associations and human rights defenders for drafting laws which regulate or affect the right to freedom of association. In addition, the UN Human Rights Council adopted the Resolution for the Protection of Civil Society Space.<sup>7</sup>

At the EU level, the freedom of association and the overall enabling environment for civil society have received increased attention in recent years. Specifically, the 2012 European Commission Communication *The Roots of Democracy and Sustainable Development: Europe’s Engagement with Civil Society in External Relations*<sup>8</sup> declares the promotion of an enabling environment for CSOs as one of the three priorities for EU support in partner countries. In addition, at the end of 2013 the Directorate-General for Enlargement released *Guidelines for EU Support to Civil Society in Enlargement Countries* which stipulate two main objectives for the upcoming years: to achieve an

4 Article 22(1) of the International Covenant on Civil and Political Rights (ICCPR): „Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.”

5 Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)

6 OSCE/ODIHR and Venice Commission: *Joint Guidelines on Freedom of Association*, 2015, available at: <http://www.osce.org/odihr/132371>

7 UN Human Rights Council Resolution A/HRC/27/L.24, available at: <http://www.ishr.ch/sites/default/files/article/files/a-hrc-124-as-adopted.pdf>

8 Adopted in September 2012 and endorsed by the Council of the European Union in October 2012;

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0492:FIN:EN:PDF>

Council Conclusions: [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/132870.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/132870.pdf)

environment that is conducive to civil society activities and to strengthen the capacity of CSOs to be accountable and effective independent actors.<sup>9</sup> Importantly, the guidelines also contain a set of objectives, results and indicators for EU support to civil society which allows for the measurement of the progress at country level as well across the region.

**FREEDOM OF ASSOCIATION** is composed of several key principles which have been incorporated in the Monitoring Matrix. Those include: right to form and join an association which applies to everyone without exceptions, the right to operate freely from unwarranted state interference, the right to access funding and resources and to utilize them according to its wishes and the right to take part in the conduct of public affairs.

**THE RIGHT TO FORM AND JOIN AN ASSOCIATION** includes a guarantee to all individuals and legal entities without discrimination on the grounds of sex, race, nationality, religious views or any other basis. This means that everyone is allowed to establish and participate in an informal or registered organization. According to Recommendations on the legal status of non-governmental organizations in Europe developed by the Council of Europe ('CoE'), "*NGOs can be either informal bodies, or organizations which have equal personality*"<sup>10</sup>. Therefore, registration is voluntary and once an association decides to undergo the process, it shall be easy, timely and inexpensive with granted right to appeal against the refusal of the registration.

An integral part of the freedom of association is **THE RIGHT TO OPERATE FREELY WITHOUT ANY UNWARRANTED INTERFERENCE INTO INTERNAL MATTERS OF A CSO**. There are two obligations deriving from this right to the state: first, the non-interference of the state in the internal governance of the organization; second, the protection provided by the state to CSOs against the interference from third parties.

**FREEDOM OF ASSEMBLY** is also formed and guided by several key standards guaranteed in international documents and guidelines described above. These include the presumption in favor of holding an assembly, the state's obligation to facilitate and protect peaceful assembly, legality and proportionality of the restrictions on the assembly, good administration of the assembly and liability of the regulatory authorities in case of failure to comply with their legal obligations. In addition to this, freedom of assembly should be guaranteed and enjoyed by everyone without any discrimination.<sup>11</sup>

When establishing a legal framework for exercising the freedom of assembly, it is essential that state authorities do not impose too many obligations for the organizers of the assembly. According to the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association there should be **NO PRIOR AUTHORIZATION REQUIRED FOR HOLDING AN ASSEMBLY**, but at the most there **MIGHT BE A PRIOR NOTIFICATION PRESCRIBED, WHICH IS NOT BURDENSOME** (e.g., submission of notification at short notice). Furthermore, the laws should allow for spontaneous, simultaneous and counter-assemblies.<sup>12</sup>

9 Guidelines for EU support to civil society in enlargement countries, 2014-2020, DG Enlargement, available at: [http://ec.europa.eu/enlargement/pdf/civil\\_society/doc\\_guidelines\\_cs\\_support.pdf](http://ec.europa.eu/enlargement/pdf/civil_society/doc_guidelines_cs_support.pdf)

10 Article 3 of the Recommendations on the legal status of non-governmental organizations in Europe, Council of Europe, 2007, available at: <https://wcd.coe.int/ViewDoc.jsp?id=1194609&Site=CM&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>

11 OSCE/ODIHR and CoE Venice Commission: Guidelines on Freedom of Peaceful Assembly, Second Edition, 2010.

12 Maina Kiai, *Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*, 2012. Available at: [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf)

International guarantees also protect **OTHER RELATED FREEDOMS** that have a role in creating the enabling environment for civil society and influence its activities. Those are freedom of expression which shall be enjoyed by CSO representatives either individually or through their organizations as well as the right to safely receive and impart information through any type of media.<sup>13</sup>

In addition, the international and European documents aim to strengthen **STANDARDS RELEVANT FOR CSO FINANCIAL SUSTAINABILITY AND IMPORTANCE FOR THEIR PARTICIPATION IN THE SOCIETY.**

For example, according to the Article 50 of CoE Recommendations, CSOs can receive funding – cash or in-kind- from any kind of donors, including foreign ones. In addition to this, Article 14 provides rules on the engagement of CSOs in the economic activities.<sup>14</sup> CoE Recommendations also include standards on public support of NGOs, including tax benefits and regulations on the accountability of the distribution of the funds.<sup>15</sup>

Finally, in order to ensure good governance of the country, it is essential to establish a legal basis for the **RELATIONSHIP BETWEEN PUBLIC INSTITUTIONS AND CSOs.** There are several areas where CSOs are important cooperation partners for public institutions, including policy and decision-making and collaboration in service provision. The importance of their cooperation and right of the citizens to participate in democratic life has been recognized also in the Article 10 and 11 of the *Treaty on European Union*.<sup>16</sup> Further, according to the CoE Recommendations, CSOs should be encouraged to participate in the dialogue with governments and should be also consulted during the drafting of the legislations that is affecting their sphere of operation.<sup>17</sup> According to this, five core principles for civil participation include: (1) participation in terms of collecting views of individuals via CSOs; (2) trust as honest interaction between actors and sectors; (3-4) transparency and accountability of CSOs and state authorities at all stages; (5) independence of CSOs in their aims, decision and activities.<sup>18</sup>

13 See Defending Civil Society Report by the International Center for Not-for-Profit Law and the World Movement for Democracy, 2012, [http://www.icnl.org/research/resources/dcs/DCS\\_Report\\_Second\\_Edition\\_English.pdf](http://www.icnl.org/research/resources/dcs/DCS_Report_Second_Edition_English.pdf)

14 Article 50 and 14 of the Recommendations on the legal status of non-governmental organizations in Europe, Council of Europe, 2007.

15 Articles 57-74 of the Recommendations on the legal status of non-governmental organizations in Europe, Council of Europe, 2007.

16 Article 10 and 11 of the Consolidated Version of the Treaty on European Union.

17 Article 76 and 77 of Recommendations on the legal status of non-governmental organizations in Europe, Council of Europe, 2007.

18 European Center for Not-for-Profit Law (ECNL): *Civil Participation in Decision-Making Processes- An Overview of the Standards and Practice in the Council of Europe Member States*, Council of Europe, 2016, upon publication.



## IV. Key Findings

### 1. CIVIL SOCIETY AND CIVIL SOCIETY DEVELOPMENT IN THE REGION

The year 2015 was marked by political instability and the immense impact of the refugee crisis on the entire region. Elections in several countries resulted in change or fortification of political power of right-wing or nationalist parties, signaling adverse influence on CSO operation. Many CSOs played a key role in organizing anti-Government assemblies and peaceful protests to fight against social, economic and political injustice as well as actively provided support to numerous refugees and migrants passing through to the region.

#### Basic legal frameworks for civil society and available legal forms

Legal and institutional frameworks relating to freedom of association in Bosnia and Herzegovina, Kosovo, Montenegro and Serbia have been undergoing a process of revision in 2015. In all countries besides Bosnia and Herzegovina, they aim to propose a comprehensive reform of CSO regulation, for instance new rules for membership, distribution of public funding and engagement in economic activities. No new laws/legal amendments had been adopted by end of 2015; however, they are likely to be passed in the following year. Current legal frameworks, with certain limitations, legally guarantee the freedom of association. Most common legal forms are **associations** as membership-based legal entities and **foundations** as non-membership legal entities pursuing private or public interest determined by the founders. Other available CSO legal forms include **centres**<sup>19</sup> in Albania, **endowments**<sup>20</sup> in Serbia and **humanitarian organizations**<sup>21</sup> in Bosnia and Herzegovina.

#### Number of registered organizations

Most of the countries identified an **increased ratio of registered CSOs per 10,000 inhabitants in 2015**. As in 2014, there is still a lack of conclusive data on registered CSOs in Bosnia and Herzegovina, due to the lack of a unified data collection system of registered CSOs. Currently, there are 18 distinct registries at the entity, cantonal, and state levels which leads to the multiple registration of the same CSOs in several registries. The number of officially registered CSOs per 10 000 inhabitants increased in 2015 in all remaining countries, with the exception of Turkey. The highest increase was identified in Montenegro, plus 11 CSOs per 10,000 inhabitants in 2015. The lowest increase, less than 1 CSO per 10,000 inhabitants, was reported in Albania, which is significantly lower compared to the increase in 2014 (plus 9 CSOs). The big discrepancy between the numbers of registered CSOs is most likely caused by the lack of data available in 2013. The data on the number of registered CSOs in 2013 was obtained from INSAT report<sup>22</sup> and from TACSO report<sup>23</sup>, while in 2014 and 2015

19 According to Albanian legislation, "a center is a juridical person, without membership, that has the object of its activity the performance of services and the realization of projects for purposes in the good and interest of the public, with funds and income secured according to law."

20 'Endowment' is defined as a "not-for-profit, non-membership and non-governmental legal entity whose founder designated specific property to support its public or private interest objectives" (Serbian Law on Endowments and Foundations, 2010).

21 The Law on Humanitarian Agencies and Humanitarian Organizations in Federation of Bosnia and Herzegovina defines as 'humanitarian organizations' those that pursue humanitarian actions and engage in activities based on the principles of humanity, impartiality, independence and voluntariness.

22 Data on the number of registered CSOs in 2013, Albanian Institute of Statistics, available at: <http://www.instat.gov.al/en/themes/population.aspx?tab=tabs-5>

23 Needs Assessment Report, Albania, 2011, available at: [http://tacso.org/doc/AL\\_NA\\_Report.pdf](http://tacso.org/doc/AL_NA_Report.pdf)



the data was obtained directly from the First Instance Court of Tirana, where all CSOs are registered. Below is a table summarizing data on officially registered CSOs in each country, together with the population data. They are compared to the number of registered CSOs per 10 000 inhabitants in 2013/2014 and 2014/2015 to show the positive/negative trend.<sup>24</sup>

COUNTRY	NUMBER OF REGISTERED CSOs IN 2015 <sup>24</sup>	NUMBER OF REGISTERED CSOs IN 2014 <sup>25</sup>	POPULATION IN MLN. <sup>26</sup>	CSOs PER 10 000 INHABITANTS IN 2015 <sup>27</sup>	CSOs PER 10 000 INHABITANTS IN 2014 <sup>28</sup>	TREND CSO PER 10 000 INHABITANTS 2013 VS. 2014	TREND CSO PER 10 000 INHABITANTS 2014 VS. 2015
ALBANIA	8,938	8,449	2.89 <sup>29</sup>	31	31	+ 9	0
BiH	N/A <sup>30</sup>	No data	3.83	N/A	No data	N/A	N/A
KOSOVO	8,537	8,000	1.82	47	44	+3	+3
MACEDONIA	14,245 <sup>31</sup>	13,656 <sup>32</sup>	2.11	68	65	+3	+3
MONTENEGRO	3,940	3,300	0.62	64	53	+10	+11
SERBIA	26,969 <sup>33</sup>	24,600	7.08 <sup>34</sup>	38	34	+4	+4
TURKEY	113,663	108,738	78.74 <sup>35</sup>	14	15	+1	-1

Despite the fact that there is a continuous increase of the registered CSOs throughout the whole region, there is a remaining challenge to identify **the total number of CSOs that are actually active**. Lack of conclusive data and statistics about active CSOs is a limitation to the comprehensive analysis of the civil society in the region.

Identified as one of structural issues that need to be addressed by national authorities, BCSDN and its members have in 2014-2015 conducted the first region-wide mapping and analysis of available data on CSOs and flagged out recommendations on how this can be addressed by national authorities, including the need to recognize and identify the non-profit sector as having distinct features through specific classification/categorization in national accounts and statistical systems; regular publishing of basic aggregated non-profit sector data for free and in machine-readable formats; systematic gathering of data on volunteering, as well as development of a methodology to calculate the monetary value of the voluntary work and its contribution to GDP; enabling comparability with business and regional/global non-profit sector etc.<sup>36</sup>

24 Data from the 2015 monitoring exercise.

25 Data obtained from country reports 2014

26 Source: World Bank 2014, available at: <http://databank.worldbank.org/data/download/POP.pdf>. Official data for 2015 have not yet been published

27 Numbers are modified to the closest round number

28 Source: Monitoring Matrix Regional Report 2014

29 Data obtained from the Statistical Service of the Republic of Albania as of 01.01.2016, available on the following link: [http://www.instat.gov.al/media/322941/press\\_release\\_population\\_of\\_albania\\_1\\_january\\_2016.pdf](http://www.instat.gov.al/media/322941/press_release_population_of_albania_1_january_2016.pdf)

30 In 2015 there were 22,000 registered CSOs in the 18 distinct registries at the entity, cantonal, and state levels (this number includes CSOs registered multiple times at different levels), with approximately 1,200 new CSOs registered during 2015 (Ministry of Justice, 2015).

31 There are 14,245 registered CSOs (CRM, 2015), out of which 4,156 CSOs re-registered according to the Law on Associations and Foundations 2010 (CRM, 2014).

32 Out of which 4,156 CSOs have re-registered under the new Law on Associations and Foundations of 2010.

33 There are 26,293 registered associations and 676 foundations and endowments.

34 Data obtained from the State Bureau of Statistics of the Republic of Serbia as of 01.01.2016, available on the following link: <http://webrzs.stat.gov.rs/WebSite/Public/PageView.aspx?pKey=2>

35 Data obtained from the Turkish Statistical Institute as of 31.12.2015, available on the following link: <http://www.tuik.gov.tr/PreHaberBultenleri.do?id=21507>

36 Velat, Dubravka (BCSDN) 2015: Economic Value of the Non-Profit Sector in the Western Balkans and Turkey, <http://www.balkancsd.net/economic-value-of-the-non-profit-sector-in-the-western-balkans-and-turkey/>

## Areas of CSO engagement

According to the Country Reports, CSOs work mainly in the areas of education, civic participation, gender equality, culture, youth, provision of social services and health. Many CSOs also work in the field of democracy and are involved in many awareness raising and advocacy activities to improve the legal and regulatory framework affecting CSOs. Compared to the reality, the perception of what should be CSOs' mission and area of engagement by state authorities and individuals may be different and is still subject to extensive stigmatization. For example, in Turkey, public officials do not consider democracy and policy making related issues as a potential area of CSO engagement. According to a survey conducted by TUSEV, the majority of public officials responded that CSOs should not have political orientations (63.4 %) and should not have the mission to criticize the government (85.8 %).<sup>37</sup>

## Geographic spread

CSOs continue to register and operate predominantly in the large cities and capitals. The high concentration of CSOs in urban areas was reported in Albania, Macedonia and Turkey. The Albanian report raised an issue of lack of permanent staff in the rural areas. Compared to urban areas, CSOs operating in rural areas mainly rely on volunteers or project-based staff.

## NOTABLE TRENDS IN CIVIL SOCIETY DEVELOPMENT IN 2015

### FINANCIAL SUSTAINABILITY

Financial sustainability and continuous access to funding remain to be the main challenges of CSOs in the region. Similarly as in 2014, state funds allocated for CSOs remain to be insufficient and **distribution of public funding is still not in accordance with the transparency and accountability standards that allow for easy, equal, fair and effective access for CSOs**. Country Reports also flag out the problems with a lack of respect of the prescribed rules for awarding financial state support in practice. According to the reports, non-financial support is also distributed through non-transparent mechanisms.

<sup>37</sup> TUSEV: *Monitoring Matrix on Enabling Environment for Civil Society Development: Country Report for Turkey 2015*. 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.

COUNTRY	AVAILABLE DATA ON PUBLIC FUNDING PER COUNTRY
<b>ALBANIA</b>	<p>2015: State budget grants allocated to Agency for Support to Civil Society (ASCS): 807.000 € (awarded to 59 CSOs)</p> <p>2015: Ministry of Culture call: Approx. 229.000 € (47 CSOs awarded; minimum – maximum amount per CSO: approx. 775 – 16.000 €).</p> <p>2015: National Lottery Fund call: Approx. 163,000 € (for short-term funding up to one year and for long term-funding up to three years)</p>
<b>BOSNIA AND HERZEGOVINA</b>	<p>2015: Declining trend of BiH governments support for civil society.</p> <p>2015: No official figure (approximation by Dr. Žarko Papić – 40,903,351 €)</p>
<b>KOSOVO</b>	<p>2015: Only cases of specific planning for CSO project support: Rahovec Municipality (30.000€ to CSOs on social issues and €10,000 on rural development through co-financing) Istog Municipality (15,000€ on participation in capital project through CSOs, community and other donors).</p> <p>2015: Despite the legal possibilities, no funds from the lottery have been collected or disbursed during 2015.</p> <p>2015: 25% of the surveyed CSOs report to have received public funds (Organizational Survey with CSOs in Kosovo, conducted in December 2015)</p>
<b>MACEDONIA</b>	<p>Under Budget Line 463 - Transfers to CSOs (incl. trade unions and religious communities and political parties):</p> <p>2015 : 5,549,000 €</p> <p>Distributed to CSOs registered according to LAF:</p> <p>2015: 195,500 € awarded to 40 CSOs (data for 2014)</p> <p>Funding from games of chance and entertainment games:</p> <p>2015 - 1,070,000 €</p>
<b>MONTENEGRO</b>	<p>2015: Commission on the Allocation of the Funds from Games of Chance approved to allocate 2.819,637,45 € to CSOs (593 projects supported, but not the 60% as planned)</p> <p>2015: Fund for the Protection and Promotion of Minority Rights allocated 769.030 €</p> <p>2015: Local governments approved to allocate 533,000 € to CSOs. Out of these, 92.428 € have not been allocated, 285,538 € have been allocated by 12 put of 22 municipalities, who have published CfP and 155.034 € mostly by Mayors' decisions.</p>
<b>SERBIA</b>	N/A
<b>TURKEY</b>	<p>2015: €66mil to 495 CSOs projects through Ministry of Development Social Support Program (SODES, 2013)</p> <p>2015: €6.44 million budget from the Ministry of Interior budget allocated to 362 CSOs under the Associations Aid Program (DoA, 2015)</p> <p>2015: Funds from Lotteries are not allocated to CSOs</p>

Even in 2015, CSOs predominantly rely on 2 main sources of income: foreign grants and state budgets, while the alternative sources of funding, such as individual, corporate or in-kind giving are rarely used. As foreign funding is likely to be decreasing due to the expected advance of countries towards EU membership, there is a need to look for other sources of funding to secure CSO financial viability. Compared to 2014, an interesting trend has been identified in relation to social entrepreneurship as **Albania, Kosovo and Macedonia started to draft social enterprise laws** in order to address the challenge arising from the lack of recognition of organizations operating as social enterprises. Although this is a very positive sign from governments to support social entrepreneurship through various regulations and policies, there is still a long way to go in developing an enabling environment for social entrepreneurship in the region.

Another alternative source of funding available for CSOs is **income from philanthropy and in-kind support from volunteers**. Based on the findings from the World Giving Index 2015<sup>38</sup>, the overall ranking of Albania, Bosnia and Herzegovina, Montenegro and Serbia increased last year which may be a consequence of several external factors, including the refugee crisis that struck the region. Only in Macedonia and Kosovo did the overall ranking decrease, while in Kosovo the decline was substantial, by more than 60 points. The most significant improvement of the score was identified in Montenegro and the country also obtained the best overall ranking in the region.<sup>39</sup>

According to the World Giving Index, donation of money was on the rise in 2015 worldwide. A similar trend was identified in the Western Balkans where the percentage of respondents who donated money to a charity increased everywhere, with the exception of Kosovo.

Results from World Giving Index 2015 compared to World Giving Index 2014:<sup>40</sup>

	OVERALL INDEX		HELPING A STRANGER		DONATING MONEY		VOLUNTEERING	
	Ranking	Score (%)	Ranking	Score (%)	Ranking	Score (%)	Ranking	Score (%)
ALBANIA	83 ↑	30 ↑	59 ↓	53 ↓	77 ↑	27 ↑	122 ↓	9 →
BOSNIA AND HERZEGOVINA	88 ↑	29 ↑	140 ↓	26 ↓	24 ↑	53 ↑	131 ↓	8 ↑
KOSOVO	116 ↓	23 ↓	136 ↓	28 ↓	67 ↓	29 ↓	107 ↓	12 ↓
MACEDONIA	86 ↓	30 ↓	86 ↑	45 ↑	54 ↑	35 ↑	127 ↓	9 ↓
MONTENEGRO	98 ↑	27 ↑	134 ↓	30 ↑	41 ↑	42 ↑	134 ↓	7 ↓
SERBIA	118 ↑	23 ↑	143 ↓	24 ↓	46 ↑	38 ↑	138 ↓	6 ↑
TURKEY	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

38 World Giving Index methodology is based on perceptions, rather on real quantitative data, which are hard to obtain. For more see: <https://www.cafonline.org/about-us/publications/2015-publications/world-giving-index-2015>.

39 There are no scores available for Turkey for the year 2015.

40 Source: World Giving Index 2015, available at: [http://www.cafamerica.org/wp-content/uploads/1755A\\_WGI2015\\_Report\\_WEB\\_V2\\_FINAL.pdf](http://www.cafamerica.org/wp-content/uploads/1755A_WGI2015_Report_WEB_V2_FINAL.pdf).

Data from World Giving Index 2015 are compared with the World Giving Index 2014, available at: [https://www.cafonline.org/pdf/CAF\\_WGI2014\\_Report\\_1555AWEBFinal.pdf](https://www.cafonline.org/pdf/CAF_WGI2014_Report_1555AWEBFinal.pdf).

## EMPLOYMENT AND VOLUNTEERING

Lack of conclusive data and official statistics about CSOs is a remaining challenge in studying civil society in the region. In some countries the number of persons employed in the CSO sector may be obtained from the tax authorities/public registers/pension trusts, however, the data do not differentiate between part-time employees, full-time employees and consultants. In countries, where such data is available, the number of employees increased in 2015.<sup>41</sup>

HUMAN RESOURCES (LATEST DATA AS OF 2015)							
	ALBANIA	BIH	KOSOVO	MACEDONIA	MONTENEGRO	SERBIA	TURKEY
NO OF EMPLOYEES	7,505 employees. CSOs' employees make 0.72% of the total workforce (GDoT, 2014)	FBiH – 5.938 (as of 2015), RS – 395 in 220 membership-based CSOs (as of 2015). There are no data for District Brcko	12,874 employees. CSOs' employees make 2.58% of the total workforce (Kosovo Pension Trust, 2014). <sup>42</sup>	1,990 that is, 0.28% of total number of employees in Macedonia (CRM, 2015)	774 employed (as of 2014), which is 0.37% of the total workforce	N/A	109.391 employees of associations out of which 33.783 paid-staff. CSOs' employees make 0.20% of the total workforce.
NO OF VOLUNTEERS	N/A <sup>43</sup>	N/A	N/A	N/A	N/A	N/A	1.021.801 volunteers in 599 foundations (GDoF, 2014) and 75.608 volunteers in the associations (DoA, 2013).

Volunteering often happens outside of contractual relations and remains unregistered, hence there is no conclusive data available on the number of volunteers engaged in CSOs. According to the World Giving Index 2015, which measures perception, volunteering engagement decreased in 2015 in the entire region. While these numbers are only estimates and no official conclusions can be made, the deterioration may be caused by non-supportive legal frameworks and lack of encouraging state policies for the development of volunteering.<sup>44</sup>

41 For more information on CSO resources, see also: Velat, Dubravka: Report on the Economic Value of the Non-Profit Sector in the Countries of the Western Balkans and Turkey, BCSDN, 2015.

42 Out of which 8,743 employees only in civil society sector, whereas for 4,583 civil society has only been one of the sectors they worked in.

43 PA Survey 2015: 4 CSOs have more than 100 volunteers, 76% of surveyed CSOs have 0-5 full-time employees and 86% have 0-5 part-time employees.

44 Since World Giving Index provides only estimates of the current philanthropic trends and behaviors in the world, no conclusions of the actual number of volunteers may be drawn.

## 2. KEY FINDINGS

### AREA 1: BASIC LEGAL GUARANTEES OF FREEDOMS

**Sub Area 1.1: Freedom of association continues to be legally guaranteed in all countries of the region except Turkey. In 2015, many countries started to review their CSO framework laws.**

The year 2015 was marked with several developments in the field of framework laws regulating CSOs. While all CSO framework laws in the region **remain unchanged and hence legally guarantee the freedom of association**, Bosnia and Herzegovina, Kosovo, Montenegro and Serbia **started the discussions about revisions of their regulation**. New legislative proposals in some countries unfortunately anticipate more restrictions for CSOs and if adopted in their initial form, they may lead to a restriction of civic space in the region. In Serbia for example, the Draft Civil Code provides restrictions on CSO membership, introduces a prohibition of economic activities and does not clearly distinguish between foundations and endowments. The proposed amendments in Bosnia and Herzegovina provide for a possibility for public legal entities to establish associations and foundations and to introduce stricter rules for the oversight of the flow of money within the sector to prevent money laundering. The amendments were not adopted by the end of 2015 thanks to the successful advocacy efforts of the civil society. The legislative proposals are back on the agenda of the Parliament for 2016. In addition, in Montenegro, the government started the process of developing a new Law on NGOs with the aim to improve the conditions for CSO development. The drafting process is, however, not fully participatory and the government remained reluctant to discuss some of the CSO proposals. On a positive note, the comprehensive revisions of the Law on Freedom of Association of NGOs in Kosovo initiated in 2014 are being prepared through a participatory process and include civil society representatives. CSO framework law reforms planned in the Turkish National Action Plan for the EU Accession were not realized, however, the new Government Action Plan 2016 envisages an adoption of a new comprehensive Civil Society Law.

The country legislations generally allow **both individuals and legal entities to establish a CSO**. However, many countries in the region still impose restrictive eligibility requirements for the founders, i.e. the citizenship/domicile requirement for a number of founders or members. In Bosnia and Herzegovina, all three founders of an association have to be of Bosnian descent or with a declared residence in Bosnia and Herzegovina. At least one of the founders must have a permanent residence in Serbia and permanent residence or domicile in Montenegro. In Kosovo, the NGO Department requires at least eight founders to establish an association, regardless of the legal requirement of three founders. More significant restrictions remain in place in Turkey. The Turkish Constitution limits available CSO legal forms to associations and foundations and requires a minimum of seven founders for establishing both legal forms, which is far more compared to European standards of two or three founders. In addition, in order to establish all compulsory bodies of a Turkish CSO, including an executive committee, internal audit committee and others, the number of minimum persons involved in a CSO can increase to up to sixteen.

**Laws in all countries of the region continue to allow CSOs to operate without prior registration**, although the legal framework in Turkey is not particularly supportive towards informal organizations, excluding unregistered organizations from public life. The country registration procedures are generally accessible, even though there are several impediments reported in 2015, particularly in relation to the high costs for the registration and discretionary implementation of the regulation. In addition, the online registration remains unavailable in all countries subject to

**EU CSO Guidelines 2014-2020**

**Result 1.1.:** In 2015, many countries started the process of revisions of their CSO framework laws in the direction of restricting the civic space. The current country legislations remain generally favorable in all countries of the region, with certain limitations particularly identified in Turkey. CSOs reported to generally perceive the registration procedures as simple and timely, although registration costs in Albania and BiH are excessively high. There is still no possibility to register online.

**Result 2.1.:** Financial rules, including reporting and accounting obligations, prove to be burdensome in three countries of the region, namely Kosovo, Montenegro and Turkey, which is a small improvement compared to 2014. Main challenges are related to the burdensome and non-proportionate reporting requirements as well as high sanctions in case of disobedience.

this Report. In Serbia, there is an option to have a part of the registration process online, but the official registration application shall be submitted in hard copy.

In Bosnia and Herzegovina and Albania, the costs of registration are much higher compared to other countries in the region. In Bosnia and Herzegovina the registration costs 100 EUR on a national level, in Federation BiH and Sarajevo, 50 in Tuzla canton and 150 EUR in Republika Srpska. In Albania, due to the mandatory legal representation of the founders and notarization of all documents for the registration, the costs increase and can reach a level of 30,000 to 50,000 ALL (220 – 360 EUR). In addition, the registration body, Tirana Court of First Instance, is centralized. The judges are appointed from the commercial sector and hence lack experience in the field. In addition, they do not have CSO registration in their official calendars so it is up to their discretion and good will when to convene a registration session.

Besides the excessively high registration fees in

Bosnia and Herzegovina, CSOs have reported challenges with the prolonged procedures, excessive additional requirements and documentation and arbitrary interpretation of the laws. In Kosovo, there is still a remaining challenge with the appeal against registration that is decided within the same institution. Furthermore, the most extensive problems with the registration procedure remained in Turkey, including burdensome permission requirement for registration of a foreign CSO branch and extensive eligibility requirements for founders.

**CSOs in all countries of the region can freely establish and/or join networks although the legal regulation of the networks varies.** While in some countries CSOs can establish and participate in networks without any formal requirements (Albania, Kosovo, Macedonia, Montenegro), in others they are required to register or notify state authorities about their membership (Serbia). CSOs did not report any significant challenges in relation to their involvement both in domestic and international networks. On the contrary, the creation of networks is widely spread around the region and in some countries even supported by various state policies and programs, as is the case in Serbia.

45 This fee is only one part of the overall costs that a CSO should pay for the whole registrations process. Total costs vary from 30,000 – 50,000 ALL (220 – 360 EUR).

COUNTRY	TIMELINE FOR REGISTRATION	REGISTRATION FEE/COSTS
ALBANIA	15 days	1000 ALL (7 EUR) <sup>45</sup>
BOSNIA AND HERZEGOVINA	30 days	100 EUR on a national level, in Federation BiH, Sarajevo, 50 in Tuzla canton, 150 EUR in Republika Srpska
KOSOVO	60 days	No registration fee
MACEDONIA	5 days	2.452 MKD (40 EUR)
MONTENEGRO	10 days	30 EUR
SERBIA	30 days	6000 RSD (50 EUR)
TURKEY	60 days	No fee for associations

**Legal frameworks in five countries of the region, namely Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia, provide protection against unwarranted interference of the state in internal matters of a CSO.** In Macedonia, the controversial Law on Lustration was suspended in September 2015, which eliminated the possibility of state interference in CSO internal matters. However, there are still some worrying regulations creating potential threats to a CSO's integrity. For example, the Macedonian Penal Code classifies representatives of CSOs as "officials" together with public authorities and provides them with the same liability requirements.

Insufficient or no legal guarantees towards state interference were reported in Kosovo and Turkey. In Kosovo, the Law on Freedom of Association in NGOs prohibits state institutions from interfering in the activities of CSOs, although secondary legislation violates this protection. The Administrative Instruction GRK – No: 02/2014 on Registration and Functioning of NGOs (Administrative Instruction No. 02/2014) allows the NGO Department to suspend the operation of a CSO, upon a written request and justification of an authorized security institution. In Turkey, the Department of Associations and General Directorate of Foundations have the legal authority to inspect associations and foundations. Vague terminology allows for inconsistent and arbitrary interpretation of the legal provisions and different implementation even within the same institution. The legal framework in Bosnia and Herzegovina provides guarantees against unwarranted state interference, although it does not provide any protection from the interference of third parties.

**Several cases of interference in the internal matters of CSOs were reported in practice in almost all countries, even in those providing legal protection.** For example, in Serbia, 23.68% of CSOs taking part in a survey experienced occasional pressure from the state, such as phone calls or messages threatening to cut state financial support for the expression of criticism towards state actions. In Bosnia and Herzegovina, CSOs reported frequent and unusual inspections by the state authorities. In Kosovo, both state and third party interference has been reported. Numerous CSOs suspended in 2014 for a period of one year have been suspended again in 2015 on the grounds of national security, according to the Article 18 of the Administrative Instruction No. 02/2014. In addition, several CSOs faced challenges from one commercial bank that suspended their bank accounts without prior notice and without any legal basis.

**Financial reporting and accounting rules continue to be burdensome in Kosovo, Montenegro and Turkey.** CSOs in Turkey are subject to burdensome reporting requirements to the administration while also being required to keep various books for their operation. In addition to



the financial reporting to the tax authorities, they have to submit annual reports with very detailed account of CSO income and expenditures and detailed information about their activities and other engagements. In Kosovo, CSOs are subject to the same reporting requirements as businesses, although according to the survey 90% of the CSOs surveyed consider them as easy, implementable and proportionate to the nature of the work and size of the organization. Montenegro has not yet repealed disproportionately high sanctions for non-compliance with minor administrative requirements, ranging from 500 to 3,000 EUR. Compared to 2014, the situation has improved in Albania with the adoption of the National Accounting Standards for Non Profit Organizations. The Standards take into account the specific nature of CSOs and provide proportionate reporting requirements for CSOs according to their annual budget. Reporting requirements proportionate to the annual income/turnover of a CSO are also in place in Macedonia and Serbia.

**Access to various sources of funding is generally not limited in the region, allowing CSOs to secure income** from grants, donations, membership fees, funding from abroad as well as income from economic activities. However, some restrictions still remain in place, particularly in Kosovo, Montenegro, and Turkey. In the latter case, CSOs are not allowed to directly carry out economic activities, only indirectly through a separate business entity. In addition, CSOs must notify the authorities for all foreign funding, including small donations from individuals, which creates an administrative burden for CSOs. In Kosovo, the anti-money laundering related law provides for a separate authorization requirement for any financial amounts exceeding a set threshold.

**Many countries limit CSOs' opportunity to generate income from economic activities.** In Montenegro, CSOs' annual income from economic activities shall not exceed 4,000 EUR or 20% of annual income. Further, direct engagement in economic activities in the same year is prohibited and all the money generated above this limit shall be allocated to the state budget. Similarly, in Albania, the total amount of income from the economic activities generated during the calendar year must not exceed 20% of the total annual revenues of the organization. Also, several countries, including Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia, allow CSOs to conduct only economic activities directly related to the purpose of the organization. Such restriction may unnecessarily limit CSOs' opportunities to generate income and sustain their everyday operation, while preserving their financial independence from state and donors.

**To conclude, all countries with the exception of Turkey continue to legally guarantee the freedom of association, without a prior registration requirement. CSOs are generally not limited in their operation and access to resources, although they face common restrictions in case they decide to generate income from economic activities. The main trend identified in 2015 is the initiation of the revisions of basic CSO laws in a majority of the countries in the region, in many cases in the direction of limiting CSO establishment and operation. However, several countries also proposed changes that could improve the CSO legal environment.**

**Sub Area 1.2: Freedom of assembly, expression and information are guaranteed by law in a majority of the countries; however, there are still severe violations of these freedoms identified in practice.**

**The right to peaceful assembly continues to be legally guaranteed, however, almost all country laws impose various restrictions particularly related to the eligibility of the organizers, notification of the assemblies and their location.** In 2015, no significant changes occurred in the assembly laws, with the exception of Serbian Public Assembly Act declared by the Constitutional

**EU CS Guidelines 2014-2020****Result 1.1. :**

In 2015, freedom of assembly and other related freedoms remain to be legally guaranteed. Several restrictions were introduced to the legal regulation, particularly to the related laws regulating the powers of police in Macedonia and Turkey.

In practice, several cases of violations were reported, particularly related to the freedom of assembly and expression. CSOs continued to face direct and indirect threats for expressing criticism towards state authorities. Several cases of restrictions on peaceful assemblies and police crackdowns on participants were reported, especially in Macedonia and Turkey.

Court as unconstitutional and being reviewed by end of 2015. The main flaws of the Act were prohibition of the spontaneous assemblies and short deadlines for the procedures on a ban of an assembly. From the related laws, the Macedonian Law on Police revision from 2015 is particularly worrying. The amendments extend the competences of police during assemblies and widen the means of coercion in case participants refuse to disperse and the gathering violates public order and peace. Similarly, in Turkey, the Law Amending the Law on Powers and Duties of the Police, Other Laws and Decrees was adopted and amended 14 different laws. This extensive reform, widely referred to as the "*Internal Security Reform Package*" is

criticized for considerably strengthening the powers of the police during assemblies and extending the police's authority to detain anyone without a prosecutor's permission. At the same time, there has been a positive development reported in Turkey, when the Constitutional Court upheld in one of its decisions the Article 34 of Turkish Constitution that protects the right to hold unarmed and peaceful meetings and demonstration marches without prior permission.

From the restrictions in the assembly laws, the limitations for foreigners to enjoy the freedom of assembly remains to be the most common obstacle in the region. Country reports show several examples, including the permission requirement for foreigners to organize an assembly in Macedonia and Turkey. Turkey provides further eligibility restrictions, such as the exclusion of persons without full legal capacity and under aged from the exercise of the right to a peaceful assembly. In Kosovo, the legal regulation refers only to the citizens of Kosovo, while leaving unclear whether non-citizens are guaranteed this right as well. Another common restriction is a prohibition of spontaneous assemblies. While this is still a reality in Turkey, the Serbian Public Assembly Act and Montenegrin Law on Public Assembly are subject to revisions and will, hopefully, eliminate this restriction from the scope of the regulation. Assemblies are still subject to prior authorization in Bosnia and Herzegovina. In addition, in Republika Srpska (Bosnia and Herzegovina) and Turkey, there are several restrictions related to the place of the assembly, e.g. assemblies "in the vicinity of specially secured facilities" are prohibited in Republika Srpska.

Political instability in combination with imperfect assembly laws may be one of the reasons why **practice shows worrying trends related to the restrictions on peaceful assemblies and police crackdowns on their participants**. In Turkey for example, arbitrary denials for holding an assembly in some specific location and/or time are a common practice. Even though there is no possibility to completely prohibit an assembly in Montenegro under the Law on Public Assembly, the Ministry of Interior has prohibited 23 notifications.<sup>46</sup> In Macedonia, several limitations to a desired place for protest, a high number of police officers compared to participants and excessive use of force were reported. For example, the biggest spontaneous anti-government protests, which took place on May 5, 2015, were banned from their continuation in front of the government building without any

<sup>46</sup> Institut Alternativa/ECNL: *Western Balkans Assembly Monitor Project- Freedom of Assembly in Montenegro*, 2016 <http://ecnl.org/right-to-free-assembly-in-the-western-balkans/>

justification, while police brutality was also reported.<sup>47</sup> In Serbia, more than 25% of CSOs taking part in a survey faced a prohibition to organize an assembly.<sup>48</sup> As an example, activists of a big national initiative were restrained from organizing an assembly and summoned to Minor Offence Court on the grounds of a law already declared as unconstitutional.

**Freedom of expression is a constitutional right legally protected in all its forms throughout the whole region.** Limitations to the freedom of expression are legally prescribed and legitimate and in particular involve the prohibition of hate speech. The only exception is Turkey, where regardless of the constitutional guarantees, there are regulations granting public institutions the authority to restrict the freedom of expression to a considerable extent. Libel is decriminalized in all countries with the exception of Albania and Turkey.

**Despite generally strong legal protection of the freedom of expression, major violations of the legal guarantees were reported in practice in 2015.** In fact, according to information from the Country Reports, violations of freedom of expression took place everywhere in the region with the exception of Albania. CSOs were most commonly indicating that expression of criticism towards state authorities was subject to censorship. For example, in Montenegro, 30% of respondents in the survey stated that they have been exposed to pressures for their critical views. In Serbia, this number is even higher and reaches almost 40% of the respondents. Members of CSOs focusing on investigative journalism, watchdog activities or research were reported to be subjects to physical attacks. In Turkey, 14 journalists were imprisoned and are facing convictions under the new Anti-Terrorism Law (Law No: 3713). In addition, there have been several cases of arrests of human rights activists and members of human rights civil society associations reported under this Law, as part of a wide-range anti-terrorism operation that started in July 2015. In Macedonia, CSOs face indirect pressures because of expressed views and they also resort to self-censorship, especially after the wiretapped conversations have been released, indicating that the government also targeted civil society activists.

**In all countries of the region, with the exception of Turkey, there are legal guarantees to protect the right to safely receive and impart information through any media.** In September 2015, a new law was adopted in Turkey giving the Telecommunications Directorate more authority to block websites and store the browsing history of individuals. The Turkish government is also known for imposing regular bans on access to social media channels and media blackouts in case it disagrees with the displayed content or considers the information as "sensitive". For example, in April 2015, the government temporarily blocked access to Facebook, Twitter and YouTube via a court order to censor images of a prosecutor held as a hostage and being killed in the Palace of Justice in Istanbul. Cases of violations were, however, reported also in other countries otherwise legally protecting this fundamental right. In Serbia, there were continuous attacks on news portals engaged in critical reporting on various public issues. In Macedonia, there were cases of punishments and/or pressure of professors, teachers and students due to their membership in social network groups.

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 47 See also: Reactor/ECNL: *Western Balkans Assembly Monitor Project- Freedom of Assembly in Macedonia, 2016* <http://ecnl.org/right-to-free-assembly-in-the-western-balkans/>. According to report "there is pressure on anti-government protesters not to protest and at the same time there is pressure on government supporters to protest."

48 Civic Initiatives: *Monitoring Matrix on Enabling Environment for Civil Society Development: Country Report for Serbia 2015*.

To conclude, all countries of the region continue to provide basic legal guarantees for the freedom of assembly, expression and right to receive and impart information in 2015. Still, certain limitations such as a citizenship requirement for the organizers of peaceful assemblies and limitations related to their location and need to be brought in line with the international standards. Similarly as in 2013 and 2014, there is a remaining challenge to properly implement and safeguard the legal guarantees in practice.

## AREA 2: FRAMEWORK FOR CSO FINANCIAL VIABILITY AND SUSTAINABILITY

**Sub Area 2.1: Fiscal frameworks for CSOs continue to cause challenges in the region, only minor improvements were identified in 2015.**

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**Result 2.2.:** In all countries of the region with the exception of Albania there are some tax incentives for donors. However, they continue to be very low and not encouraging private giving enough. In some countries, tax incentives are limited only to corporate donors. No changes in the laws related to philanthropy were identified in 2015.

**Result 2.3.:** CSOs are exempt from income tax on grants and donations in the whole region. CSOs in Macedonia, Montenegro and Turkey still have to pay income tax on all income from economic activities. In Macedonia, CSOs are subject to even stricter rules than private businesses and a general income tax exemption does not apply to them.

CSOs in the region continue to face challenges due to the unfavorable fiscal treatment of their income but also lack of tax incentives to stimulate the engagement in philanthropy. While the situation in 2015 is slowly improving and there are several positive developments identified compared to previous years, the changes are rather insignificant and do not substantially change the state of affairs.

Following the 2015 amendments of the Profit Tax Law in Republika Srpska (Bosnia and Herzegovina), **grants, donations and membership fees are exempt from income tax** in the whole region. However, **tax treatment of CSO income from economic activities continues to be unfavorable.** In

Turkey and Montenegro, CSOs still have to pay income tax from both direct and indirect economic activities according to the same rules as other legal entities. In Macedonia, CSOs are subject to even stricter rules compared to other legal entities when it comes to the income tax, as they are not eligible for a tax exemption on the annual income below 3,000,000 MKD (48,780 EUR). This exemption is reserved only for the trade companies classified as small and micro traders. In Kosovo, only income from economic activities related to the organization's public benefit purpose and up to a "reasonable level of income" is tax exempt. Also, due to a lack of a unified approach in the interpretation of legal regulation, it is not clear whether the exemption applies to all CSOs or only those with public benefit status. Similarly, CSOs in Serbia are exempt from income tax provided the income from economic activities does not exceed a given threshold of 400,000 RSD (3,500 EUR). All income above this threshold is fully taxed.

**Public benefit/interest (PBO) status exists in** Bosnia and Herzegovina, Kosovo, Macedonia, Serbia and Turkey. The distinct status shall, in general, recognize organizations serving the interest of a wider public and provide them with certain benefits, in addition to those accorded to all CSOs. However, in all these countries, the status **is still difficult to access or does not have any practical implications.** The main challenges are related to the lack of harmonization between the laws in the legal framework and biased selection procedures resulting in only a few organizations having obtained such status. For example, in Bosnia and Herzegovina, the list of permitted activities of a public benefit organization on a national level differs from the lists in the cantons. Also, the

procedure of granting the status is considered to be arbitrary. Similarly, the Turkish report stipulates that *"the selection process is highly bureaucratic and political at times."*<sup>49</sup> Insufficient harmonization of the CSO framework laws/PBO laws and fiscal regulation causing no effect of a PBO status in practice was reported also in Kosovo, Macedonia and Serbia.

COUNTRY	TAX INCENTIVES FOR DONORS/SPONSORS
<b>ALBANIA</b>	No tax incentives on donations. Sponsorship is recognised as a deductible expense up to 3% of the gross earning. Sponsorship for the publishing house and publishing of literature works, scientific and encyclopaedia, as well as cultural, artistic and sports activities is recognised as a deductible expense up to 5% of the gross earning.
<b>BOSNIA AND HERZEGOVINA</b>	Deductions for corporate donors up to 3% and self-employed individuals up to 0.5% of gross income for donations to organizations offering humanitarian, cultural, sports, and social service activities and 2% for sponsorship expenses.
<b>KOSOVO</b>	Individual and corporate donors may deduct up to 10% of their taxable income on donations for humanitarian, health, educational, religious, scientific, cultural, environment protection or sports purposes to CSOs and any other non-commercial organization that directly perform activities in the above mentioned areas.
<b>MACEDONIA</b>	Donations from individual donors are deductible up to 20% of taxable income, up to the equivalent of 390 EUR. Donations from corporate donors are deductible up to 5% of gross income and in the case of sponsorships up to 3% of gross income.
<b>MONTENEGRO</b>	Individuals and legal entities may deduct up to 3.5% of the total income for expenditures for "health, educational, scientific, religious, cultural, sport, humanitarian and environmental purposes".
<b>SERBIA</b>	No tax incentives for individual donors. Corporate donors may deduct up to 5% of their gross income for: medical, educational, scientific, humanitarian, religious, environmental protection and sport purposes, as well as for giving to institutions of social protection established by the law governing social protection.
<b>TURKEY</b>	Individual (with the exception of those on a payroll) and corporate donors receive a 5% tax deduction from their annual income only when they donate to tax-exempt foundations and associations with public benefit status.

Philanthropy is growing worldwide and is recognized **as an important alternative source of income**, hence supported by the legal frameworks and national policies in numerous countries globally. **However, legal environment in the WBT region is still not encouraging private giving enough. Tax incentives for donors/sponsors are limited and being acquired through lengthy and burdensome procedures.** The average tax deductions available for individual and corporate donors in the WBT countries are between 3-5% of gross taxable income, which is significantly lower compared to other European countries<sup>50</sup> In addition, in Albania there are still no tax incentives available for donations, but only for sponsorships. In Serbia, tax incentives are not available for

<sup>49</sup> TUSEV: *Monitoring Matrix on Enabling Environment for Civil Society Development: Country Report for Turkey 2015.*

<sup>50</sup> European Center for Not-for-Profit Law: *Comparative Research on the Regulatory Framework of Fundraising* (upon publication).

individuals, whereas in Bosnia and Herzegovina and Turkey only self-employed individuals may acquire tax benefits. Positive development was identified in Kosovo, with the increase of the tax deductions from 5 to 10% of the gross taxable income for both individual and corporate donors.

According to the survey conducted among CSOs, many donors/sponsors do not use tax incentives even if they are available. In Kosovo for instance, 15.6% of surveyed CSOs declared to have received donations from private donors, while only 1% of them claimed that their donors have acquired any tax benefits. This may be a consequence of complicated procedures as well as lack of knowledge about the existence of tax incentives. In Macedonia for example, 45% of the surveyed CSOs claimed not to be familiar with the legal regulation on tax benefits and 25% of those who know the procedure consider it very complex.

Corporate social responsibility (CSR) and social entrepreneurship are not very well developed concepts in the region. CSR strategy currently exists in Albania and there is a CSR coordination body in Macedonia working on the promotion of CSR among enterprises. Social enterprises are not yet specifically regulated in any country in the region and CSOs acting as social enterprises are reporting challenges in their operation due to the lack of legal recognition. As a consequence, **several countries have intensified the process of adoption of social enterprise laws**, including Albania, Macedonia and Kosovo.

**State fiscal policies play a critical role in the development of an enabling environment for CSO operation. While in all countries CSOs are tax exempt on the income from grants, donations and membership fees, they continue to face challenges when it comes to the generation of income from economic activities. Also, tax incentives for donors are not encouraging enough and if reformed, they may positively influence CSOs abilities to generate income from philanthropy in the future. A positive development in 2015 is the launch of the discussions on the social enterprise laws to eliminate the challenges arising from the lack of recognition of the organizations operating as social enterprises.**

**Sub Area 2.2: Public funding remains to be insufficient and distributed through non-transparent procedure.**

**State support to civil society development, including financial support, should be clearly planned and prescribed through a set of concrete measures/steps.** In four out of seven countries mapped in this report (Albania, Bosnia and Herzegovina, Montenegro and Serbia), there is a national level law or policy document regulating financial state support for CSOs. This types of regulation it still missing in Macedonia, Kosovo and Turkey. The adoption of such document in Macedonia planned for 2015, was halted for an indefinite period due to an unambitious proposal and thanks to CSOs comments to it. In Kosovo, the government agreed in the last days of 2015 upon a general model on which public funding for CSOs will be built. However, the implementation of the regulation for operationalizing the model of public funding distribution has not yet been adopted; therefore the disbursement of public funds remained unregulated by end of 2015. In Turkey, there is no holistic approach or law/policy document for the distribution of state funding with the exception of EU funds distributed by the Central Finance and Contracts Unit.<sup>51</sup>

**The allocation of financial support is still causing challenges in practice; no positive developments were identified in 2015 compared to the previous year.** This is due to several factors, one of them being the unpredictable and insufficient funding available for the civil society sector. For example,

51 Creation of these units is the EU requirement for distribution of EU funds.



in Kosovo, only 25% of the surveyed CSOs received financial support from the state, 18.7% in Turkey and even less in Albania, where only 12.5% of them declared to receive public funding. Funding for CSOs is also not clearly planned within the state budgets. For example, in Serbia, only 10.52% surveyed CSOs stated that it is easy to identify budget allocation for CSOs. In Macedonia, 42% of the funds allocated for the Item 463 – Transfers to Nongovernmental Organizations, were intended for political parties. In addition, several countries, including Albania, Kosovo and Macedonia, do not allocate any or have only insufficient funding to cover co-financing of other projects or institutional costs and provide only project based support.

In addition to insufficient funds available, CSOs in the region increasingly report **being excluded from the public funding cycle and consider it to be non-transparent**. For example, in Macedonia, only 19% of CSOs partially agreed that they have participated in the budget planning and allocation of funding for CSOs. In Bosnia and Herzegovina, CSOs reported that their inclusion in the public funding cycle is sporadic and not sufficiently transparent and meaningful. **Another challenging factor with regard to the allocation of financial support is to secure transparency in the distribution procedures**. Similar to the last year, there is a lack of transparent mechanisms and clear procedures for awarding public funds. Even in the countries where such mechanisms exist, they are not sufficiently implemented in practice. For example, in Montenegro, the Law on NGOs adopted in 2011 prescribes a creation of unified fund for allocating state support however by the end of 2015 the fund had not yet been created. In Kosovo, clear criteria were published in advance, but deadlines for decisions and merit decision with arguments are missing. In addition, CSOs in many countries claim that state authorities do not follow the prescribed rules and distribute the funds according to the organization's political views or personal relations.

Challenges remain also with regard to **monitoring the allocation of public funds and evaluation of the efficiency of their spending**. These derive particularly from the lack of practical implementation of the prescribed rules. Also, there is almost no information available with regards to this as state authorities do not make the results of the procedures public. In Bosnia and Herzegovina for example, there is no access to the information on the selection procedure and explanations as to why certain projects have been selected or rejected. In Turkey, there are Monitoring and Evaluation units under some ministries, but there is no data available on the monitoring methods they follow or any results of their evaluation regarding the impact of public funding. In Macedonia, there is no essential monitoring of the usage of funds that are granted to CSOs, and there is no example of

an evaluation of the effects. The authorities perform only pro-forma monitoring or publish partial information.

Four out of seven countries, i.e. Albania, Bosnia and Herzegovina, Macedonia and Montenegro continue to channel a certain percentage of the **proceeds from lotteries and other games of chance** to CSOs. In Kosovo, The Law 04/L- 080 on Games of Chance provides a possibility to direct funds from lottery proceeds to specified purposes. However, an administrative instruction that would operationalize the mechanism has not

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**Result 2.4:** Four out of seven countries subject to this Report have a national law/policy document regulating state support for CSOs in place. The three remaining countries without any binding document are Macedonia, Turkey and Kosovo. Mechanisms for the distribution of public funding are still considered to be non-transparent and subject to arbitrary decisions by the responsible authorities.

CSO perception of public funding did not change in 2015. CSOs perceive public funding as insufficient and distributed in a non-transparent manner according to personal acquaintances and political views.

yet been adopted. While channelling the lottery proceeds to CSOs is a commendable initiative, this source of income is rather unpredictable and the transparency of the selection procedures is oftentimes questionable. For example in Albania, CSOs reported a lack of information about the priority areas of support after launching a public call, which puts the transparency of the selection procedures in question. In Macedonia, the funds from lotteries are a significant source of income, but they are available only for a small circle of CSOs due to limiting eligibility requirements. In Montenegro, there is a continuous challenge with the insufficient harmonization of the Law on Games of Chance with the annual laws on the budget that results in a decreasing allocation of funds to CSOs from one year to another. According to the data provided in the Country Report, due to this reason CSOs were deprived of more than 3 million EUR during the period from 2013-2015.<sup>52</sup>

With regard to **non-financial state support, CSOs continue to benefit mostly from the utilization of public premises free of charge or for a reduced fee.** All countries of the region allow and, with the exception of Montenegro and to certain extent Albania, legally regulate the allocation of some form of in-kind support from state or municipalities. However, in most of the cases there are no clear rules and transparent procedures for the allocation of non-financial state support among CSOs. For example, the Law 04/L-144 on Allocation for Use and Exchange of Immovable Property of Municipality in Kosovo prescribes only general criteria without clear description on the process of allocation of the non-financial support to CSOs. In Turkey, the Municipality Law which regulates the allocation of non-financial support does not specify the forms of non-financial support or the criteria on how to attain it. In addition, similar to public funding, the in-kind state support is typically attained based on the proximity of the CSOs to state authorities. For example, the Bosnia and Herzegovina Country Report claims that a large number of CSOs receive non-financial support based on political affiliation and loyalty. In Montenegro, the Coalition of CSOs "With Cooperation to the Goal" has issued a statement urging the state to stop with unequal and non-transparent procedures and asked for an immediate adoption of a regulation for allocation of public office spaces and premises to CSOs.

**To conclude, the availability of the state financial support continues to be insufficient and there is a strong need to reform state support mechanisms in the whole region. The challenges are particularly related to the (1) insufficient planning of financial resources and availability of different types of support within the state budget, esp. institutional and co-financing support; (2) no inclusion of CSOs in the public funding cycle; (3) no prescribed transparent procedures or lack of their respect; (4) missing information relevant to the distribution of public funds; (5) insufficient application of a non-discriminatory treatment to all CSOs; (6) non-adequate monitoring and evaluation measures of public funding distribution and spending. Non-financial state support for CSOs is, as in the case of financial support, distributed in a non-transparent manner.**

**Sub Area 2.3: No changes occurred to the legal frameworks on employment and volunteerism in 2015. There is a remaining problem with lack of clear data on CSO human resources.**

**No changes occurred in 2015 with regard to national labor laws. CSOs continue to be treated equally to other employers.** In some countries, the equal treatment is, however, considered a disadvantage, due to the employers' obligation to pay fringe benefits, social security and health insurance contributions for all types of employees, including project-based assignments. In Kosovo for example, there is a remaining challenge with the employer's obligation to pay half of

<sup>52</sup> CRNVO: *Monitoring Matrix on Enabling Environment for Civil Society Development: Country Report for Montenegro 2015.*



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**Result 1.2.:** There is a lack of conclusive data on number of CSOs' volunteers and employees. In some countries the number of persons employed in a CSO sector may be obtained from fiscal authorities, however, only for full-time employees.

Laws and policies for the development of volunteering exist in Bosnia and Herzegovina (on a federal level and in Republika Srpska), Macedonia, Montenegro and Serbia. The laws are not supportive enough and provide a lot of bureaucratic requirements resulting into a lack of their application in practice.

the maternity benefits to employees on a maternity leave. In Albania, there is a requirement for every CSO to pay social contributions for at least 1 employee. **Contrary to the laws, state employment policies do not provide the same treatment to CSOs as to other employers.** Several Country Reports highlighted that CSOs were discriminated as potential beneficiaries of the employment programs compared to businesses. In Turkey for example, if a business operates in a sector determined as a priority in the development plans of the government, it can enjoy tax and employment incentives. However, incentives are not available for CSOs. In Serbia, competitions for public works opened also to CSOs included discriminatory conditions, as they clearly stipulated that the employer implementing

a program shall come from the private sector. Also, the measures of employment programs and labor regulation in Macedonia do not take into consideration specificities of CSO operation, hence discouraging CSOs to use them in practice.<sup>53</sup>

**There is a lack of official data available on the number of employees/volunteers engaged in CSOs.** The only information available relates to the number of persons that are official full time employees in a CSO with full benefits/taxes paid.<sup>54</sup> However, CSOs oftentimes engage staff/experts on different types of contracts, e.g. consultants, short- term/part-time employments and others. This means that the presented numbers are significantly lower than the reality and do not reflect the actual number of human resources engaged with CSOs. According to a recent study commissioned by BCSDN, the highest number of full time employees is in Turkey although the share of the total employment in the country constitutes only 0.2% of the active labor force. Also, these numbers are one or two years old, depending on the availability of the most updated data.<sup>55</sup>

Many CSOs in the region do not have a sufficient number of human resources to implement their activities. **However, national laws and policies on volunteerism still do not stimulate volunteering engagement. Instead, they introduce obstacles to those who follow legal regulations.** Volunteering laws exist in four countries mapped in this report, namely Bosnia and Herzegovina (on a federal level and in Republika Srpska), Macedonia, Montenegro and Serbia. In Albania, a new Law on Volunteerism was prepared in October 2015 and is being discussed at parliamentary committees. The law aims to increase citizen participation and regulate rights and responsibilities of volunteers and organizers, including the reimbursement of volunteer travel expenses and per diems. In addition, a working group has been formed in Serbia to revise the current Law on Volunteering and improve the legal environment for volunteerism, but with little progress. In Montenegro, the Action Plan for the implementation of the Strategy for Development of NGOs 2014-2016 envisages the development of a new law on volunteerism that would tackle the challenges of the current law treating volunteerism as a form of labor. There are still no comprehensive volunteering regulations in Kosovo and Turkey however several initiatives to promote volunteerism have been identified in both countries. In Kosovo, there is a regulation for the volunteering of youth; however, other forms

<sup>53</sup> MCIC: *Monitoring Matrix on Enabling Environment for Civil Society Development: Country Report for Macedonia 2015.*

<sup>54</sup> See the table in the section 1 of the Key Findings, p. 19.

<sup>55</sup> Velat, Dubravka: *Report on the Economic Value of the Non-Profit Sector in the Countries of the Western Balkans and Turkey*, BCSDN, 2015.

of volunteerism remain unregulated.

According to a recent study developed by TUSEV, ***“volunteer work is often carried out informally and the contractual relationships that seek to protect volunteers’ rights are usually not established, despite the progress that Turkey and Western Balkan countries recorded in developing volunteering laws.”***<sup>56</sup> This is particularly due to the burdensome administrative requirements and in case of Macedonia even fear of punishment. Legislative changes of the Law on Misdemeanors from 2015 amending the Law on Volunteering have increased the fines for any breaches of the volunteering regulation and also tripled the responsibility for violating the law. Another challenge is the lack of incentives available for the volunteers under the legal regulation. In Bosnia and Herzegovina, for example, CSOs unanimously reported poor transparency in providing incentives to volunteers. Legal regulation of volunteering is not encouraging in Montenegro either, where volunteer work is defined as *“performing organized voluntary labor according to the labor laws”* and subject to strict requirements.<sup>57</sup>

Support to civil society and civic engagement may be efficiently promoted through non-formal education. Based on the analysis of the 2015 Country Reports, **many CSOs are widely active in the field of non-formal education and in some countries civic education is even part of the national laws or strategies.** In Serbia, for example, the draft of the National Strategy for the Enabling Environment for Civil Society Development has a special chapter devoted to the role of civil society in non-formal education. In 2015, several cantons in Bosnia and Herzegovina adopted Laws on Education of Elderly People according to which CSOs may be involved in their non-formal education. On the other hand, some countries reported that there is still a lot of room for improvements in the inclusion of civic education in the official curricula. In Montenegro for instance, CSOs are partners with schools in the implementation of various projects, however, the educational system does not sufficiently include the civic engagement in the official curricula.

**To conclude, no significant changes occurred in the labor laws and employment policies affecting CSOs in 2015. A major challenge in determining the value of the civil society sector in the labor market continues to be the lack of conclusive data on the number of employees/volunteers engaged in CSOs. In addition, there is a continuous problem with the lack of recognition of CSOs as potential employers in the national employment policies and labor programs. Similarly, volunteering regulations and policies do not stimulate the volunteering engagement enough, and due to their bureaucratic nature they are oftentimes not followed in practice.**

### **AREA 3: GOVERNMENT-CSO RELATIONSHIP**

**Sub Area 3.1: Partnerships between Governments and CSOs are still not fully functioning throughout the region.**

**In 2015, CSO-Government partnerships continued to be problematic throughout the region** in order to establish a meaningful dialogue between civil society and public institutions, it is essential not to simply adopt policy documents describing the measures and goals of cooperation, but also to ensure their proper implementation. Apart from political will, which is indispensable for the implementation of commitments, there is a strong need to allocate sufficient funding and trained human resources. In addition, an independent national level institution/mechanism for cooperation

<sup>56</sup> TUSEV: Volunteerism: *Legislation and Practices*, 2015.

<sup>57</sup> TUSEV: Volunteerism: *Legislation and Practices*, 2015.

with a strong mandate can play an important role in the facilitation of an effective partnership.

In terms of the strategies and policies for CSO-Government partnerships, the situation remains unchanged in 2015. **All countries in the region, with the exception of Turkey, are already implementing or have started the process of adopting policy documents for cooperation.** Several positive developments were identified in 2015, including the adoption of a *Road Map for Drafting Policy and Measures for Enabling Environment to Civil Society* in Albania. In Montenegro, a working group for the development of strategy for Development of NGOs 2017-2020 was formed. While the draft of the first National Strategy for CSDev in Serbia 2015-2019 recognizes the strategic approach in the Government-CSOs relationship for the first time, it is still waiting to be adopted. The situation in Bosnia and Herzegovina has not improved since last year and the adoption of a Strategy for Creation of Enabling Environment for CSDev envisaged by the Cooperation Agreement 2007 has been halted.

Challenges with the functionality of the CSO- Government partnerships are particularly related to the **unsatisfactory implementation of measures prescribed by policy documents.** As reported in the Regional Reports from 2013 and 2014, there are four main elements that commonly hamper the implementation process throughout the region: (1) a lack of political will or commitment to implementing policy documents, (2) an insufficient allocation of funding; (3) a limited number of trained human resources; and (4) lack of monitoring and evaluation mechanisms. The Macedonian Country Report highlighted another important problem impeding a proper implementation of the policy documents for cooperation, i.e. lack of CSO involvement in the implementation process. According to the report, 71% of the CSOs surveyed know about the existence of the strategy, but were not involved in the implementation, 13% were involved and 16% of CSOs did not know about the existence of the strategy.<sup>58</sup>

Due to these reasons, only a few measures planned within the action plans of the policy documents were implemented on time or were not implemented at all. For example, in Kosovo, only 41.9% of the activities planned for 2015 were implemented because no financial means were allocated to the government units responsible for implementation of activities. In Macedonia, half of the measures prescribed by the strategy for cooperation were not yet implemented while almost all of them were planned to be finalized in 2014. The reasons behind this are particular to the political crisis resulting in a lack of will to implement the measures, to allocate sufficient funds and to designate persons to be responsible for the implementation.

**Similarly to the strategic documents, a national level institution/mechanism for cooperation, including cooperation offices, councils or units, exists in all countries of the region with the exception of Turkey.** In Turkey, draft legislation on the Collection of Aid from 2014 envisaging the creation of Civil Society Council and Civil Society Board as CSO consultative bodies has not yet been adopted. A few changes happened throughout the year, most of them were, however, showing negative trends. The draft legislation envisaging the establishment of a council for the promotion of cooperation, dialogue and stimulating civil society development in Macedonia was revised in the beginning of 2015. The changes brought problematic regulation of the selection procedure for the CSO representatives to be led by a government appointed committee. Due to the halted process of implementation of the Cooperation Agreement 2007 in Bosnia and Herzegovina, several specialized institutions for CSO-Government cooperation envisaged in the document have not yet

<sup>58</sup> MCIC: *Monitoring Matrix on Enabling Environment for Civil Society Development: Country Report for Macedonia 2015*, page 56.

been established. On a positive note, in Albania, the Law for the Establishment and Functioning of the National Council on Civil Society was approved and works for its establishment and the selection of its members have started in 2015.

The main challenge remains to **secure proper implementation and functionality of the cooperation bodies/mechanisms in practice**. As in 2013 and 2014, the Country Reports agreed on: (1) insufficient funds allocated from the state budget for cooperating bodies; (2) lack of human resources with adequate capacities working full-time on the implementation of their tasks; and (3) lack of a strong mandate and independence in their operation. In addition, a disproportionate composition of the cooperating bodies is one of the factors that actually limit positive effects of the cooperation mechanism. In Montenegro for example, the Council for Development of Non-Governmental Organizations is composed of 11 CSO representatives and 11 representatives from the Government. In addition, there is 1 president appointed by the Government to give it a majority of votes. As a result, the Council often votes against its mission and the interest of the civil society, including the recent refusal of the proposal to discuss the Draft NGO Law with the Council's members.

CSO-STATE COOPERATION 2015 <sup>59</sup>		
COUNTRY	STRATEGIC DOCUMENT	BODY/MECHANISM FOR COOPERATION
ALBANIA	Road Map for Government Policy on Civil Society Development, 2014 <b>Road Map for Drafting Policy and Measures for Enabling Environment to Civil Society, 2015</b>	Office for Coordination with Groups of Interests and a Coordinator for Civil Society at the Parliament Department of programming and Development of Foreign Aid at the Prime Minister Office Civil Society and Strategy Unit in the Ministry of European Integration Civil Society Advisory Board on Human Rights of the Ombudsman <sup>60</sup> <b>National Council for Civil Society, 2015</b>
BOSNIA AND HERZEGOVINA	Agreement on Cooperation between the BiH Council of Ministers and the Non-Governmental sector adopted in 2007	Legal Aid Sector established within the BiH Ministry of Justice
KOSOVO	Government Strategy for cooperation with civil society 2013-2017 together with the Action Plan (implementation started in 2015) <b>Declaration for Partnership between the Kosovo Assembly and civil society, 2014</b>	Office for Good Governance within the Office of Prime Minister <b>Council for implementation of the Government Strategy for cooperation with civil society and its thematic Working Groups, 2014</b> Assembly Officer for cooperation with civil Society, 2013
MACEDONIA	Strategy of the Government for Cooperation with the Civil Society (2012-2017)	Unit for Cooperation with CSOs established within the Sector for Policy Analysis and Coordination in the General Secretariat of the Government <b>New draft legislation on the establishment of Council for promotion of cooperation, dialogue and stimulating the civil society development, January 2015<sup>61</sup></b>
MONTENEGRO	Strategy for Development of NGOs 2014-2016	Office for Cooperation with NGOs (part of the General Secretariat of the Government) Council for Development of Non-Governmental Organizations Contact points within the ministries
SERBIA	<b>National Strategy for Enabling Environment for Civil Society Development (still in the process of adoption)</b>	The Government Office for Cooperation with Civil Society  Sectorial Civil Society Organizations (SEKO)
TURKEY	_____	_____

<sup>59</sup> All the changes compared to 2014 are highlighted in bold.

<sup>60</sup> The country report identifies two other mechanisms/structures at the central administration level dealing with civil society: Office for Coordination with Groups of Interest in the Parliament, Department of Programming and Development of Foreign Aid at Prime Minister's Office however these are not regarded as primarily established for the cooperation with civil society.

<sup>61</sup> The Legislation was adopted on 17 May 2016, however, without substantial consultations with the CSOs and without taking into consideration the recommendations and indications of the CSOs regarding the selection procedure of the Council's members.

To sum up, in all countries of the region, with the exception of Turkey, there is a national level policy document and institution/mechanism for cooperation with civil society. The current legal and policy framework for cooperation with CSOs in Turkey does not respond to the needs and demands of the sector and is not in line with international standards and best practices. In the remaining countries, there is a need to strengthen the implementation of the policy documents on cooperation and mechanism to ensure their full functionality and positive effects in practice, especially reflecting the needs and concerns of civil society and allocation of sufficient resources for the implementation of the given commitments.

**Sub Area 3.2: Standards for public participation in decision-making processes are still not respected by the implementing authorities.**

#### EU CS Guidelines 2014-2020

**Result 3.1.:** CSOs continue to report problems with their involvement in decision and policy-making processes at both national and local level. National standards for CSO involvement exist in all countries except of Turkey.

CSOs report that the draft laws/policies are not always published well in advance, as it is required by the legal regulation. State authorities also oftentimes neglect the provisions on the publication of calls for consultations.

Representatives of the civil society in the decision-making/advisory bodies are selected outside of clear and transparent mechanisms. Selection procedures continue to be regarded as biased and based on personal acquaintances.

Civil participation in the decision-making goes in parallel with a representative democracy. **It should be open to everyone, CSOs and individuals alike, to contribute to the development of policies and legislation which affect or may affect them.**<sup>62</sup> In order to ensure an enabling environment for CSO involvement in decision-making processes, it is essential to adopt a clear set of standards and prescribe measures for their implementation.

**No changes happened to the legal frameworks on public participation in decision-making in 2015.** In all countries of the region there is a document regulating CSO participation in decision-making processes, while the involvement itself might

be obligatory or voluntary. The Regulation on the Procedures and Principles of Drafting Legislation in Turkey envisages the involvement of CSOs, but it does not further stipulate the details, including the selection process, criteria or methods for CSO involvement. In countries where detailed measures for participation exist, there is a remaining challenge to secure their proper application in practice, particularly due to the lack of commitment/respect by state authorities. In addition, there is a remaining challenge with the lack of human resources with adequate capacities to implement the regulation. One positive development is the finalization of the draft Regulation on Minimum Standards for Public Consultations in Kosovo.

**Legislation in all countries, with the exception of Kosovo and Turkey, obliges authorities to make all draft and adopted laws and policies public and provide public information upon a request.** In Kosovo, the Law on Access to Public Documents stipulates only an obligation to publish adopted laws. However, a new Administrative Instruction on the content of websites of public institutions requires also publication of the draft normative acts. Based on the information from the Kosovo Country Report, only two ministries followed this instruction in 2015. In Turkey, the

<sup>62</sup> ECNL: *Civil Participation in Decision-Making Processes- An Overview of the Standards and Practice in the Council of Europe Member States*, Council of Europe, 2016, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680686gof>.

regulation provides the possibility to consult CSOs regarding draft laws and policies, but there is no obligation to do so. According to the Turkey Country Report, the legal obligation to publish draft laws and policies is oftentimes not respected in practice. In Macedonia, the ministries published only 16% of the draft laws out of the total number of laws submitted to the parliament through ENER (electronic consultation system), where in more than one third (39%) of the cases, deviations from the legally set minimum 10 days deadline for consultation were noted. Public institutions in Bosnia and Herzegovina actively publish draft and adopted laws and policies, but they do not answer all requests for free access to public information.

**Consultations on the draft laws and policies are oftentimes neglected in the region, despite the guarantees provided in the legal regulations.** In Montenegro, where consultations are obligatory, only 3 state bodies published calls for a total of 4 consultations on various documents. In 2012, when the last monitoring was conducted, total 12 consultations were published by 7 state bodies. In Macedonia, 339 out of 606 laws representing 56% of the total number of adopted laws were passed in a shortened procedure. In Bosnia and Herzegovina, 4 out of 15 laws were adopted in an urgent procedure in 2015, which represents approximately 26% of total number of laws passed. This practice, particularly widespread on a cantonal level, does not allow CSOs to review and contribute to the discussion on the draft laws and policies. State authorities also often do not follow the timelines for the publication of the draft laws and policies for public consultations. For example, according to a survey conducted among Kosovar CSOs, only 8.2% of CSOs consider that draft laws and policies are published on time.

**From all the countries reviewed in the Report, only Montenegro has a legal requirement to invite CSO representatives to decision-making and/or advisory bodies/working groups in the region.** In the rest of the countries there is no legal obligation, but there is a possibility to invite CSOs to participate in decision-making and/or advisory bodies/working groups. The main challenge is, however, **to ensure transparent selection mechanisms** of CSO representatives. According to the Country Reports, CSOs consider the selection mechanisms as biased when CSOs are selected based on personal acquaintances. For example, 59% of Albanian CSOs do not consider the selection procedures to be transparent. Similarly negative is the perception of CSOs in Bosnia and Herzegovina and Kosovo.

**CSOs play a crucial role in the processes of designing effective public policies and regulations. Combined with the extensive influence of political parties in policy and decision-making, the inclusion of CSOs provides an alternative way to channel different views and secure a variety of interests of the society in drafting policies and regulations. It is of great importance that the countries introduce clear standards on all levels of CSO participation and to ensure political commitment for their proper implementation, together with the sufficient allocation of human and financial resources.**

### **Sub Area 3.3: CSOs continue to be rarely involved in the provision of other than social services.**

In 2015, no significant changes occurred in the area of CSO service provision. While all country legislations allow CSOs to compete for public contracts to provide services on behalf of a state, **CSOs are rarely engaged in the provision of anything other than social services.** According to the 2015 Country Reports, CSOs are still not regarded as equal partners in the provision of state services and most of their services are funded by international donors rather than from the state budget. For example, in Kosovo, only 10% of surveyed CSOs applied for and were granted state

contracts in 2015.

Besides general public procurement laws that regulate the procedure for contracting out public services, several countries also passed laws regulating the provision of social services. However, there are still no mechanisms for social contracting that take into consideration the specificities of social services as well as specificities of CSOs as contracting partners. **The legislations provide equal treatment to CSOs vis-a-vis other potential providers resulting in various hidden barriers.** For example, if the lead criterion for the evaluation of bids is the price instead of the quality of the service, CSOs are discriminated against compared to private businesses. This concern was raised, for example, in the Bosnian, Kosovar and Turkish Country Reports. Many countries, including Albania, Bosnia and Herzegovina, Kosovo, Macedonia and Turkey also reported that the funding available for services is insufficient and does not allow covering total price of the service provision. Funding is also not predictable and is oftentimes available only for short-term contracts.

Another common challenge identified in several countries of the region is **a lack of transparency in the selection procedures.** In Kosovo for example, 51.5% of the CSO respondents to a survey declared that they do not believe that state contracts are given fairly or in a transparent manner. Despite the legal rules for awarding contracts in Bosnia and Herzegovina, it is believed that open competitions are unfair in many cases, due to the lack of feedback, or the reasons and criteria according to which certain contracts were awarded. CSOs in Albania also reported a lack of transparency in tendering procedures and a preferential selection of CSOs based on personal acquaintances.

**To conclude, CSO- state collaboration in the provision of services remains to be underdeveloped and oftentimes nonexistent. The majority of the Country Reports identified the equal treatment of CSOs compared to other private entities, insufficient and unpredictable funding and non-transparent selection procedures as common challenges.**



## V. Key Recommendations

The following are key common recommendations formulated by the country experts based on the indicators of the Monitoring Matrix. While these recommendations aim to define actions for regional interventions, the specific country context has to be always taken into consideration when analyzing the environment for CSOs. Therefore, as we have noted in previous reports, the issues below cannot be addressed in isolation and other measures have to be taken into consideration in order to develop an enabling environment for civil society development.

### 1. LEGAL GUARANTEES FOR FREEDOM OF ASSOCIATION, FREEDOM OF ASSEMBLY AND OTHER RELATED FREEDOMS TO BE PRESERVED AND PROPERLY IMPLEMENTED IN PRACTICE

Comprehensive reforms of civil society laws are already envisaged. These should aim to improve the environment for CSOs. Any potential provisions which restrict the enjoyment of freedoms should be revised, in order to ensure that the environment for civil society remains to be enabling. **Moreover, proper implementation of the existing legal standards and guarantees for freedom of association, assembly and other related freedoms needs to be secured in practice.** The basic legal guarantees should be harmonized within the legal framework, translated to other laws and bylaws and properly and respected in practice. In particular, the authorities should respect the legally prescribed timelines for registration, not interfere in the internal matters of the CSOs and not arbitrarily prohibit or crackdown on the freedom of assembly. In addition, international organizations issued several expert opinions/recommendations regarding basic freedoms<sup>63</sup> that should also be integrated in the national laws and fully implemented and respected in practice. In order to prevent cases of violations of the freedom of association, assembly and other related freedoms there is a need to regularly monitor the fulfillment of standards/regulations.

### 2. FISCAL REGULATIONS ON THE CSO INCOME AND TAX INCENTIVES FOR DONORS NEED TO BE REVISED TO PROVIDE SUPPORTIVE TAX TREATMENT FOR CSOs

**Fiscal laws throughout the region need to be more enabling towards CSOs and provide them with tax treatment corresponding to their non-profit character.** This particularly relates to the tax treatment of their income and VAT treatment of their services. In countries where distinct public benefit status exists, the tax laws should be harmonized with CSO framework laws to ensure there are applicable benefits to organizations with public benefit status, and that there are incentives for organizations to use. In addition, the state may also help boost engagement in philanthropy through various tax benefits for donors, including tax deductions/tax credits and VAT free treatment of in-kind donations. Cross-border philanthropy should be subject to the same tax regulation as the domestic one in order not to discriminate against international giving.

### 3. PUBLIC FUNDING MECHANISMS NEED TO BE REFORMED AND THEIR RULES PROPERLY IMPLEMENTED TO ENSURE RELEVANT, TRANSPARENT AND ACCOUNTABLE REDISTRIBUTION PROCEDURES

Public funding mechanisms for both financial and non-financial support are recommended to be reformed in all countries of the region. In particular, **there is a need to establish clear rules for**

<sup>63</sup> For more information, please see the chapter III. : *"International and European Guarantees for Association and Assembly."*

**the redistribution procedures and to introduce monitoring mechanisms on both the national and local levels.** State authorities should ensure that: (1) all bylaws for operationalizing the public funding mechanisms have been adopted; (2) the transparency and accountability requirements for the redistribution of public funding are respected; (3) all information on how public funding was disbursed is publicly available; and (4) distribution of the funds is not discriminatory, influenced by the personal relations, acquaintances and political views. There is also a need to allocate a sufficient amount of funding for CSOs, including institutional funding and co-funding of EU projects.

#### **4. MECHANISMS FOR CSO-PUBLIC INSTITUTIONS COOPERATION NEED TO BE MADE FUNCTIONAL THROUGH SUFFICIENT ALLOCATION OF FINANCIAL AND HUMAN RESOURCES WITH ADEQUATE CAPACITIES**

**There is a continuous need to make the CSO-Government dialogue meaningful and functional.** Proper implementation of the policy documents for cooperation through (1) demonstrated political will and commitment, (2) sufficient allocation of funding from the state budget, (3) assignment of a satisfactory number of civil servants and (4) ensuring they have adequate capacities is indispensable. In addition, institutional mechanisms for cooperation, such as CSO councils and units for cooperation should be operationalized, accorded sufficient financial and human resources while having a sufficient leverage within the government. Moreover, there is a need to establish a monitoring mechanism that would continuously monitor the implementation of the commitments for CSDev.

#### **5. CSOs NEED TO BE REGULARLY INVOLVED IN DECISION AND POLICY MAKING PROCESSES AT ALL LEVELS, INCLUDING EFFECTIVE ACCESS TO INFORMATION AND INCLUSION IN EARLY STAGES OF THE PROCESS**

CSOs should be regularly involved in the policy and decision-making processes, in accordance with the established minimum standards for participation. In countries where such standards are not sufficient, including Kosovo and Turkey, there is a need to adopt them and require from all public institutions to involve **CSOs at all levels and phases of decision and policy making processes in a timely manner.** In addition, there is a need to reform selection mechanisms for CSO participation in decision-making and advisory bodies to ensure the transparency of the selection procedure. In particular, the selection should happen through a public procedure and members should be chosen based on clear and previously determined criteria.

#### **6. INVOLVEMENT OF CSOs IN PROVISION OF SERVICES ON BEHALF OF THE STATE NEED TO BE INCREASED ALSO IN AREAS BEYOND SOCIAL SERVICES**

**There is a need to increase state support for CSOs as service providers and contract out their services beyond social services.** CSOs should be involved in the annual needs assessment when services for the upcoming year are planned. In addition, selection procedures for service providers should include special criteria that do not rely solely on the price of the offer but also quality of the service to be provided by the bidder.

In addition, the following priority recommendations for **EU intervention** have been outlined to guide further joint actions at the regional level:

**1. PARTICIPATION OF THE CIVIL SOCIETY IN THE EU ACCESSION PROCESSES TO BECOME OBLIGATORY**

State authorities in the region continue to adopt laws and policies without CSO involvement. The EU may help to increase CSO participation and require from the states to involve civil society representatives in all phases of the EU accession processes. This includes also the decision-making processes about the legal regulations that need to be adopted to comply with the EU rules.

**2. THE EU TO PRIORITIZE ENABLING ENVIRONMENT IN THE NEGOTIATION PROCESSES**

The EU may also support civil society development by granting a higher priority to the enabling environment for CSOs in the negotiation processes. This involves a greater political support that needs to be awarded to the implementation of the *Guidelines for EU Support to Civil Society in Enlargement Countries, 2014-2020*.

**3. THE EU FUNDS TO BE DISTRIBUTED TRANSPARENTLY AND IN A DEPOLITICIZED MANNER**

In order to prevent conflicting situations when financial resources are redistributed according to political views or personal acquaintances, or managed based on government discretion in implementation of the rules, funding for civil society should not be channeled predominantly through governments. The EU should support creation of independent mechanisms for reallocation of EU funds and monitor their operation and non-interference of the states in their functioning. Existing state foundations/funds for civil society support may be a more acceptable mechanism for the distribution of EU funds as they are more independent from the government.

**4. THE EU TO SUPPORT DIVERSIFICATION OF CSO FINANCIAL RESOURCES**

As the EU and other foreign funding will be phased out from the countries once they enter the EU, there is a strong need for CSOs to diversify their financial resources. The EU should highlight to states the importance of creating a more enabling environment for philanthropy, social entrepreneurship and other alternative sources of funding, and also support CSO projects towards this goal. The EU may support this through the provision of expertise and sharing of best practices from the Member States. Therefore, the EU may greatly assist CSOs in their efforts to diversify sources of funding and build their skills and capacities.

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