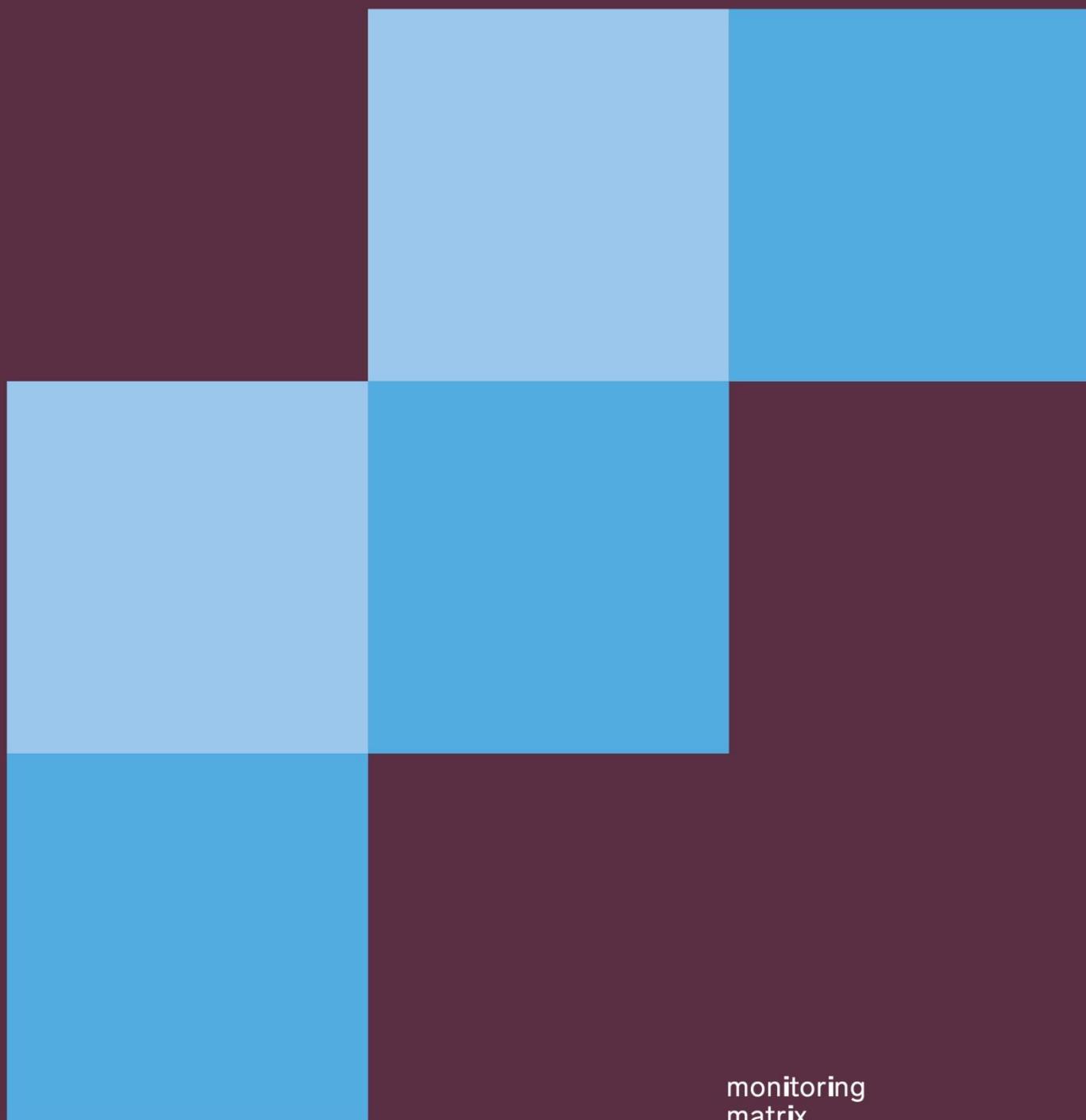


Monitoring Matrix on Enabling Environment for Civil Society Development

Country Report:
Serbia
2020





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Country Report for Serbia 2020

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List of abbreviations

ACT - Program For an Active Civil Society Together
BCDN - Balkan Civil Society Development Network
BIRN - Balkan Investigative Reporting Network
CB - Capacity Building
CI - Civic Initiatives
CINS - Center for Investigative Journalism of Serbia
CMR - Country Monitoring Report
CEP - Center for European Policy
CRTA - Center for Research, Transparency and Accountability
CSD - Civil Society Development
CSO(s) - Civil society organization(s)
CSR - Corporate Social Responsibility
ECNL - European Center for Non-Profit Law
EU - The European Union
FATF - Financial Action Task Force
FoI - Freedom of Information
GOCCS - The Government office for cooperation with civil society (the Office)
HJC - the High Judicial Council
KRIK - Crime and Corruption Reporting Network
LoA - Law on Associations
LoE&F - Law on Endowments and Foundations
LoV - Law on Volunteering
LSG - Local Self-Government
MM - Monitoring Matrix
MYS - Ministry of Youth and Sport
MCI - Ministry of Culture and Information
MEI - Ministry of European Integration
MESTD - Ministry of Education, Science and Technological Development
MLEVSP - Ministry of Labor, Employment, Veteran's and Social Policy
MME - Ministry of Mining and Energy
MSALSG - Ministry of State Administration and Local Self-government
MTTT - Ministry of Trade, Tourism and Telecommunications
NCEU - National Convention on European Union
OGP - Open Government Partnership
SBRA - Serbian Business Registers Agency
SCTM - Standing Conference of Towns and Municipalities
SECO - Sectorial civil society organizations
SEIO - Serbian European Integration Office
TA - Tax Administration
TACSO - Technical Assistance for Civil Society Organizations
USAID - United States Agency for International Development
VAT - Value-added Tax
WBT - West Balkan and Turkey
WG - Working group
YUCOM - The Lawyers' Committee for Human Rights

Introduction

Civic Initiatives and the Balkan Civil Society Development Network are pleased to present the sixth edition of the Monitoring Matrix on Enabling Environment for Civil Society Development, covering developments in Serbia in 2020.

This report is part of a series of country reports covering seven countries in the Western Balkans and Turkey: Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Montenegro, Serbia and Turkey. A Regional Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country at www.monitoringmatrix.net.

The Monitoring Matrix, developed in 2013 by BCSDN with support of its members, partners, ICNL and ECNL, presents the main principles and standards that have been identified as crucial to exist in order for the legal environment to be considered as supportive and enabling for the operations of CSOs. The Matrix is organized around three areas, each divided by sub-areas¹:

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

The principles, standards and indicators rely on the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries. The Matrix aims to define an optimum situation desired for civil society to function and develop effectively and at the same time, it aims to set a realistic framework that can be followed and implemented by public authorities. Having in mind that the main challenges lay in implementation, the indicators are defined to monitor the situation on level of legal framework and its practical application².

In addition to the in-depth and qualitative monitoring, in 2015 an assessment of the enabling environment with categorization ranging from fully disabling to fully enabling environment was introduced. 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. It does not replace, but complements the qualitative assessment, as the narrative country reports are the basis on which the categorization is conducted.

The research conducted under the MM aims to provide for shadow reporting on the enabling environment for CSDev and influence Enlargement policy and funding support towards sustainable and strategic development of the sector.

1. As a research tool for measuring the health of the legal, regulatory, and financial environment in which CSOs in WBTS operate, the Matrix aims to respond to the need of CSOs to have evidence-based research products and capacities to advocate for policy changes towards a more enabling civil society environment.

2. For these purposes, within the findings part, the report further makes references and correlations to the Guidelines for EU Support to Civil Society in Enlargement Countries, 2014-2020.

Acknowledgments

This National Monitoring Report was developed by Civic Initiatives (CI), member of Balkan Civil Society Development Network (BCSDN). The Research team consisted of several senior and young researches: Bojana Selaković, Dejana Stevkovski, Ivana Teofilović, Tara Petrović and Pavle Grbović. CI would like to thank BCSDN for the support provided.

Also, we would like to thank all other representatives and experts from numerous civil society organizations (Trag foundation, Catalyst foundation, Center for Social Policy, Narodni Parlament, Smart Kolektiv, European Policy Center, Young Researches of Serbia, AIESEC Serba, NCEU, Association Duga, Center for Education Policy) and state bodies (Ministry of State Government and Local Self-Government, the Office for Information Technologies and eGovernment, the Commissioner for Information of Public Importance and Personal Data Protection, State Secretariat for Public Policies) who have contributed to the development of this report through sharing their data, experiences and knowledge about the way that certain regulations are being implemented in practice. We would like to give special acknowledgment to Ms. Dubravka Velat, recognized expert for civil society development in Serbia and WB countries, who contributed to more objective assessment and enabling environment scoring.

Background - Country overview

Throughout 2020, Serbia was faced with an epidemiological crisis, but also with the continuation and deepening of its political crisis, which has been going on for years as a consequence of the lack of institutional dialogue. In addition, the past year will probably be remembered as the most unsuccessful when it comes to the process of accession to the European Union, given that Serbia did not open any negotiating chapters in 2020.

In terms of fundamental freedoms, the central event of 2020 was certainly the decision to declare a state of emergency on the entire territory of the Republic of Serbia due to the COVID-19 pandemic. Such a drastic response to the global crisis has led to a further narrowing of civic space. Hasty and ill-considered decisions, such as the Government decree effectively introducing censorship in terms of reporting on the pandemic and its consequences, all under the threat of criminal prosecution for journalists who do not use official information from the Crisis Staff as a source, certainly contributed to that. Although the decision was soon revoked, the essence of the problem of centralizing information has not changed, leaving those in smaller, local communities in the dark and endangering their safety and well-being. Another serious attack on media freedom under the guise of epidemiological concerns was the arrest of journalist Ana Lalić on charges of spreading panic, after her article reporting on the lack of medical equipment and worsening conditions in Serbian hospitals.

The pandemic and state measures in response to it represented an obstacle to essential CSO activity, especially with regard to those organizations that provide services and assistance to vulnerable and marginalized groups. During the state of emergency, those CSOs were completely prevented from functioning due to the fact that they weren't provided with permits to move freely during lockdowns, which sometimes lasted for multiple days. The state of emergency also had a significant impact on the financial sustainability of CSOs, bearing in mind that numerous public calls for (co) financing by local self-governments were canceled, which called into question the survival of a large

number of associations. The damage was partially remedied by the adoption of a decree providing economic assistance to the private sector, which CSOs were included in, but even that did not solve the problem of survival of informal organizations that played a significant role in overcoming the crisis. Catalyst research from May 2020 on assessment of the COVID 19 pandemic's impact of the on

Half of the CSOs participating in MM Survey (50,6%) reported they experienced some kind of difficulties due to the COVID-19 pandemic situation. Some of the main difficulties encountered as result of COVID 19 pandemic situation were:

- o **Interruption of project implementation - 33 CSOs,***
- o **Shortage in funding opportunities - 32 CSOs,***
- o **Difficulties to reach our beneficiaries - 34 CSOs***
 - o **Shortage in human resources - 18 CSOs***
- o **Lack of access and capacity to use technology - 12 CSOs.***

Some CSOs also reported other difficulties: need to obtaining permits to move during curfew, difficulties in working with public services, the need to obtain permits for service providing during curfew, procurement of protective equipment, creation /amendment internal procedures safety and health at work and hiring a licensed person / organization to monitor this segment, inability to maintain programs caused by changes and by adapting to circumstances.

the activities and financial status of non-profit organizations and media in Serbia (192 NPOs and 5 independent media) showed that 69.8% of them paused their planned activities, while 19.8% continued to carry out activities according to the plan adjusted to the officially adopted measures. 54.7% of respondents reduced the volume of their activity, and only 13.5% increased it. Half of the respondents canceled some activities, and more than 1/3 started implementing new activities.

Objective limitations related to the pandemic, but also insufficiently skilful crisis management, had a devastating effect the functioning of institutions and respect for democratic procedures, which was reflected in the almost complete cessation of public hearings and consultations. The institutional and political crisis culminated in the holding of parliamentary and local elections in June 2020, which were boycotted by a large number of opposition parties due to poor election conditions. The fact that a victory over the pandemic was declared on the eve of the elections, and that the reintroduction of a lockdown curfew was announced almost immediately after their conclusion, caused mass demonstrations, the largest and most violent in decades. The protests, which started in Belgrade and spread to several cities in Serbia, were marked by numerous cases of unnecessary and excessive use of force by the police, but also cases of pure police brutality, as well as the brutality of parapolice forces. Spontaneous gatherings of citizens were violently interrupted several times by the use of police batons, tear gas, cavalry and armored vehicles to break up demonstrations, and a large number of police officers, members of the Gendarmerie and special anti-terrorist units were deployed on the streets.

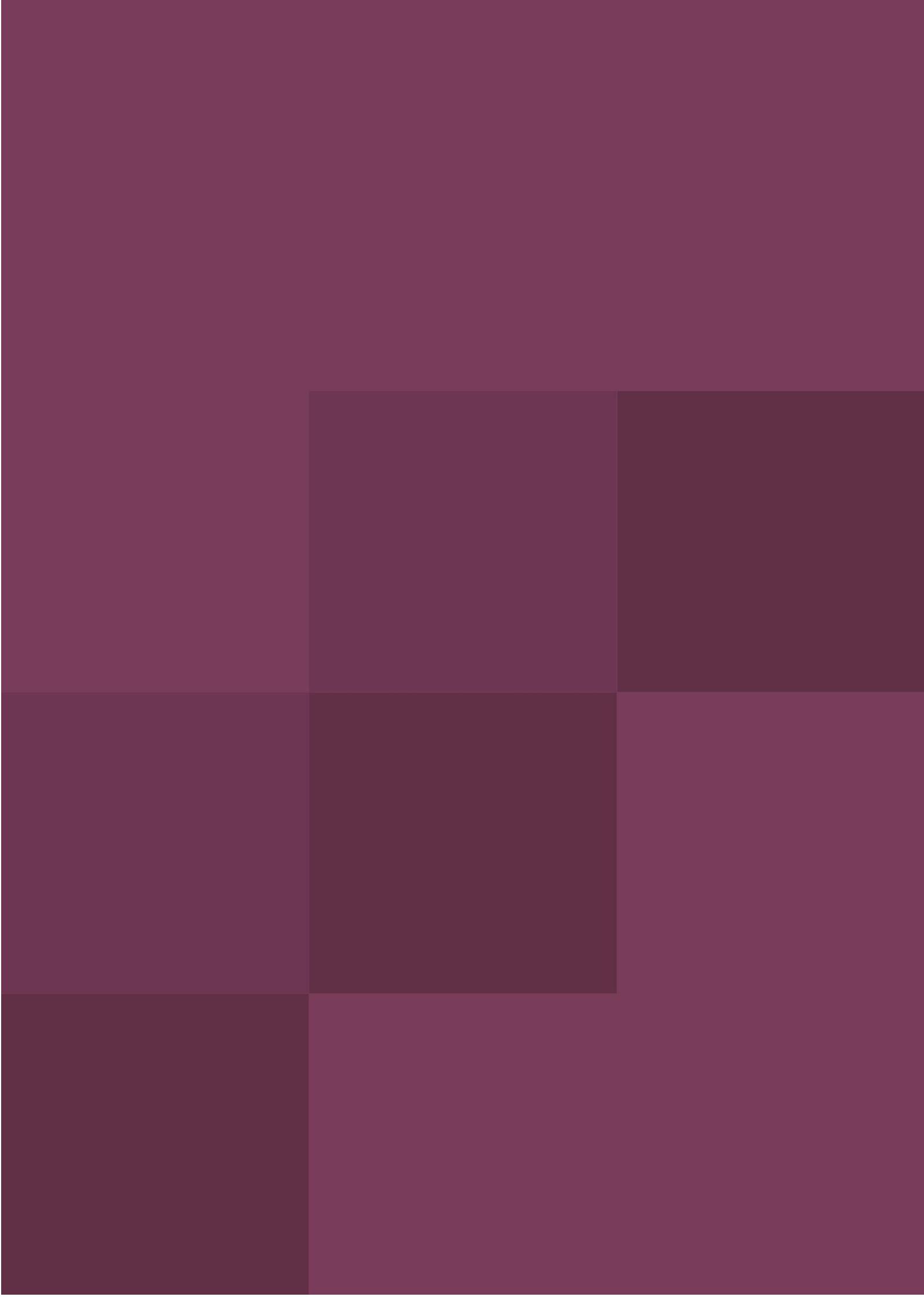
The Majority of MM Survey respondents (61 CSOs, 73.5%) stated they were digitally ready for the employees to work fully from home. Readiness to work from home is reflected in: adequate IT equipment and knowledge for using technologies and programs for online work, adapting and transferring programs to digital or online platforms, some of them already had experience working from home even before the virus pandemic. As the most common ways of adapting to pandemic conditions, most of the surveyed CSOs (61 CSOs, 73.5%) noted continuation of planned activities through use of online technology, 35 CSOs mentioned revision of activities/services to adapt to the needs of beneficiaries, 14 CSOs noted revision or development of strategic plans / strategies to respond to emergency situations, 21 CSOs noted networking with other organizations for a better and more efficient response. 6 OCD (7,2%) CSOS responded have not adopted at all.

The year was also marked by the publication of a list of 57 CSOs, media and activists who were subject to a dubious probe by the Administration for the Prevention of Money Laundering and Terrorist Financing. The Administration sent a request to all commercial banks in Serbia to turn over information on all foreign and domestic currency bank accounts belonging to and transactions undertaken by a number of human rights defenders, watchdog organizations, investigative media and individual journalists and activists. This type of institutional pressure has caused great non-material and reputational damage to civil society in Serbia, especially given the dominant narrative against this sector in recent decades. This legally unfounded act by the Administration was sharply criticized by

the domestic and international public; with the FATF stating that Serbia had no basis for conducting such checks, and that the Administration's actions violated the basic principles of the fight against terrorist financing and money laundering. On the other hand, an adequate mechanism has not been established to prevent the activity of harmful GONGO organizations, that not only try to discredit the work of CSOs, but also endanger their financial sustainability, as a significant part of public funds intended for financing projects of public importance ends up in the hands of phantom organizations with almost no previous experience or expertise.

At the end of the year, civil society in Serbia was left without a core pillar of institutional support. The formation of a new Government and the adoption of the Law on Ministries envisaged the formation of the Ministry for Human and Minority Rights and Social Dialogue, due to which the Office for Cooperation with Civil Society ceased to exist. This solution is problematic for several reasons, namely

due to the unclear transfer of tasks between the former Office and the newly established Ministry, which has left some important tasks previously performed by the Office excluded from the legal text defining the Ministry's competences, leaving the question of which, if any, institution is going to be taking over those duties.



Executive summary

Civil Society Overview

	2019	2020
<i>Number of registered organizations (per type) (+ how many have registered in 2019)</i>	<i>33.463 citizens' associations 911 endowments and foundations (2090 associations, 4 endowments and 70 foundations newly registered in 2019)</i>	<i>34.664 citizens' associations 949 endowments and foundations (1625 associations, 51 endowments and foundations newly registered in 2020)</i>
<i>Main civil society laws</i>	<i>Law on Associations; Law on Endowments and Foundations; Public Assembly Act; Law on central Record of the Beneficial Owners; Government Regulation (by-law) on financing programs of public interest (Regulation); Law on Volunteering; Adult Education Law; Law on Youth; Government Regulation on establishing the Office for Cooperation with Civil Society; Law on Local Self Government; Law on the Planning System; Law on Free Access to Information of Public Importance; Law on social Protection; Law on the Consumer Protection; Law on Public procurement</i>	<i>Law on Associations; Law on Endowments and Foundations; Public Assembly Act; Law on central Record of the Beneficial Owners; Government Regulation (by-law) on financing programs of public interest (Regulation); Law on Volunteering; Adult Education Law; Law on Youth;; Law on Local Self Government; Law on the Planning System; Law on Free Access to Information of Public Importance; Law on social Protection; Law on the Consumer Protection; Law on Public procurement</i>
<i>Relevant changes in legal framework</i>	<i>The Law on Free Legal aid - With its adoption, certain CSOs that have performed these activities for years are now prevented from doing it. The adopted solutions virtually prevent CSOs from continuing to provide free legal aid, except in cases from Article 9 of the Law which prescribes that CSOs may provide free legal aid only to the basic law governing asylum law, domestic violence and non-discrimination. It also provides that certain CSOs, within the objectives for which they were established, may provide general legal information and complete legal forms.</i>	<i>The Law on Ministries envisages the establishment of a Ministry for Human and Minority Rights and Social Dialogue, which ended the existence of the Office for Cooperation with Civil Society. Significant changes have been made in the area of public procurement with the adoption of the new Law on Public Procurement and accompanying bylaws. The most important changes concern the establishment of thresholds to which the Law does not apply, the criteria for awarding the contract by proposing that the contract be awarded to the most economically advantageous tender on the basis of price or cost using a cost-effectiveness approach or price-</i>

		<p>quality ratio. During 2020, the Law on Games of Chance was amended, and the changes that are relevant to the position of CSOs concern the concretization of the manner of distribution of earmarked revenues of the budget of the Republic of Serbia.</p>
<p>State funding (key bodies and amounts)</p>	<p>According to the Budget Law of RS for 2019, total amount of funds planned for CSOs support was 66.982.856 EUR. Key bodies for funds' distribution were Ministry of Youth and Sport – more than 19,5 million of EUR, Ministry of Labor, Employment, Veterans' and Social Policy - 10,7 million of EUR and Ministry of Finance – almost 9,5 million of EUR</p>	<p>According to the Budget Law of RS for 2020, total amount of funds planned for CSOs support was 90.626.519 EUR. Key bodies for funds' distribution were Ministry of Youth and Sport – more than 28 million of EUR, Ministry of Labor, Employment, Veterans' and Social Policy - 9 million of EUR and Ministry of Finance – 16 million of EUR</p>
<p>Human resources (employees and volunteers)</p>	<p>No available data.</p>	<p>According to the Central Registry of Compulsory Social Insurance data on employment in associations, foundations and endowments during 2020, the total number of employees in CSOs for an indefinite period is 5012, total number of fixed-term employees was 2421, total number of full time employees was 7602, while 1002 people were engaged based on contract on temporary and occasional jobs and 951 people were engaged based on other types of contracts.</p>
<p>CSO-Government Cooperation (relevant and new body: consultation mechanism)</p>	<p>Government Office for Cooperation with Civil Society Contact points for cooperation with civil society in certain ministries and LSGs; NCEU; SEKO</p>	<p>Ministry for Human and Minority Rights and Social Dialogue. During 2020, the Database of Contact Points for Cooperation with Civil Society Organizations was created with the aim of enabling and encouraging direct communication and cooperation of administrative bodies with CSOs NCEU; SEKO</p>
<p>Other key challenges</p>	<p>Lack of records was observed when it comes to the implementation of tax incentives, statistics in the area of distribution of state funds, volunteering, the number of employees and contracted persons, regulations adopted at all governance levels including the involvement of CSOs in these processes, as well as the provision of services in all relevant areas.</p>	<p>No changes.</p>

Key findings

Key findings of the report	
1.	<i>Violation of fundamental freedoms is one of the strongest findings of this report. Numerous recorded cases of violations of freedom of association, expression and assembly are recorded within Area 1.</i>
2.	<i>Establishing GONGOs and PONGOs is one of the main trends in Serbia during 2019 in the public space and the media. Their role is visible in decision-making processes, distribution of state money, and the initiation and campaigning of critically oriented actors.</i>
3.	<i>Different domestic and international reports assess non-favorable framework for individual and corporate giving. There are no proper tax benefits underlying the further growth of giving. Implementation of existing incentives is not unique and different practices of the competent authorities in this regard are present. The definition of public interest is inconsistent in Law on Associations law and tax laws. There is no system for collecting data on donations from citizens and businesses.</i>
4.	<i>Although there is a framework for transparent state funding, it still contains certain gaps, which allow for the prescribed procedures, and in particular the political influence on the final decisions. The state funding for CSOs in Serbia is one of the initial reasons for increasing GONGO activities and a number of such cases have been reported.</i>
5.	<i>The legal framework still does not stimulate volunteering, no acknowledges the value of volunteer engagement and does not enables the collection and analysis of data on volunteers and volunteer hours.</i>
6.	<i>Although certain changes in the legal framework have been observed, they are not qualitative and do not address the problem of limited influence in the decision-making process. Due to the focus of the EU on quantitative criteria, a trend of faking public participation and debates was observed, with strong GONGOs activities.</i>

Key recommendations

Key recommendations from the report	
1.	<i>Consistent implementation laws and by-laws in the area of freedom of association, freedom of assembly and freedom of expression at all state levels in order to defend achieved standards in the legal framework, as well as strengthening the accountability of all relevant institutions responsible for the protection of fundamental rights.</i>
2.	<i>Establish a mechanism to prevent the abuse of regulations and standards in the field of prevention of money laundering and harmonize the work of the Administration for the Prevention of Money Laundering and Terrorist Financing with the standards prescribed by the FATF.</i>
3.	<i>Provide a stronger political label for philanthropy with stronger incentives for corporative giving, introducing incentives for individual giving, and harmonization of public interest between different laws as well as establishing a system for collecting data.</i>
4.	<i>Develop additional qualitative criteria for participating in distribution of state funds on a basis of expertise and public interest contribution as well as establishing a system for effective regular collecting data on all types of state funding.</i>
5.	<i>Develop additional qualitative criteria for participating in decision making processes on the basis of expertise and public interest contribution as well establishing a system for effective regular collecting data.</i>
6.	<i>Building a normative and institutional framework in order to establish a supportive environment for the development of civil society. Legal regulation of legal gaps caused by non-transfer of all competencies from the scope of work of the Office for Cooperation with Civil Society to the newly established Ministry of Human and Minority Rights and Social Dialogue is necessary. It is also necessary to adopt a new National Strategy for a Stimulating Environment for the Development of Civil Society in the Republic of Serbia through an inclusive process.</i>

Findings

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1. Freedom of association

1.1.1. Establishment of and Participation in CSOs

Legislation is fully in line with standards in this area. Both natural and legal persons may establish associations, foundations and other types of non-profit, non-governmental entities for any purpose, without discrimination. Article 55 of the [Constitution](#) stipulates freedom of association, as well as freedom to stay out of any association. [The Law on Associations](#) stipulates that associations are independent in the pursuit of its goals. Anyone, irrespective of their age, may become a member of an association under equal terms laid down by its statute. **Registration is not mandatory** according to the Law on Associations, and The Law on Endowments and Foundations contains similar provisions. The procedure of registering an association, endowment or foundation, the contents of the application and the form in which it must be submitted are prescribed by the [Law on the Procedure of Registration with the Serbian Business Registers Agency](#). The legislation allows for networking among organizations in the country and abroad without prior notification, and there are no legal provisions related to blocking social networks. **Practice is partially harmonized with standards when it comes to possibility for every individual or legal entity to form non-profit, non-governmental organizations offline and online.** In response to our FOI request, the Serbian Business Registers Agency (SBRA) stated that, in 2020, registration was denied to 937 associations and 31 endowments and foundations due to formal deficiencies. The SBRA does not have a mandate to impose bans on the work of civil society organizations; it can only remove CSOs from the Register once a ban has been imposed by the Constitutional Court. No such bans were imposed by the court in 2020. The Ministry of the Interior's Service for Combating Organized Crime, Department for the Suppression of High-Tech Crime responded that they can petition social media and hosting providers to remove certain online content, user profiles or web pages, but only at the official request of the Special Prosecutor's Office. No such requests were made by the Office during 2020.

According to available SBRA data, the number of newly registered associations in 2020 is 1625, while the number of newly registered endowments and foundations in the same period is 51. This shows the number of newly registered foundations has decreased by 22% from the previous year, while the number of newly registered endowments and foundations is down by 31%. The overall number of newly registered CSOs has decreased by 22.5%. There are no cases in the survey that CSOs reported that the registration procedure was conducted impartially or that the required registration documents exceeded those stipulated by law.

Practice also indicates partially enabling environment in the area of sanctions for non-registering organizations. Due to the lack of space for public debate, informal grassroots organizations and movements still feature heavily as a form of organizing in Serbian civil society. Even though the COVID-19 pandemic has heavily impacted their ability to organize and carry out their work, grassroots organizations have remained active throughout 2020, and have made

significant contributions to the fights against corruption, pollution, nepotism both locally and nationally. However, they still face frequent obstacles in their work. As a grassroots organization operating in a hermetic local environment, the ecological initiative "Defend the rivers of Stara Planina" continues to be exposed to smear campaigns and harassment by local authorities. As of the end of 2020, one of their activists, Desimir Stojanov Desko, who has spent years at the forefront of the fight against the construction of the hydroelectric power plant in Rakita, has accrued more than 60 misdemeanor and two criminal charges for his protest activities.

An important event in informal CSO networking during 2020 was the informal coalition formed around the CSOs and media who were targeted through a probe by the Administration for the Prevention of Money Laundering and Terrorist Financing, which sent a memo to all commercial banks in Serbia demanding they turn over extensive information about foreign and domestic currency accounts and financial transactions undertaken by 37 CSOs and media and 20 connected individuals. The organizations named on the list joined together to raise awareness of potential abuses of the mechanisms against money laundering and terrorist financing and educate on the impact of legislation in this area on the non-profit sector. Furthermore, they successfully petitioned the UN Human Rights Council Special Procedures to take note of this issue, and an investigation of the Serbian Government's conduct in this matter by this body is still ongoing.

Residents of the streets of Požeška and Valjevska on Banovo brdo in Belgrade managed to successfully defend their local community park from aggressive development, through constant harassment from private investors and hired security. After a year of protests, they were able to push for a change in the urban plan, in order to give their local park the status of a green space, which will prevent investors from being allowed to build on it in the future. However, even though part of their agreement with the city and investor was that charges and lawsuits against their activists would be withdrawn, that agreement was not respected and trials against activists Savo Manojlović, Milena Popević and Radomir Lazović are continuing, which puts pressure on local activists trying to make a change in their communities. A similar example of a successful community effort is the grassroots initiative "Bring Back Trolley 28", which was successful in convincing the authorities to return the number 28 trolley line in Belgrade, which had previously been disconnected due to reconstruction works on the Republic Square, to regular operation on July 6, 2020. Activists with this initiative were also faced with misdemeanor charges.

Practice is in line with standards regarding forming and participating in networks and coalitions. According to the official data of the SBRA, 11 networks were registered in 2020. In the MM Survey, around 31 % organizations responded that they are members of one home network, 18% that they are a member of two, 28% that they are a member of three or more and 15 CSOS stated that they are not a member of any networks. Also, 17 % of respondents stated that they are a member of one international network, 7% that they are a member of two, 6 % belong to three and more and 29% stated that they are not a member of any. Among the MM respondents, none reported facing demands from the state related to their membership in a network. Due to the COVID-19 pandemic, the past year was marked by informal networking between CSOs on philanthropy efforts and coordinating a joint response to the crisis. On March 30, 186 European philanthropic organizations, including Civic Initiatives and other members of the Serbian philanthropic forum, signed a joint statement regarding the COVID-19 crisis, pledging to stand together in the spirit of European solidarity as reliable partners, so that civil society can commit to its essential tasks - providing support to the most vulnerable in their local communities. As a further networking effort, Civic initiatives created a questionnaire for CSOs about their activities, the needs of the groups they work with, but also the services they can provide to citizens during the pandemic. For ease of reference, an interactive map was created that helped coordinate organizations and connect those in need of

assistance with those that can provide it. The map has been regularly updated with new activities and needs, and has been visited more than 10,000 times so far.

1.1.2. State Interference

Legal framework is in line with standards in the area of guarantees against state interference in internal matters of non-profit entities.

The only limitations to freedom of association as enshrined in the Constitution exist in terms of establishing secret and paramilitary associations. CSOs are autonomous from the state, and self-govern their internal structure and procedures. The Law prescribes the obligation of entering activities in the association's statute when submitting an application to register, but CSOs have full freedom in their choice of

The Crisis Staff of the city of Bor issued an unconstitutional order requiring all citizens' associations and voluntary societies to make all their human resources available to assist the oldest fellow citizens in order to supply food and medicine for them. Such an order is obviously unconstitutional given that the Law on Disaster Risk Reduction and Emergency Management and declaring the emergency situation is cited as the legal basis, but based on the signature of the President of the Republic, the Prime Minister and the President of the National Assembly March 15 a decision was made to declare a state of emergency. This decision was later withdrawn.

activity, and there is no prescribed obligation to seek a prior license for certain activities. **However, when it comes to protecting the right to freedom of association, including preventing third party violations of this right, the legal framework indicates a disabling environment.** There are no specific provisions aimed at preventing third parties from interfering with others' freedom of association. There are also no legal provisions aimed at protection of specific types of CSOs based on their field of operations. Based on civil and criminal laws, they exercise the right of protection the same as other private and legal entities.

A **partially enabling environment** has been assessed **in the area of financial reporting (including money laundering regulations) and accounting regulations.** The regulations on annual CSO financial reporting partially recognize the specific nature of CSOs. The Law on Associations prescribes that associations shall keep ledgers, draw up financial reports and be subject to financial report auditing in line with accounting and auditing regulations. The Law on Accounting also partly recognizes the specific nature of non-profit entities through providing a separate accountancy framework. However, it still contains numerous unnecessary elements that are not applicable to non-profits and make recording data more difficult. The new Rulebook on the Content and Structure of Financial Report Forms, adopted on June 25th 2020, enables a more detailed overview of the financial structure of CSOs. New elements include the average number of engaged volunteers per month,

A fine ranging from 300 – 3.300 EUR shall be levied on any association for a misdemeanor: 1) if it carries out its business activities contrary to the law, its statute or its other internal regulations as well as contrary to the rules of the (con)federation of which it is a member 2) if it performs a business or another activity of a larger scope, or of a scope not necessary for achieving the association's goals, paragraph 2, subparagraph 3); 3) if it does not utilize the assets and properties solely for the purpose of achieving its statutory goals); 4) if the foreign association's representative office starts up its activities before it is entered in the Register.

monitoring of cash payments from the pay desk as well as the amount of VAT payments and funds exempt from VAT in the reporting period. The Law on Associations prescribes an obligation for associations that receive public funding to publish a report on their activities and use of funds on a yearly basis. Provisions of the [Law on Central Record of Ultimate Beneficial Owners](#) also apply to citizens' associations, as well as foundations and endowments. After the mandatory registration of the BO, there are no obligations for CSOs or other subjects related to further reporting.

Legislation is in line with standards when it comes to restrictions, and the rules for dissolution and termination of associations and are based on objective criteria. The Law on Associations allows the association to cease operations at any time, at the discretion of the highest body of the organization. Both this Law and The Law on Endowments and Foundations have similar provisions related to subjects' deletion from the Register, which can be said to be reasonable. Associations may be deleted from the register if they are banned by the Constitutional Court, cease pursuing their statutory goals, or if they no longer meet the formal requirements related to their organization prescribed by the Law and their statute.

Practice partially meets standards when it comes to sanctions for breaching legal requirements. The Law on Associations provides punitive provisions for corporate offences and misdemeanors. For example, if an association engages in business activities for profit in contravention of the Law and its statute, this represents a corporate offence with a fine ranging from EUR 2.500 – 7.700. A fine ranging from EUR 250 - 700 shall also be imposed on the association's legal representative for such an offence. The Law on Endowments and Foundations contains similar provisions with lower fines for both legal and responsible persons. The Law also provides that a fine ranging from EUR 1.100 to 3.000 shall be levied on endowments and foundations if they engage in activities before it is entered into the Registry. When it comes to other laws containing punitive provisions, it is a regular practice to make a difference in terms of the penalty for legal and natural persons, but the laws do not consider whether it is an association, foundation or company.

Practice indicates a disabling environment in the area of state interference in internal matters of associations, foundations and other types of non-profit entities. The "United Against COVID" initiative was founded in July, starting out as an open letter to the government from doctors and other medical professionals criticizing their response to the pandemic, especially the sudden easing of epidemiological measures and the allowing of mass gatherings in the form of pre-election rallies, football matches, concerts and other events that contributed to the uncontrolled spread of the virus.

At first, the letter was signed by 350 doctors, and in the following days almost 3,000. From the very beginning, the signatories of the letter were subject to smears and harassment, and had their jobs threatened, even in the face of the increasing deficit of available frontline medical staff. Many doctors who were signatories to this initiative had problems in their workplaces, and some were even fired. Three chief medical officers of the Military Medical

According to the MM Survey, 80% of organizations responded that they had not experienced threats from government officials, and 12% of them responded that they had. 93% of the surveyed organizations did not experience government intrusion into the internal work of the organization (e.g. during board meetings or events) and responded that they did; 95% of respondents stated that they haven't experienced unannounced inspections by state authorities and 5% responded that they did.

Academy in Belgrade were removed from their positions after signing the open letter. In August, through consultation with the membership, the initiative decided to form an association that could represent a channel of communication for those in the profession, among themselves but also towards the public, who have something to say about the COVID-19 pandemic and the state response to it, as well as the healthcare system in Serbia more broadly. As previously noted, while the legal framework does not allow the state to interfere in internal matters of CSOs, it also does little to prohibit third parties from infringing on freedom of association. For example, there has been increased activity of websites targeting CSOs and publishing articles devaluing their work. These websites are registered by unknown entities and made to actively resemble investigative sites by name (e.g. - "Istraga", meaning investigation) and design, and are connected to high-ranking individuals from the ruling party. The Center for Research, Transparency and Accountability (CRTA) was targeted through articles claiming the organization is influenced by foreign governments and working against Serbia's interests. Articles of the same content can be found on multiple similar

websites, which shows a systematic approach to this smear campaign. The Association of Public Prosecutors of Serbia (UTS) is facing pressures from tabloids and GONGOs aimed at discrediting their efforts to preserve the autonomy and independence of public prosecutors in the process of Constitutional amendments to the judiciary. Pro-regime tabloids published numerous articles on the participation of individual UTS members in the work of the State Prosecutorial Council, describing them as traitors and mafia members. A much more serious attack on UTS is the formation of a new GONGO professional association, the "Association of Judges and Prosecutors", which was established in September 2018. Through their activities and press releases, they often seek to discredit the work of UTS, a renowned independent organization. In public hearings on issues relating to the judiciary, they are often called upon to give credibility to government proposals and to allow the authorities to give the illusion that the public hearings were held in a transparent and consultative process.

A partially enabling environment has been assessed when it comes to cases of invasive oversight which impose burdensome reporting requirements.

No organizations from the MM survey have responded that they experienced invasive oversight (e.g. excessive audit, other burdensome administrative requirements, targeted inspections etc.). However examples have been recorded in practice. In July of 2020, the Administration for the Prevention of Money Laundering and Terrorist

In the letter itself, the Administration for Prevention of Money Laundering referred to Article 73 of the Law on the Prevention of Money Laundering and Terrorist Financing as the legal basis of the request. Pursuant to said Law, the Administration may request financial service providers to submit data if it "assesses that in connection with certain transactions or persons there are grounds for suspicion of money laundering or terrorism financing". The law does not give state authorities the discretion to inspect those for whom no such suspicion exists.

Financing (APML) sent an official request to all commercial banks in Serbia to turn over information concerning the accounts and financial transactions undertaken by 57 CSOs, media and connected individuals. The request concerned all relevant information for the period beginning with January 1, 2019 and ending with the date of receipt of the request, and included demands for information about the turnover on all local and foreign currency accounts, as well as the identity of the payer and recipient for each transaction, as well as information about safety deposit boxes in their possession. Per the leaked information, the list consisted of 37 legal entities and 20 individuals from media and civil society whose only immediately perceptible common denominator remains their critical stance towards the government. CSOs included on the list encompassed the following categories: media associations and investigative journalism portals; philanthropic and crowdsourcing organizations; CSOs dealing with human rights and providing support to local activists and grassroots organizations through free legal aid, strategic litigations and public advocacy; CSOs and artistic groups dealing with conflict, reconciliation and transitional justice; accountability watchdogs and organizations with expertise on foreign policy and security; Multiple international organizations, including the European Commission, the European Federation of Journalists, have expressed their worry that this probe represents another attempt by the authorities to further shrink civic space in Serbia. In response to an appeal by the targeted CSOs, on November 11, 2020, the United Nations Special Rapporteurs issued a [statement](#) outlining that the State of Serbia had abused its anti-money laundering and anti-terrorist financing mechanism to intimidate and restrict the work of civil society and human rights defenders and stifle criticism of the authorities. An official investigation was begun by the Rapporteurs regarding this issue, which included collecting official statements on this case from the Serbian Government, the Financial Action Task Force (FATF) and MONEYVAL. In its statement to the UN Special Rapporteurs, FATF emphasized that States cannot conduct probes unless there are grounds for suspicion that the subject being investigated is involved in money laundering or terrorist financing, which was not present with regard to any of the subjects placed on the list. The [FATF response](#) indicates that the APML's actions are considered to be a violation of their standards. MONEYVAL, for its part, [announced](#) that this issue will be discussed at their upcoming plenary session in April 2021.

Practice is in line with standards in the area of sanctions for noncompliance. According to data obtained from the Working Group for Supervisory Inspection of the Non-Profit Sector, the group carried out 25 joint supervisory inspections during 2020, and 5 were still ongoing as of December 30 2020. During those inspections, 8 misdemeanors were discovered by the Tax Administration, one misdemeanor charge was filed by the Administrative Inspectorate due to noncompliance with imposed measures, and the SBRA was notified in three cases that conditions have been met to delete associations from the Register. No information was given on the nature of the sanctions in the proceedings that followed, or whether or not the decisions were appealed. In response to our FOI request, the Administrative Inspectorate stated that, following 30 supervisory inspections on non-profits, three motions were submitted to institute misdemeanor proceedings against associations of citizens, endowments and foundations, i.e. responsible persons in those legal entities, and in the following proceedings, one sanction was imposed. The sanction given was a formal reprimand. No information was given on whether or not the decisions were appealed. Information was also requested via FOI request from the Misdemeanor Court in Belgrade, which reported that no procedures were initiated in front of this court for offenses related to noncompliance with the Law on Associations and the Law on Endowments and Foundations in 2020. According to the MM survey just 3.5 % CSOs responded they were sanctioned for noncompliance, but none responded that they used the opportunity to appeal in court.

1.1.3. Securing Financial Resources

When it comes to freely seeking and securing financial resources from various domestic and foreign sources to support CSOs activities, legislation is in line with standards. The Law on Associations stipulates that an association may perform any activities which help achieve the goals set forth in its statute. Associations, endowments and foundations may directly perform both a business activity and another profit - making activity in accordance with the law regulating the classification of activities, under certain conditions, which are mostly in line with standards. **Similar findings have been identified regarding freely receiving foreign funds, as well as from individuals, corporations and other sources.** There are no limitations in regards to receiving assets from public or private foreign sources and there is no discrimination with regard to the source of financing.

Although the legislation regarding this standard is mostly in place, there are certain problems with practice. **When it comes to CSOs engaging in economic activities, standards are partially met.** According to the MM survey, 37 % of the organizations reported income from economic activities, while 6% experienced administrative obstacles when engaging in economic activities in practice. As noted in the previous year's report, a lack of knowledge, human and other resources still represents the key barrier to the development of business and achievement of a greater social impact for

According to data provided by the SBRA, the total number of registered associations at the end of 2020 was 34,664 and the number of foundations and endowments was 949. The number of registered associations with economic activities is 25.9% of the total number of registered associations and 34.8% from the total number of endowments and foundations. The number of CSOs that perform economic activities through a separate legal entity and the income obtained in this way can only be determined through a review of their annual financial reports as submitted to the SBRA. This data will only become available once all the submitted financial reports for the previous year are processed by the SBRA.

most CSOs establishing social enterprises. Unfortunately, no work has been done on the Law on Social Entrepreneurship in 2020 in order to potentially alleviate some of these issues. **A partially enabling environment has been detected during assessment of restrictions of receiving foreign funding as well as receiving funds from individuals, corporations and other sources.** Around 62% of MM Survey respondents reported that they receive income from foreign sources, and less than 33% are

dominantly financing themselves through foreign funding. Also, two CSOs reported facing obstacles receiving income from foreign sources. In response to our FOI request The National Bank of Serbia, which has a mandate to handle complaints related to the work of financial service providers, stated there were no complaints recorded in 2020 concerning CSOs being prevented from receiving foreign funding. However, CI Resource Center has recorded several complaints in this regard. Namely, in the process of notifying foreign currency inflows, some banks request the submission of donation contracts, although there is no clear recommendation by the National Bank to do so. Furthermore, the Law on the Prevention of Money Laundering and Terrorist Financing gives the Administration for the Prevention of Money Laundering (APML) the mandate to issue requests to banks to temporarily suspend financial transactions under certain circumstances. In response to our FOI request, the APML stated that it had not issued any such requests related to foreign currency inflows to CSOs in the reporting period. When it comes to funding from private sources, slightly less than 45% MM Survey respondents reported that they receive income from private sources, and less than 6% of them are dominantly financing themselves through private funding. According to preliminary data obtained from the Catalyst Foundation, the recorded amount of funds donated to CSOs in 2020 represents 49.3% of the full sum of donations to any recipients. 63.3% of these funds come from private citizens, and 32.3% from the business sector.

Sub-area 1.2. Related-freedoms

1.2.1. Freedom of Peaceful Assembly

The legal framework in Serbia is based on international standards and provides the right to freedom of assembly for all without any discrimination. The right to peaceful assembly is explicitly enshrined in Article 54 of the Constitution and Article 2 of The Public Assembly Act. An assembly may be restricted only on grounds of protecting public health, morals, and the rights of others or the security of the Republic of Serbia. According to The Public Assembly Act, a public assembly is a gathering of 20 or more persons on account of “expressing and realizing different viewpoints and goals which are allowed in a democratic society.” A necessary precondition for the protection of the right to freedom of assembly specified by the Act is that the assembly must be deemed peaceful. **However, when it comes to the restriction of spontaneous, simultaneous and counter-assemblies, Serbian legislation partially satisfies standards.** While there are no legal limitations in terms of concurrent assemblies on the same location, as long as both are peaceful, the Act does not identify or address “counter-assemblies” as such. Not having a clear legal definition of these concepts has led to serious problems in practice, and this issue was left unaddressed when the new Act was passed in 2016. With regard to the safety of participants, The Public Assembly Act stipulates both a negative and a positive obligation for the competent organs. The negative obligation requires that they refrain from jeopardizing or limiting the right of citizens to peaceful assembly, while the positive obligation compels them to take all steps, primarily with regard to public safety, so that the assembly passes without incident. **Similarly, a partially enabling environment exists regarding the prior authorization of assemblies by the authorities.** The Public Assembly Act prescribes a system where authorities do not authorize, but are required to be notified of public gatherings. Unless the gathering is spontaneous, the organizer must give the Ministry of Interior advance notice of a planned assembly. Article 6 imposes certain limitations in terms of location, such as that

14 CSOs (16,8%) experienced violation of freedom of association, assembly and expression or any other violation of rights and freedoms since the start of the Covid-19 pandemic situation: right to freedom on assembly due to adopted measures which prohibited public assemblies, lack of possibilities to participate in public discussions, lack of transparency in announcing relevant information related to COVID -19.

assemblies cannot be held in front of health institutions, schools, preschools as well as “objects of strategic importance to the defense and security of the Republic of Serbia.” **Finally, decisions restricting the right to assembly can be appealed by organizers, which is in line with standards.** According to The Public Assembly Act, the organizer of may submit a complaint to the Ministry of the Interior within 24 hours of receipt of the decision prohibiting the holding of a planned assembly, and the Ministry has to act within 24 hours of receiving the complaint. An administrative dispute may be initiated against the final decision of the Ministry.

The enjoyment of the right to peaceful assembly was obstructed in multiple ways during 2020, most notably through measures aimed at curbing the spread of the COVID-19 pandemic. The first such limitation was imposed through the [Decree on Banning Gatherings in the Republic of Serbia in Closed Public Places](#) limiting indoor gatherings to 100 people or less. A few days later, this decree was replaced by a new, more restrictive order, banning gatherings of more than 50 people. On March 21, a new decree from the Ministry of Health imposed a ban on any gathering with more than 5 people in attendance. State bodies were still permitted to hold gatherings of up to 50 people on official premises, provided the gathering is “aimed at resolving the problems caused by the COVID-19 pandemic”, and that adequate sanitary conditions are provided. Regarding outdoor gatherings, the [Decree on Measures During the State of Emergency](#) prescribed an absolute ban on such gatherings for the duration of the State of Emergency. Once the state of emergency was lifted, the Government adopted the [Decision on Determining Special Measures to Protect the Population from the Infectious Disease COVID-19 on the Territory of the City of Belgrade](#) which imposed limitations on freedom of assembly in closed and open public spaces. Up to 100 people were allowed to gather in closed spaces, while gatherings in the open were allowed for 500 people or less. This act was [amended](#) a few days later due to the worsening epidemiological situation, instituting an identical limitation on gatherings in open and closed spaces - allowing gatherings of up to 10 people, with an obligation to maintain a distance of 1, 5m between persons. A new limitation was imposed on July 16, this time through a [Decree by the Minister of Health](#), forbidding gatherings of more than 5 people, both indoors and outdoors. In August 2020, the same act allowed gatherings of up to 30 people, but in November 2020, a Decree from the Ministry of once again limited gatherings to 5 people or less due to rising infection rates.

There are some cases of encroachment on the freedom of assembly in practice indicating a partially enabling environment. In response to our FOI request, the Ministry of Internal Affairs stated that 2858 properly reported public assemblies were held in Serbia in the previous year. It was further stated that a decision to disallow the assembly was

According to the MM survey, 38 % of those surveyed responded that they practiced freedom of assembly, while only 4% of respondents stated that administrative requirements were burdensome for the organizers (i.e., prior authorization being required to hold the event). Furthermore, 7% of surveyed CSOs reported experiencing restrictions in terms of location, while 12% reported restrictions related to gathering at the desired time.

made in 6 cases. However, the Ministry of Internal Affairs only provided copies of 4 of the decisions. Out of those, three were based on alleged danger of endangering the safety of people and property, public health, morals, the rights of others or the security of the Republic of Serbia, and three others on the danger of violence, destruction of property or other forms of public disorder. Appeals were filed against two of the decisions, but they were not accepted. No cases of assemblies being banned without written explanation were recorded in the MM survey or by the Civic Initiatives Resource Center in 2020. In October, representatives of the "Let's Defend Košutnjak" initiative reported that police in Obrenovac [refused to accept their notification of an ecological protest](#) in front of the "Mei Ta" auto manufacturing plant, with less than 20 planned participants. They stated that the officers verbally informed them that they could not allow the assembly because of the fear that the protesters would

be joined by the factory workers, which would result in the number of participants exceeding 20. The activists were further warned that they would be arrested if they went through with the protest.

Unfortunately, a disabling environment has been identified with regard to exercising the right to simultaneous, spontaneous and counter-assemblies. The Ministry of Internal Affairs responded to our FOI request stating no assemblies in the reporting period were disallowed due to the possibility or announcement of a counter-protest. However, according to the Ministry, three properly notified assemblies were banned on the grounds that **a large number of citizens who “may have different opinions and attitudes” towards the applicant and potential participants in the assembly were “transiting at the location where the assembly was planned, which could lead to mutual conflicts.”** One of the decisions concerned a planned assembly by adherents of the Falun Gong religious movement, and was disallowed based on a potentially high number of Chinese citizens transiting in the area, which is a continuation of a long practice of pressures and harassment directed at this group by Serbian authorities. The two other decisions concerned a planned anti-government rally in protest of President Aleksandar Vučić’s alleged violation of the Constitution, and one promoting a proposed boycott of unfair electoral conditions. In 2020, the festival “Mirëdita, dobar dan” once again provoked conflicting reactions from the public and the mobilization of ultra-right groups. The festival opening was preceded by tabloid propaganda laying the groundwork for protests and incidents orchestrated by nationalist organizations. The Serbian Radical Party issued a [statement](#) emphasizing that “no state would allow the Mirëdita festival”, labeling it anti-state propaganda that “promotes the false state of Kosovo”. The nationalist organization “Zavetnici” announced a [protest](#) in front of the Center for Cultural Decontamination (CZKD) where the festival was held, where they would collect signatures to petition for the abolition of the “pro-Western non-governmental sector”. The opening of the festival was marked by incidents perpetrated by the members of “Zavetnici”, Miša Vacić and followers of the “Serbian right” organization participated, as well as noted government-affiliated agent provocateur Simo Spasić. Several hundred right-wingers gathered in front of the CZKD, carrying Serbian flags, icons and paintings, shouting insults and threatening slogans. For their personal safety, the festival participants were escorted to and from the festival by a police cordon that separated them from the protesters. [The most serious incident](#) happened when one of the visitors took the microphone from the opening speaker to announce his personal experience of being forced to flee Kosovo. The quick reaction of those gathered helped to avoid more serious consequences. After several hours of protests and attempts to stop the festival, among other things by throwing a lighted torch into the space near the festival, the gathered dispersed, and [one person was arrested by police](#). [The residents of the streets of Požeška and Valjevska](#) on Banovo Brdo in Belgrade organized protests to demand a change in the city plan in order to have their local park designated as a “green space” which would prevent the area being built on by a private investor. During one of their last protests, [private security personnel hired by the investor](#) broke into the park and demolished the security fence. [The police did not intervene](#) even as the security personnel insulted the assembled citizens with news crews present. After initially gathering on June 30, a group of citizens continued to protest in front of a hospital in Novi Pazar for months, demanding answers from the authorities as to why the health system in that city broke down. They communicated with citizens through social networks, giving daily updates on all relevant information related to the course of the epidemic in their local area. With their activities, they drew the attention of the media and the general public to the scale of the catastrophe in this part of Serbia when it comes to the pandemic. It is still unknown under what circumstances the health system broke down in Novi Pazar, Sjenica and Tutin, how many people died in total, as well as what happened with the huge amount of donations in equipment and materials that was provided by a large number of individuals and companies. The visibility of their protests and other activities on the networks provoked a reaction, although delayed, by the Government of the Republic of Serbia, but also greatly mobilized Serbian citizens. In December 2020, they formally registered as an association under the

name "Initiative of Free Citizens of Novi Pazar".

Practice indicates a partially enabling environment when it comes to cases of freedom of assembly practiced by CSOs without prior authorization.

In response to our FOI request, the Ministry of Internal Affairs stated that spontaneous outdoor gatherings were held in several cities in the reporting period, which resulted in a disturbance of public order by the participants, prompting the police to take measures to disperse them. The exact number of assemblies and participants was not specified, but it is obvious that the response refers to the mass anti-government protests that took place in Serbia in July 2020, which were violently and repressively dispersed by police. More on this can be found below. In the MM survey, 54% of the CSOs responded that their spontaneous assemblies were not dispersed by police due to lack of authorization/ notification. [Dobrica Veselinović](#), an activist with the „Don't let Belgrade d(r)own" initiative, received another misdemeanor charge, this time for organizing a „Justice for David" solidarity protest. In this particular case, the protest arose in reaction to police brutality during a citizens' gathering in Banja Luka, and fulfilled all the criteria to be considered as a spontaneous protest according to The Public Assembly Act. This is just one in a series of proceedings against activists for organizing unreported protests, which are a means for the government to stifle civic activism and have been used as such on many occasions in previous years.

According to the MM survey, 6% CSOs reported participation in spontaneous assemblies and 3% of them in counter-assemblies. All respondents stated that they haven't witnessed a lack of police protection during simultaneous and counter-assemblies as well as that they weren't involved in assemblies that were banned because of the possibility of counter-protests.

However, a disabling environment has been detected regarding excessive use of force.

After President Aleksandar Vučić's announcement that another [curfew](#) was to be instituted due to the worsening of the epidemiological situation, dissatisfied citizens spontaneously gathered in front of the National Assembly building on July 7 to express their dissatisfaction with the new measures. The protest began with [a peaceful gathering](#) of hundreds of citizens, and as time went on, the number of demonstrators grew larger and larger, reaching an estimated ten thousand people in attendance. An hour after the beginning of the protest, a group of citizens tried to enter the National Assembly by force. They succeeded in their intention and entered the hall of the Assembly, and soon after, they were ejected by police forces. Following occasional skirmishes and verbal clashes, the situation spiraled out of control and escalated into open conflict on the streets of Belgrade after [police fired several tear gas canisters](#) at a crowd of protesters, causing injuries and suffocation to those gathered, as well as a stampede due to fleeing from tear gas. Shortly after the first reaction of the police, clashes followed in which dozens of demonstrators and policemen were injured, with a large number of cases of inadmissible brutality by members of the police and persons in civilian clothes who identified themselves as members of the Ministry of Internal Affairs. During the night police used batons, rubber bullets, tear gas, cavalry, police dogs, and before the end of the night, even riot dispersal vehicles were brought to the streets. One of the most brutal cases of violence was recorded by N1 television cameras in a video showing members of the gendarmerie (Serbian armed police force) beating three men sitting on a bench near the Serbian Presidency with batons, although it was obvious that they were not aggressive or resisting in any way. Citizens also noticed other cases of severe injuries of the demonstrators and social networks were flooded with [videos](#) and [pictures](#) of people covered in blood. There was also

Citizens were particularly upset and distrusted the armed forces because of a large number of suspicious-looking men posing as police officers in plainclothes who took part in the beating, abuse, and arrest of protesters. One of the videos shows four such men [hitting a man lying on the ground](#) and then taking him in an unknown direction.

severe violence during the apprehension of citizens, as there was a case where alleged members of the police were holding a man on the ground while tying his hands and pressing his head with their foot, which is contrary to all rules of police conduct. On the second day of the protest, July 8, an even larger number of people gathered on the streets, prompting an even harsher and more violent response from the government. Members of the Gendarmerie, the police brigade, and even the Special Anti-Terrorist Unit were deployed on the streets of Belgrade. Throughout the day, citizens shared footage of convoys of police vehicles coming to Belgrade from other cities. The protest spread to some other cities in Serbia, such as Novi Sad, Nis, Kragujevac, Smederevo and Kruševac. After the quick and violent reaction of the law enforcement agencies, the mass of citizens gathered in front of the National Assembly was broken into several parts, and the protesters were pushed hundreds of meters away from the building. That evening, the worst case of police brutality has been recorded,

Due to police abuse at the July protests, the Belgrade Center for Human Rights filed 32 criminal charges (30 charges to the First Basic Public Prosecutor's Office in Belgrade and 2 reports to the Basic Public Prosecutor's Office in Novi Sad), concurrently initiating proceedings before the Protector of Citizens in all cases. The Association of Citizens A11 - Initiative for Economic and Social Rights filed criminal charges in an additional 7 cases.

where a young man was hit with batons and kicked by dozens of policemen while lying on the ground. Citizens recorded numerous other cases of police brutality, such as when a dozen plain-clothes officers beat a young man who had been knocked off his bicycle, for whom it's unclear if he even participated in the protest. One of the most shocking photos, which was shared en masse on social networks, shows a young man with a severely injured right arm that lacks parts of the skin and subcutaneous tissue and flesh.

Responding to a request to provide information on the number of persons detained during public assemblies in the past 12 months and the formal reasons for their detention, the Ministry of the Interior stated that it was not able to perform a search according to the required criteria. However, information obtained through a FOI request issued

by Human Rights House Belgrade to the Ministry of Justice, Administration for the Execution of Criminal Sanctions stated that, during the July protests, a total of only 59 persons were admitted to correctional facilities in order to be detained, with 24 persons sentenced for misdemeanors, 16 persons detained according to the Law on Public Order and Peace and 19 detained in accordance with the provisions of the Criminal Code and the Code of Criminal Procedure.³ According to statements given by Police Director Vladimir Rebić to the media on July 11 and July 12, over 100 protesters were arrested in just those two days. The response to the FOI states that during 2020, a total of 57 complaints were filed due to excessive use of force at public assemblies, and that a violation of the applicant's rights was established in only one case. 57 internal control procedures were also initiated, and a violation of rights was established in one case. In response to our FOI request, the Protector of Citizens stated that different departments within this institution received 33 complaints in total regarding police conduct in relation to public assemblies in 2020, and that 16 control procedures were initiated in response. Regarding eight control procedures on the regularity and legality of the work of the Ministry of the Interior carried out by the Protector of Citizens during the protests in July, this institution determined in all cases that there were omissions in the treatment of individual citizens. **The omissions consisted of unauthorized use of force and the illegal and improper use of coercive means by police officers against certain citizens, as well as the fact that police officers did not have prominent identification marks, which made it difficult to conduct an investigation and determine their individual responsibility.** The Protector of Citizens also determined as an omission that the Internal Control Sector did not immediately take action to establish the facts and obtain evidence, as well as determine the individual responsibility of police

³ <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2014/01/Ljudska-prava-u-Srbiji-2020-za-web.pdf>.

officers who acted illegally and incorrectly towards individual citizens.⁴ Civil society organizations gathered in the Platform of Organizations for Cooperation with the United Nations Human Rights Mechanisms addressed an urgent appeal to the UN Special Rapporteur regarding human rights violations during the July protests. The response of the Government of the Republic of Serbia, dated 25 September 2020, stated that three police officers had been prosecuted on suspicion of committing a criminal offense, and that the basic public prosecutor's offices in Novi Sad, Bačka Palanka and Zrenjanin had initiated investigations against them. There are no reports that any other police officers have been prosecuted for violence against citizens at the July protests. **When it comes to media access to public assemblies, several problematic cases were recorded.** During the July protests, journalists reporting from the scene were met with violence and obstruction from both police and protesters, as well as being exposed to a huge amount of tear gas that interfered with their work. A journalist with the BETA news agency was beaten by the Gendarmerie to such an extent he ended up in Emergency Care, even after identifying himself as a journalist. Journalists of the Nova.rs portal Milica Božinović and Nataša Latković were also victims of police violence. At one point, members of the police tried to prevent N1 television journalist Jelena Zorić from reporting when the cameras recorded protestors being beaten. RTS (Radio Television of Serbia) journalists Milan Srdić and Lazar Vukadinović were physically attacked by protesters in Novi Sad. On that occasion, cameraman Vukadinović's hand was injured and his camera was broken, while Srdić suffered verbal insults. In Niš, the RTS reporting team experienced physical assaults and verbal insults, and protestors poured water on their camera. Journalists from Južne vesti came to the aid of their colleagues from RTS and prevented further escalation.

1.2.2. Freedom of Expression

The legal framework provides freedom of expression for all which is in line with standards. Freedom of thought and expression are guaranteed by the Constitution. Article 46 prescribes that the freedom to seek, receive and impart information and ideas through speech, writing, and art or in any other manner. National minorities are provided with a wide scope of guarantees in relation to freedom expression. Article 47 of the Constitution especially emphasizes the freedom to express national affiliation, and that no person shall be obliged to declare his/her national affiliation. No legal provisions are present aimed at limiting the right of expression and receiving information, including by way of the internet. **Restrictions imposed by legislation are clearly prescribed and in line with international law and standards.** Freedom of expression may be restricted by the law if necessary, to protect rights and reputation of others, to uphold the authority and objectivity of the court and to protect public health, morals of a democratic society and national security of the Republic of Serbia. **Libel in Serbia was decriminalized in 2012 by the Amendment to the Criminal Code, which is in line with standards.** During the state of emergency, the Government of the Republic of Serbia adopted a conclusion mandating that all information in relation to the COVID-19 pandemic must be issued by the Prime Minister or by a person authorized by the Crisis Staff. The conclusion stipulated that notices on health measures and other information given by unauthorized persons could not be considered reliable, and opened up the possibility for independent sources reporting on the pandemic to be held accountable for spreading misinformation in a state of emergency. A few days after its adoption, the conclusion was overturned by a Government decision.

However, in practice, a disabling environment has been assessed regarding the freedom of expression of CSO representatives, especially those from human rights and watchdog organizations. Numerous domestic international reports (Three freedoms, CI Annual report on shrinking civic space, Freedom House, Civicus Monitor) recognize an enduring practice in which

⁴ <https://ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/6974-u-vrdi-i-dg-v-rm-s-z-n-z-ni-i-n-pr-viln-p-s-up-ni-p-lici-s-ih-sluzb-ni>

human rights and watchdog organizations are subject to smear campaigns due to their critical approach to the Government. The program director of the Independent Journalists' Association of Vojvodina (NDNV), [Dinko Gruhonjić](#), was the target of an attack by unknown perpetrators who wrote hate speech slogans at the entrance of his building in Novi Sad. The reason for the attack was Gruhonjić's article criticizing the proliferation of depictions of Nazi symbolism in the city. An unknown man confiscated the phone of [KRIK journalist, Bojana Pavlović](#), after she photographed the son of the President of Serbia, Danilo Vučić in the company of a known associate of a Montenegrin criminal clan. According to KRIK, after she took the photo, Pavlović was stopped by three men who introduced themselves as police officials. Pavlović also introduced herself and showed her journalist ID, but they told her that she had to wait for the police patrol and that she would be detained. They demanded that she delete the photos from her phone, and were then joined by two other men. Pavlović stated that she was there on an assignment and asked to call her editor, to which one of the men responded by confiscating her phone. The police offered no reaction. On another occasion, Anđela Mitrović, KRIK's social media manager, had her apartment broken into. It took the police an hour to respond.

The Working Group for the Safety of Journalists filed a criminal complaint with the Special Prosecutor's Office for High-Tech Crime regarding social media death threats addressed to Editor-in-Chief of CINS, [Milica Šarić](#). Such messages are motivated primarily by CINS' investigative work, as evidenced by the threat sent through their official Facebook page, which states that they are "mercenaries of Soros" and that "justice will come to them".

According to the [Association of Journalists of Serbia](#), 28 journalists were attacked during the July protests in Belgrade, Niš and Novi Sad. Out of that number, 14 suffered bodily injuries, and in six cases, urgent medical intervention was necessary.

Practice also indicates certain cases of encroachment on the right to freedom of expression, which means that standards are not satisfied and the environment is disabling. Through its bi-weekly monitoring reports "Three Freedoms under the Magnifying Glass", Civic Initiatives have identified in total of [123 cases](#) of violations of the right to freedom of expression in 2020. Pressures on journalists, constant devaluing of their work and smear campaigns in pro-regime media are just some of the ways

in which the rights to freedom of expression and media freedoms are violated in Serbia. Of particular concern is that most of these attacks come from top government officials and their close associates. In response to the FOI sent to the Protector of Citizens (Ombudsman), it was stated that during 2020, there were no recorded cases related to the violation of the right to freedom of expression, nor any recorded cases related to the persecution of members of online groups. TV N1 journalist [Jelena Zorić](#) has been the target of multiple threats from the defense lawyer in a trial she reported on involving an illegal marijuana growing operation with connections to high level government actors. This harassment has included not only veiled, in-person threats from the lawyer in question, but also an anonymous note left on the door of her apartment. In response to a complaint filed by her employer, Zorić was informed by the Ministry of Internal Affairs that, after a detailed assessment in coordination with other security services, it was found [that there is not enough information to indicate her safety has been endangered](#). In addition to these pressures and threats, journalists in Serbia were also faced with physical attacks during the reporting period. [Vuk Cvijić](#), an investigative journalist of the NIN weekly had his mobile phone confiscated by unknown men and recordings he had previously made deleted. This happened during the verification of a tip he had received from the citizens that suspicious persons were gathering in a basement. When he arrived at the location, Cvijić found members of the Gendarmerie were also present. Natalija Lučić, a reporter with [Al Jazeera television](#), was also attacked during the protest, along with cameraman Tarek Ani, who's recording equipment was broken.

Similarly, there are also cases where individuals, including CSO representatives are persecuted for critical speech in public

Monitoring Matrix on Enabling Environment for Civil Society Develop

According to the MM survey 93% organizations responded that they were not persecuted due to critical speech, in public or private and 7 % of them were. 93% of the respondents stated that they did not succumb to self-censorship and 6% of them did. 97 % of the MM respondents stated that they were not sanctioned for critical speech private and 3 % of them were.

or private. Fifteen men, including several minors, forcibly [interrupted](#) a caricature exhibition in Belgrade. On that occasion, they tore up the exhibited caricatures and threw tear gas into the room where they were exhibited. The reason for this violent action was allegedly the "outrage" of the public regarding the content of the caricatures which were alleged to "promote" violence against children. This case was preceded by verbal attacks and threats to authors sent through social networks, which is the best example of how unrestrained verbal aggression can easily turn into physical violence. It is problematic that instead of a clear and unequivocal condemnation of the violence, there was a public debate about whether such an attack is legitimate, that is, that the exhibition itself is equally scandalous.

Disabling environment has also been identified when it comes to sanctions for critical speech, in public or private, under the penal code. Although libel is de-criminalized, certain cases of sanction for critical speech under the penal code have been recorded. Through the requested FOI requests, the Ombudsman replied that there were no instituted proceedings initiated through this institution regarding the violation of the right to freedom of expression. The journalist of the portal Nova.rs [Ana Lalić](#) was detained after publishing a text about the poor condition of the Clinical Center of Vojvodina, as well as about the working conditions of employees and the lack of adequate medical equipment. During the arrest, police searched her apartment and seized laptops and mobile phones. She was given police detention for up to 48 hours, but was she released in the early hours of the morning. [The European Commission's Progress Report on Serbia](#) pointed out that systematic cooperation between civil society organizations and the state is still not at the desired level and that additional efforts are needed to create an enabling environment for the work, development and financing of civil society. The report states that CSOs were subjected to numerous pressures in the course of their work, but cites as a special case the publication of a list of 57 organizations and individuals that were subject to scrutiny by the Administration for the Prevention of Money Laundering and Terrorist Financing.

1.2.3. Access to Information

Serbian legislation does not contain any prohibitions with regard to communication and access to any source of information, including the Internet and ICT which is in line with standards. When it comes to prohibition of unjustified monitoring of communication channels, including Internet and ICT, or collecting users' information by the authorities, the legal framework indicates a partially enabling environment. Interception of communication in criminal proceedings is forbidden without a warrant issued by the competent court. Covert Interception of Communications can be ordered in cases where grounds for suspicion exist that a certain person has committed a criminal offense, and in criminal procedures where evidence cannot be gathered in another manner, or where gathering would be made significantly more difficult, as well as where grounds of suspicion exist for the person preparing to commit a criminal offense which cannot be prevented or proven in any other manner that enters into the

According to the MM survey, 87% of the surveyed organizations responded their channels of communication had not been blocked, while 13% responded that they had. 90% of responded that they did not have restrictions to access information online or offline.

[SHARE Foundation's Database of Digital Rights Violations in South and Southeast Europe](#) recorded 4 cases of CSOs' social media or websites being blocked, attacked or otherwise made unavailable in 2020. The violations include both algorithmic blocking and suspension of content and making content inaccessible through technical methods. This encompasses, for example, the Twitter account of human rights organization Partners for Democratic Change Serbia being suspended by the platform without warning or explanation, as well as the same CSO's website being made unavailable through a targeted technical attack. A further example is the website of the National Coalition for Decentralization coming under DDoS attack, during which it received more than 700,000 requests for access from over 3,000 foreign IP

domain of privacy to a lesser extent.

There are certain cases in practice where restrictions are imposed on accessing sources of information, including the Internet or ICT which means that standards are partially met. [The news agency "FONET"](#) has protested against a discriminatory decision by the Belgrade City Administration because they were not notified or invited to report on the control of works in a Belgrade street by Mayor Zoran Radojičić. The editorial board of „FONET“ indicated this was a violation of the Law on Public Information and Media, which prohibits all forms of media discrimination. Similarly, a journalist with the Center for Investigative Journalism of Serbia (CINS) was refused accreditation for a press conference featuring the President of the Republic, Aleksandar Vučić. It was stated that, due to the current epidemiological situation, only television and news agencies would be allowed to attend, and “in teams as small as possible”. It is indicative that this decision was preceded by the publication of an article on the actual infrastructural capacity of Serbian medical institutions during the COVID-19 pandemic. The narrowing of the space for media work, as well as the increased public interest in information related to the current pandemic, have led to serious difficulties in gathering information, especially when it comes to local media. For that reason, representatives from ten newsrooms and correspondent offices in Kragujevac and the citizens' association "Res publika" sent an open letter to the Ministry of Health, the Clinical Center and the Health Council of Kragujevac asking them to enable uninterrupted work to those journalists who report on public health in that city. They stated that they had not been able to communicate with relevant sources at the Kragujevac Clinical Center for. Journalists in Niš have been faced with an identical problem, being unable to access information on the number and health status of those testing positive for COVID-19 in that city. The problem was made all the greater because Niš was, at the time, one of the biggest hotbeds of coronavirus in Serbia.

SHARE Foundation's Privacy Violation Database, mapping incidents of privacy violations (relating to personal data protection, communication and information privacy) in Serbia with a particular focus on marginalized groups, recorded 51 such cases in 2020, 22 of which were perpetrated by state authorities.

There are some cases of unjustified monitoring by the authorities of communication channels, including the Internet or ICT, or of collecting users' information which is partially in line with standards. These were especially prominent during the state of emergency. According to the MM survey no organizations reported unjustified monitoring of their communication channels. However, there are grounds to believe the state took steps to illegally monitor phone numbers and track the movement of a large number of Serbian citizens during the state of emergency. On March 19, [President Aleksandar Vučić stated that](#) "the state monitors telephone numbers, primarily Italian" and that this is done to monitor the movements of Serbian citizens coming in from abroad, in order to check whether or not they are adhering to mandatory quarantine protocols. Furthermore, several incidents of unjustified collection of personal data were recorded as part of campaign efforts preceding the June election. Due to complaints from citizens who had been receiving unwanted phone calls and visits to their places of residence by party activists, the Commissioner for Information of Public Importance and Personal Data Protection [issued a statement urging political parties to comply with the](#)

According to official data from the Statistical Office of the Republic of Serbia, 81% of households in Serbia have an Internet connection, which is an increase of 0.9% compared to 2019, and 8.1% compared to 2018.¹ Data shows that Internet in Serbia is affordable. According to data from 2020, the average price of 1GB of mobile data in Serbia is \$1.60¹, which represents roughly 0.24% of the monthly net salary in Serbia for December 2020.¹ According to the Surf Shark Digital Quality of Life Index for 2020, Serbia ranks 39th globally for mobile internet affordability and 57th overall for broadband internet affordability.¹

[provisions of the Law on Personal Data Protection](#), especially those relating to the lawful and transparent processing of personal data. At the end of May, all pensioners in Serbia were sent a letter to their home address with a personal message from the President in which he thanked them for the sacrifices they made during the pandemic, as well as reminded them of the financial aid provided to them by the state as part of its pandemic relief effort. Following a similar incident in 2018, the Commissioner filed a criminal complaint against unidentified persons from the Pension and Disability Insurance Fund due to grounds of suspicion that they unauthorized communicated data on pensioners' identities to the Serbian Progressive Party. To date, the Prosecutor's Office has not informed the Commissioner about the outcome of this report. On February 16 2020, the then Minister of Defense and current Minister of Internal Affairs Aleksandar Vulin published [a rebuttal of an unpublished article authored by former defense minister and president of the Center for Strategic Policy, Dragan Šutanovac](#), which had been submitted for publication to the weekly newspaper Nedeljnik. Šutanovac had sent the article to the editor-in-chief of Nedeljnik, Veljko Lalić by e-mail, but the editorial board decided not to approve it for publication. The Ministry of Defense immediately issued a statement claiming that this was simply an error on the part of the Ministry of Defense's public relations service, and that the Minister's reaction was meant to be in reference to another interview given by Šutanovac, and that the Ministry's PR team had simply made a mistake regarding the outlet the interview was published in. However, the Minister's rebuttal made clear references to the content of the never-published Nedeljnik interview. Although this case demonstrates a clear violation of the constitutional right to secrecy of correspondence and indicates a worrying precedent for potentially widespread wiretapping of journalists' communications in Serbia by intelligence services, no state bodies have confirmed or denied responsibility for this act, with exception of the Military Security Agency, which has stated that it had not applied special procedures and measures that could be used to collect data from mutual communications with regard to Šutanovac and Lalić.

The situation is similar with cases of police harassment of members of social networking groups. Through the FOI request sent to the Ombudsman, this institution stated they had no reported cases of police persecution/harassment of members of online initiatives and groups recorded by their institution in the past 12 months. According to the MM survey, 94 % of the CSOs and informal groups responded that they did not face persecution for activity in an online network/ initiative and 6 % of them did. On March 15, the Republic Prosecutors' Office issued [instructions for public prosecutors' offices relating to their work during the state of emergency](#), making special reference to the violation of health regulations during the epidemic. In particular, special attention was drawn to cases related to Article 343 of the Criminal Code - causing panic and disorder, which prosecutors were instructed to treat with extreme urgency. This represented a worrying development in that Serbian authorities have a history of inconsistent treatment in regard to sanctioning speech on social media, conducting procedures expediently when politically convenient and leaving online threats to journalists, activists and CSOs completely unsanctioned. During the state of emergency, multiple arrests were made on grounds of causing panic and disorder through social media activity. In late February, the media reported that police were searching for an unknown person on suspicion of causing panic, due to a video circulating on social media in which it was stated that there were already deaths in Serbia caused by the coronavirus. Similarly, a man from Kula was ordered to be detained in Malo Crniće for the criminal offense of causing panic and disorder, after allegedly announcing on Facebook, along with photos of the soldiers, that the army and police were deployed in his place of residence and that bread vouchers were being distributed.⁵

⁵ <https://www.istinomer.rs/analize/sirenje-panike-virus-probudio-tuzioce/>

Area 2: Framework for CSO Financial Viability and Sustainability

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

2.1.1. Tax Benefits

No changes have been made in the legal framework regulating tax/fiscal treatment of CSOs and their donors during 2020. Relevant laws **provide tax free treatment for all grants and donations supporting non-profit activity of CSOs**, indicating an enabling environment. [The Corporate Profit Tax Law](#) enables tax exemptions for CSOs for grants, donations, membership fees and non-economic sources of income, as well as the exemption of their profits from income tax under certain conditions. Tax deductions are also envisaged for expenditures related to health care, cultural, educational, scientific, humanitarian, religious, environmental protection and sport-related purposes, providing that payments were made to entities registered for such purposes in accordance with special regulations. On the other hand, **tax benefits for economic activities of CSOs are only partially provided.** The Law on Corporate Profit provides that income earned by CSO is exempt from profit taxation if the income is up to 3.400 EUR, and the profit tax rate is 15%, the same as for other legal entities. The legal framework provides that CSOs may acquire assets from interest rates on deposits, rental fees, and dividends and in other ways allowed by the law, which is fully in accordance **with standards related to tax benefits for passive investments of CSOs.** The environment surrounding **establishment and providing tax benefits for endowments** can be considered enabling - The Law on Endowments and Foundations includes certain incentives. Donations, gifts, financial subventions and inheritance and other means provided to endowments and foundations free of charge shall be exempt from taxes. **Practice partially meets standards regarding tax/fiscal treatment of CSOs.** None of the CSOs that participated in the MM Survey reported that they had paid direct or indirect fees for the receipt of grants to the authorities or to the bank where the grant was received, nor had they experienced a requirement to register with a state body to obtain foreign funds. However, 21 CSOs (more than a quarter CSOs participating in MM Survey) reported they experienced complex procedures for obtaining VAT exemption on foreign funds.

No significant changes have been made in the area of **tax benefits for economic activities of CSOs.** According to SBRA data for 2020, 8986 active associations (25.9 % of the total number of registered associations) and 329 active foundations (34.6% of the total number of registered foundations and endowments) were registered for economic activity. This percentage has remained virtually unchanged since 2019. None of the CSOs participating in the MM Survey reported they used tax benefits for economic activities (e.g. full exemption of tax or up to a certain amount of income from sales and services). Key challenges they faced were related to complicated accountability rules (2 CSOs), extensive administrative requirements to be able to engage in economic activities targeting CSOs only (1 CSO). 4 CSOs experienced other challenges: those registered for catering (managing hostels/restaurants) were prevented from making almost any income, due to restrictions to their work caused by the COVID-19 pandemic; those registered for video material recording and production, as

Responding to the MM Survey, 48 CSOs (57.86%) reported they do not perform an economic activity; 31 CSOs (37.3% of the total number) stated they received some income from engaging in economic activity – 25 of them stated this income made up less than 20% of their total budget, 5 CSOs stated that percentage was higher (from 25% to 50%) and only 1 CSO reported that their economic activity brings in half of their total income.

well as event planning, were also faced with a reduced scope of engagement during the COVID crisis, and consequently made less income. The official number of CSOs reporting **income from passive investments** separately from income from economic activity could be seen from annual financial reports submitted to the SBRA. However, the deadline for submitting those reports is the end of June for the previous year (June 2021 for 2020) so the SBRA still doesn't have all the relevant data from CSOs. Data on income from passive investments are reported in the Report for Statistical Purposes (CSOs are obligated to submit it by the end of February for previous year). However, that report isn't publicly available. Only 1 CSO participating in the MM Survey reported that 5% of their budget for 2020 came from passive income (rental income, shares and dividends).

The process of **establishing endowments** is considered to be simple. Endowments are free to operate, and no administrative burdens or high financial costs were recorded in this area, which indicates an enabling environment. The number of newly registered endowments and foundations decreased in 2020 from the previous year - 51 domestic foundations and endowments were registered with the SBRA during the year, which is a 22% decrease from 74 in 2019. The total number of registered foundations and endowments at the end of 2020 is 949, compared to 911 in the previous year. None of the CSOs participating in the MM Survey have established an endowment, so no complications related to the procedure for establishing endowments were reported.

2.1.2. Incentives for Individual/Corporate Giving

Despite joint advocacy efforts aimed at making necessary improvements to the legal framework for tax deductions for individual and corporate donations to CSOs, no changes were made to the legislative framework. According to the Law on Corporate Profit Tax, deductible donations are allowed for medical, educational, scientific, humanitarian, religious, environmental protection and sport purposes, as well as for donations to social protection institutions. CSOs are treated no differently than public institutions when it comes to funds donated to them being recognized as deductible expenditures. Up to 5% of the total revenue is stipulated for tax deduction and clear indicators for final determining in each individual case are missing, which doesn't have stimulating effect to corporate donors. Furthermore, the Individual Income Tax Law still does not provide any incentives for individual donations. **However, legislation is not in line with standards when it comes to recognizing CSOs and their needs in state policies regarding corporate social responsibility.** Although the legal framework which would regulate this area has been lacking for years, no changes were made during 2020. Previously adopted national strategic documents (National Sustainable Development Strategy and Strategy for CSR Development and Promotion for the period from 2010 to 2015) have expired, and new strategies have not been developed nor adopted, which implies that CSR has not been on the list of priorities for years. On the other hand, according to data provided by the [Serbian Philanthropy forum](#), certain companies devoted to CSR and its development have very concrete strategies which recognize and actively involve CSOs among other beneficiaries. The environment regarding the procedure to claim **tax deductions for individual and corporate donations** has remained partially enabling. 25 CSOs (30% of the total number of CSOs participating in the MM Survey) answered that they agree (strongly agree or agree) that corporate donors face difficulties with access to tax deductions (e.g. the procedure is complicated; burdensome administrative requirements). Incentives prescribed by the Law on Corporate Income Tax - tax benefit for up to 5% of gross income for above mentioned purposes- does not represent an incentive in the real sense of the word. Rather, it's envisaged that up to 5% of companies' income donated for humanitarian purposes can be recognized as a regular expense and is not taxed.

At the end of March 2020, the [Council for Philanthropy](#) submitted a proposal to the Government containing measures aimed at encouraging more donations and enabling more efficient support to the most vulnerable parts of the population. The included 7 measures: establishing a working body within the Council for Philanthropy that would be in charge of coordinating cooperation with civil society; establishing a Compensation Fund for VAT refunds to non-profit organizations, which donate goods and services, in order to more actively involve the corporate sector in campaigns organized by CSOs; temporary abolition of the VAT on food donations aimed to reduce food waste; further promotion of the Guidelines for Donor Tax Benefits; to stimulate citizens to contribute with their donations and solidarity; the abolition of bank fees for the payment of donations to dedicated accounts of non-profit organizations for the duration of the state of emergency; enabling PayPal donation for both domestic and foreign citizens; providing permits for employees of nonprofits to enable them to transit freely during lockdown movement restrictions. Although the business sector and individual donors donated significant amount to CSOs, the Government didn't respond to this initiative.

According to the preliminary results of Catalyst foundation's research on giving in 2020,⁶ the amount donated to non-profit organizations during the year was more than 21.6 million EUR. This is a significant increase (triple the amount) compared to 2019. Almost 2.9 million EUR was donated to NPOs with aim to mitigating the consequences of the COVID-19 pandemic. From the total number of recorded donations (1367) more 57% (779) were to private foundations, and 34.5% (471) were to domestic associations. A quarter of the total amount given was donated to associations, but the majority (more than 67%) was donated to private domestic foundations. Having in mind that there are no incentives for individual donations in Serbia, citizens were important donors (through mass giving) – they accounted for almost 50% of all donations; the business sector donated almost 28% in spite of lack of real incentives or tax deductions for corporate giving. More than 55% of the total donated amount was for health purposes, 15.7% specifically relating to COVID-19, and almost 23% was for support to marginalized groups. In response to our FOI request asking for information on the number of corporate donor that have claimed tax deductions for their donations (for medical, educational, scientific, humanitarian, religious, environmental and sport purposes and giving to social welfare institutions) the Tax Administration stated it doesn't have the resources to compile the requested data.

CSOs gathered around Charity Coalition, the Bank of Food Belgrade and NLAED sent to the Ministry of Finance a proposal for amendments to the Regulation on Fiscal Benefits and Direct Benefits to Economic Entities during a state of emergency to enable the extension of the exemption from VAT to goods and services for all benefits, and primarily food and consumer goods, which VAT payers send to local governments, other state bodies, social and public institutions and non-profit organizations especially associations, foundations and endowments). However, the Ministry of Finance has not responded to this initiative till the end of 2020.

The situation is similar when it comes to recognizing CSOs as state partners in promoting CSR. [The Forum for Responsible Business](#) presents the largest national network dedicated to promoting and furthering the concept of corporate social responsibility (CSR). During 2020, it was dedicated to business sector investments in community development, contribution to mitigating the consequences of the COVID-19 crisis, but also to the implementation of Sustainable Development Goals (SDGs). Five years after the adoption of the Agenda for 2030, most FRB members have approached harmonizing business strategies and policies with SDGs, primarily in the following areas: decent work and economic growth, responsible consumption and production, good health, quality education, gender equality, industry, innovation, infrastructure, inequality reduction. 95% of the companies (36) that participated in [FRB's research](#) were involved in providing support to the community during the COVID-19. 31 companies donated more than 2.8 million EUR for these purposes. The donations were mostly in the form of monetary donations, but also donations in products. The companies also gave support

⁶ Final data should be announced in spring of 2021.

by providing various services, purchasing the products of social enterprises, through start-ups, special projects and campaigns to support small and medium-sized enterprises. Almost half of the recorded amount was intended as direct support to the health system, while the other half was intended to support to local governments, local and national humanitarian organizations, social welfare institutions, direct aid to socially vulnerable populations, and, in a slightly smaller percentage, other target groups (education system and entrepreneurs).

Practice also partially meets standards when it comes to tax deductible donations to CSOs engaged in main areas of public interest, such as human rights and watchdog organizations.

PBO status isn't defined within the national legal framework; The Law on Associations and The Law on Endowments and Foundations both recognize the concept of "public interest" but a clear and unified definition of the concept is still lacking. Furthermore, The Law on Corporate Income Tax contains different incentives based on different areas of public interest, which results in unequal tax treatment of recipients of funds from various donors and of the donors themselves, depending on their area of activity and the law according to which they were registered. Slightly more than a third of MM Survey respondents (26 CSOs) reported receiving support from the business sector, and the same share of donations from business sector donors was recorded in Catalyst foundation's research on giving in 2020. There is no available updated data for 2020 on the number of CSOs working in the main areas of public interest on the PBO list. At the end of 2020, CSO members of the Charity Coalition started an initiative to abolish bank fees on payments for humanitarian purposes. All actors involved in the dialogue agreed it is necessary to establish a unique register of accounts belonging to CSOs that are recipients of donations, and that it is necessary that the Register be under the jurisdiction of a state institution. It was agreed that the criteria for entry into the Register should not be administratively demanding, but that they should still be such as to serve as a guarantee that there are credible and trusted organizations in the register. In order to determine the best way to accomplish this, a wide and thorough consultation process is necessary.

As a response to the COVID-19 crisis, the Charity Coalition appealed to the National Bank of Serbia, asking for bank fees on donations to dedicated accounts of non-profit organizations to be abolished for the duration of the state of emergency. In response, twelve banks stopped charging bank fees on donations.

Sub-area 2.2. State support

2.2.1. Public Funding Availability

The lack of a single comprehensive document which would regulate **state support for institutional development for CSOs, project support and co-financing of EU funded projects**, and some existing elements in the area of project-based financing **indicate that legislation partially satisfies defined standards**. The Law on Associations, The Law on Endowments and Foundations and several other laws and regulations directly refer to project-based financing of sectoral CSOs - those working in areas such as youth, culture, persons with disabilities (including institutional support). Some relevant provisions also exist within the criminal law framework (regarding the distribution of the money raised through the institute of deferral of prosecution). These Laws foresee that the means for funding programs carried out by associations that are of public interest shall be secured out of the state budget. The details of the allocation procedure are prescribed by the [Government Regulation On Financing Programs of Public Interest](#), which is applied by most national, provincial and local institutions. However, two core national institutions that allocate funding to youth and cultural associations (the Ministry of Youth and Sports and the Ministry of Culture and Information) implement other by-laws, which provide for a slightly different procedure. The Ministry of Youth and Sports by-law doesn't allow CSOs to submit appeals to the results of public call procedures, which is

important distinction compared to public calls for CSOs active in other areas of public interest.

The above mentioned Regulation is indentified as a **national-level mechanism for the distribution of public funds to CSOs, and its content and implementation point to a partially enabling environment**. The Regulation provides that funds are allocated from the budget line 481 - Donations to NGOs. However, specific percentages for distribution of these funds aren't determined, and this budget line is also used for payments to other legal entities, without applying the provisions of the Regulation. Furthermore, it is envisaged for CSOs to receive funds from several other budget lines: 472 – Compensations for social protection, 451 – Subventions to public non-financial corporations, 423 – Contract services, 424 – Specialized services, 462 – Grants for international organizations. One more possibility for CSO financing from public funds is foreseen by the [Law on Games on Chance](#): The budget revenues accrued through this law are distributed as follows: the Serbian Red Cross, organizations of persons with disabilities and other associations whose goal is to improve the socio-economic and social position of persons with disabilities, social protection institutions and other associations whose goal is to improve the socio-economic and social position of persons in a state of social need; sports and youth and local self-government units receive 19% each, while 5% is put towards funding treatment for rare diseases.

The established procedure for **CSO participation in all phases of the public funding cycle** shows that legislation is not in line with standards. The Regulation provides that competent institutions are to form a commission to enact the competition, but there is no explicit obligation to include CSO representatives as commission members. There are no other specific legal provisions indicating a requirement for consultations with CSOs in this regard. **A partially enabling environment has been noted when it comes to responding to the needs of CSOs within available public funding**. According to [The Law on the Budget of the Republic of Serbia for 2020](#), the total amount of planned funds for CSO support from the 481 budget was 90,626,519 EUR. In 2019, that amount was 64.431.679 EUR, which indicates an increase of almost 29% compared to the previous year. Having in mind that the total number of registered CSOs was more than 34.600, the average amounts per CSOs was more than 2600 EUR, i.e. almost 27% more than in 2019. However, not all registered CSOs are active and all of them do not apply for state funds. On the other hand, The Law on Budget Execution hasn't been announced since 2018, so there is no official data on the way funds intended for these purposes were spent. The Last Consolidated Report on State Funds Distributed to CSOs was published in 2016 by the ex-Office for Cooperation with Civil Society, so updated information is still unavailable. **Having in mind that the Law on Ministries did not place this task within the scope of the new Ministry, an important mechanism for controlling the transparency of how these budget allocations are spent has been abolished**. The total amount of funds planned to be allocated in 2020 from budget line 472 (social protection fees from the state budget) was 1,012,808,230 EUR, which indicates a decrease of around 4.5% compared to the previous year. However, this amount is envisaged for financing a wide range of services/giving: child protection, veterans' and PWD's protection, social protection, transition fund, standards in education, Young Talent Fund, sports scholarships, awards and honours, refugees and displaced persons, other social protection fees from the budget, and so on. At the same time, CSOs licensed to provide social services have the right to apply for part of the funds intended for provision of social service. In total, 613 entities were licensed to provide social services by the end of 2020 (55 more than in 2019) and 118 of them are CSOs (nearly 20% and 7 more than in 2019).

The only two state bodies that allocated funds for co-financing of EU and other projects were the Government Office for Cooperation with Civil Society (GOCCS) and the Ministry of Youth and Sports (MYS). In 2020, GOCCS allocated almost 40,000 EUR for co-financing 6 CSOs' projects, supported by EU within the CSF program; MYS planned to allocate slightly over 29,000 EUR for co-financing CSO programs and projects in the youth sector areas approved by the European Commission through the

Erasmus + EU program and cross-border cooperation programs. However, those funds weren't allocated due to the suspension of public calls caused by COVID 19 pandemic. Within the IPA 2014 Program, MYS supported 7 projects which involved CSOs as coordinators or partners, in the total amount of 165.275,99 EUR. Most other state bodies (Ministries, Offices, and Agencies) allocated funds only for project/program support to CSOs, but not for their institutional development. All answers gathered from state bodies via FOI request indicate that they only supported CSOs' project and program activities. Only the Ministry of Human and Minority Rights and Social Dialogue reported allocating slightly more than 40.800 EUR for specialised services from CSOs (budget line 424). No other Ministries reported that they had distributed funds either from this budget line or from budget line 423 – Contract services. No information was available regarding the spending of the money distributed according to the Law on Games on Chance.

According to the MM Survey, 31 CSOs (37.3%) reported they used some kind of state support for their activities: 23 of them reported they used state financial support for a concrete project or activity; 6 CSOs received funds based on contracted services, 5 CSOs used non-financial state support; 3 CSOs reported they used Government programs and benefits for stimulating employment in CSOs; 1 CSO reported using grant for co-financing of EU projects or other projects and 1 CSOs used infrastructural support. None of the CSOs reported they had received institutional support grants. 2 CSOs reported they used Government programs and benefits for employees' salaries during the COVID-19 crisis. Out of the 31 CSOs that reported use of state funds, only 2 expressed agreement that available public funding meets the needs of civil society organizations. Only 3 CSOs reported that the majority of their annual budget (more than 50%, more precisely 85-92%) comes from public financing, 30 CSOs stated that share was less than 50%, in fact 21 of them had less than 20%. 32 CSOs (38,5%) reported on the share from LSG funds in their budgets – only 1 was 90% financed by a LSG, 3 CSOs were 50-75% financed by LSGs, 7 CSOs' received 20-50% of their annual budget from LSGs, 21 CSOs received less than 20% of their annual budget from LSGs.

The lack of government bodies with a clear mandate for the distribution and/or monitoring of the distribution of state funds indicates practice is not in line with standards. There is no state institution with a mandate to allocate the biggest share of state funding. All state bodies and local self-governments have the mandate to allocate state funds to CSOs. Data gathered through FOI requests show that the biggest amount of funds was allocated by the Ministry of Culture and Information - more than 4.7 million EUR. However, according to the Law on the Budget for 2020, the biggest amount of donations to CSOs (budget line/economical classification 481) was planned to be allocated by the Ministry of Youth and Sports – more than 28.5 million EUR. It's important to note that most of the mentioned amount was planned for support to programs by sports associations and federations. MLEVSA was planned to allocate nearly 9 million EUR, and MIC – almost 4.5 million EUR. More than 6 million EUR was planned to be allocated by the Ministry of Justice to churches and religious communities, which are also financed from budget line 481. There is no state body with a mandate to monitor the implementation of state funded projects. The monitoring process is to be done independently by each body that has allocated funds for CSOs' programs/projects, but a clear definition and unified monitoring methodology is missing. Also missing are the obligation to conduct individual evaluations and a summary evaluation of the effects of the public call in relation to the strategic document of the body in a particular area of public interest, as well as to publish the evaluation reports (individual and summary) on the website of the competent authority body and on the eGovernment portal.

Practice partially meets standards when it comes to **the predictability and ease of identification of funding within the state budget**. Funds from budget line 481 (donations for NGOs) and 472 (financing services of social protection) are used for financing sport clubs, churches and religious communities, public institutions, the Red Cross, which already have their own line defined within the budget. Compared to 2019, an increase of almost 29% from budget line 481 was recorded compared to the previous year, as well as a decrease of around 4.5% of funds planned from budget line 472.

According to The Law on the Budget for 2020, MYS (28.5 million of EUR), Ministry of Finance (16 million EUR) and MLEVSA (almost 816 thousands EUR) were planned to distribute the biggest amount of funds from two mentioned lines. MYS and MLEVSA regularly announced public calls on their web pages during 2020. However, any public call wasn't announced at the Ministry of Finance's web page although they were distributing funds from budget line 481. On the other hand, the biggest difference in expenditures can be noted in terms of funds planned to be allocated by the Ministry of Finance, which was more than 6.6 million EUR higher than it was in 2019. Such a difference comes from expenditures provided to political parties for their participation in local and parliamentary elections during 2020, which had not been the case in 2019. According to data provided by the Ministry for Human and Minority Rights and Social Dialogue, during January and February 2020, data on planned public calls were submitted by 149 public administration bodies, which reported on a total of 668 planned public calls. The eCalendar application was open to public administration bodies for additional updating of data on future calls. Extensive work was being done during 2020 so that information on supported projects and results achieved would be announced in 2021.

A partially enabling environment has also been identified regarding **CSO participation in public funding**. MYS didn't report on youth CSOs representatives' participation in decision-making/advisory bodies; however representatives of sports associations (Serbian Olympic Committee, Serbian Para-Olympic Committee, Serbian Sport Federation and Serbian Institute for Sports and Sport Medicine) participated in such processes. MESTD reported that a commission to decide on submitted proposals was formed for one public call, but the number of CSO representatives involved wasn't reported. MTTT reported there was no formal participation of CSOs representatives in the process of defining funding priorities. MCI reported that CSOs participated in defining priorities and deciding on the distribution of public funds as members of project selection commissions for public calls announced by the Sector for International Relations and European Integration in the field of culture. The call was announced for co-financing projects in the field of culture and arts that are supported through international funds in 2020. All 31 CSOs (37.3%) which stated they have used public funds for their

Immediately after the state of emergency was announced in the Republic of Serbia (March 15, 2020), a large number of procedures for the allocation of non-refundable funds from the state budget for 2020 were suspended or the deadlines for submitting proposals were extended. Some state bodies have publicly informed the interested CSOs about it, but on most sites of national, provincial and city bodies there was no information on planned public calls for financing programs or projects implemented by associations. Also, the public didn't have access to information on public calls- their postponement, extension or results, which were completed immediately before or after the state of emergency announcement, especially when it comes to public calls launched by the provincial secretariats. In the period from March 15 to the end of April 2020, only one decision on the allocation of funds was announced according to the announced public competition for financing/co-financing the projects of the association. This had a serious impact on the financial sustainability of CSOs, especially in the medium and long term.

During the state of emergency, the GOCCS sent an initiative to the Ministry of Finance in order to consider the planned reduction of expenditures from the budget line 481 - grants to non-governmental organizations, so as not to jeopardize the functioning and financial stability of civil society organizations.

operation also strongly disagree or disagree about CSO involvement in setting public funding priorities.

2.2.2. Public Funding Distribution

Legislation partially meets standards when it comes to the procedure for distribution of public funds being transparent and legally binding. The Regulation governing project financing contains clear and detailed provisions on the announcement of public calls by competent authorities (local, provincial and national authorities) only funds for the budget line 481. However, there are no clear sanctions for violation of its provisions. **The same problems are present with regard to the criteria for selection.** The criteria for the selection of the program are outlined in the Regulation in a very general way, resulting in increased possibilities for arbitrary decision-making. The criteria for determining public interest have not been defined thus far, and neither has the unified procedure for submitting appeals. A partially enabling environment has been identified when it comes to clear procedures addressing **issues of conflict of interest in decision-making.** Representatives of the expert public that are appointed to the commission are obliged to sign a statement that they have no private interest in the work and decision-making of the commission, but a clear definition of what constitutes conflict of interest is missing. **Practice partially meets standards when it comes to information relating to the procedures for funding and information on funded projects being publicly available.** The GOCCS created and regularly maintains an [electronic Calendar of public calls](#), an application through which competent authorities from all levels of government should publish the following: data on planned public calls intended for financing CSOs in the current year, in accordance with the provisions of the Regulation and before their announcement, at the beginning of the year; announced calls with the accompanying documentation (or a link to a site on the Internet where they can be found); results of published calls, including basic information on supported projects/programs and their users. Although this is not a legally binding mechanism for public administration bodies, 668 public calls in total were announced by 149 public administration bodies, which is 15% less compared to 2019. Furthermore, it was planned that the eCalendar would contain information on the results of announced public calls, including basic data on supported projects/programs and beneficiaries, but this functionality still isn't developed, and those data aren't available.

With regard to following **procedural rules**, CSOs' experience and the demonstrated practice of implementing public calls points to a partially enabling environment. Data gathered through FOI requests shows a small number of cases of formal complaints by CSOs related to an inadequate procedure for allocating funding: 3 complaints were submitted to the Ministry of Agriculture, Water Management and Forestry on the ranking list of projects for co-financing, and all three were upheld. 2 CSOs sent complaints regarding a public call announced by the Ministry of Education, Science and Technological Development. 20 CSOs (25%) participating in the MM survey stated they don't agree/strongly disagree that state bodies in their area of work follow the legally prescribed procedure for funds' allocation. Only 3 agree with this statement; 8 respondents answered they don't know if state bodies in their area of work follow the legally prescribed procedure for fund allocation. [An analysis of MYS's public call](#) for support to youth associations and stimulation of various forms of employment, self-employment and youth entrepreneurship, carried out by the National Youth Council of Serbia, raised the question of how much such calls for financing can really improve the position of young people if the selection process does not take into account certain parameters: regional representation of approved projects, time passed since the association was established, existing visibility of the association (internet presentation, social networks) and the mechanism of communication of results

and values of the projects, as well as annual revenues of organizations as an indicator of the organization's capacity to manage financial resources.

12 CSOs reported they received additional funding to handle/cope with the COVID-19 pandemic from public institutions (LSGs, Ministry of Economy, Government benefits for employees' salaries). 31 CSOs reported they benefited from some kind of support from the state: 17 CSOs reported they used reimbursement for staff salaries for a certain period; 10 CSOs reported they used postponement of tax payments to the state, 7 CSOs reported they used postponement of reporting deadlines, 2 CSOs reported they used in kind support, 1 CSO reported it used annulment of tax obligations or other obligations for that period, 3 CSOs reported they used other types of support (equipment, hygiene packages, etc).

Catalyst research from May 2020 on assessment of the COVID 19 pandemic's impact of the on the activities and financial status of non-profit organizations and media in Serbia (192 NPOs and 5 independent media) showed that 68% of respondents had received some form of assistance from the state, and 30% had not. Almost half of the respondents (49%) reported a decrease in the inflow of funds from local sources, and only 3.1% reported an increase in inflow from the same sources.

However, practice indicates a disabling environment regarding application requirements. 19 (61%) CSOs that had used state or LSG funds stated they agree that application requirements are burdensome (e.g. high costs, many documents; difficult to access documents); 7 CSOs stated that application requirements are simple. Almost the same number of CSOs which used state or LSG funds stated its agreement (12 CSOs) and disagreement (14) that application criteria are clear. When analyzing public calls announced in 2020 by MLEVSA, MYS and MCI, it was evident that clear, i.e. more precise eligibility criteria weren't stated. With regard to the applicant criteria, it was only stated that the applicant associations needed to be registered for activities in a concrete area at the relevant Register, but without stipulating how long they had to be registered (i.e. at least 3 -5 years). The only exception was evidenced with regard to MLEVSA's call for submitting a proposal for the Program of Activities during the "Children's Week" in 2020, when it was asked that applicants have at least 5 years of experience in organizing events for children at the national level. **The same situation is identified regarding decisions on tenders as well situations of conflict of interest.** [The Anti-Corruption Agency publishes official opinions](#) on cases of public officials' conflict of interest. However, none of the published opinions refer to conflict of interest in a public funding allocation. None of CSOs from the MM Survey agreed that decisions on public funding allocation are fair; only 8 of them reported they don't know if decisions on public funding allocation are fair. The National Youth Council's analysis of MYS's public calls showed that more than 50% of the approved projects were from the territory of the City of Belgrade, and CSOs from 21 districts did not receive any funds; several supported associations were established during 2020, one even after the competition was announced; a small number of them have existed for no more than 5 years. When it comes to ensuring the transparency of work and communication with citizens and beneficiaries, as many as 20 supported associations do not have a website, and only some of them have/use accounts on social networks. [Analysis of the results of the Ministry's of Culture and Information's public call](#) for 2020, carried out by the Association of Independent Cultural Scene of Serbia, showed that the Ministry's of Culture and Information public call for Contemporary Creativity met all legally prescribed criteria in all areas - the commission gave individual explanations for each rejected and supported project, names of the members of the commissions were announced, while the results themselves largely showed knowledge of the scene and recognition of the quality of projects by organizations and institutions that have long been active in the field of culture and contemporary art. However, it was found that the explanations of the rejected projects were generic and did not help the rejected organizations to improve their applications in order to be more successful in the next call. Also, the scoring and ranking of applications was still not established. Lastly, only 3.46% of the budget of the Ministry of

Culture was allocated for this call, which is otherwise minor compared to the total state budget of the Republic of Serbia (only 0.4% of it) and it is hard to say it could contribute to the financial sustainability of CSOs working in culture.

2.2.3. Accountability, Monitoring and Evaluation of Public Funding

The legally prescribed procedure for distribution of public funds wasn't changed in the past year, and stays in line with standards. The approved funds can be used exclusively for the implementation of a specific program, in accordance with the contract signed. The Regulation prescribes the content, deadlines and manner of submission, review and evaluation of narrative and financial reports which CSOs are obligated to submit periodically. There is a prescribed possibility (but not an obligation) of evaluating the effects, as well as partially prescribed sanctions for CSOs that misuse funds, which are proportional to the violation. However, a detailed explanation and clear conditions for initiating the mentioned procedure are missing. The **monitoring process** is just partially in accordance with predetermined and objective indicators. In response to our FOI requests, Ministries stated that the monitoring process was carried out through a review of the projects' financial and narrative reports, and sometimes upon their completion. The MCI even reported that the monitoring process wasn't performed during the projects' implementation. None of the Ministries reported they had participated in project activities during 2020. 15 of 31 CSOs (48%) which used state funds also reported that project implementation was subject to state monitoring and monitoring of project implementation was carried out in accordance with predefined criteria; 11 of them reported that monitoring visits by state officials were announced in advance. When it comes to **regular evaluation of the effects/impact of public funds** carried out by state bodies **and its public availability**, the environment has been assessed as **disabling**. Based on answers to FOI requests, MYS evaluates projects after their completion, with aim to determine the justification of spend funds, efficiency and effectiveness of implemented projects in relation to set indicators, checking the relevance of set goals, determining whether the expected results have been achieved and whether the expected impact has been achieved, compared to the funds spent. The Ministry of Construction, Transport and Infrastructure reported that the same procedure is used as during the monitoring phase of project implementation. Periodic reports on state funding effects weren't published on the web sites of MLEVSA and MYS as core distributors of funds for CSOs during 2020.

2.2.4. Non-Financial Support

No changes were made in the legal framework which regulates the possibility/obligation for state authorities to allocate **non-financial support** (state property, renting space without financial compensation, free training, consultations and other resources) to CSOs. [The Law on Public Property](#) defines CSOs (among other legal entities) as the holders of property rights and users of real estate in the public domain on the basis of a concession, or otherwise prescribed by law. At the beginning of April 2020 /during the state of emergency) the Government of the Republic of Serbia adopted [the Regulation on Fiscal Benefits and Direct Payments to Economic Entities During the State of Emergency](#). The fiscal benefits provided by the Regulation applied exclusively to employees and could not be used for non-employment income. The fiscal benefits included: a deferral of payment of personal income tax on salaries and wage compensations and contributions for compulsory social insurance for the months of March, April and May 2020, i.e. for April, May and June 2020; and the postponement of the payment of corporate income tax advances for March, April, and May 2020. Direct payments to economic entities in the private sector referred to the payment of the amount received as a product of the number of full-time employees for whose salaries and wage

compensations the tax return was submitted for the envisaged accounting period (May 2020) and the amount of the basic minimum net earnings for March 2020. Beneficiaries of the right to payment of grants could be legal entities that are classified as micro, small and medium in accordance with the law governing accounting. **The situation is the same or similar with regard to providing non-financial support under clearly prescribed processes, based on objective criteria.** The assemblies of local self-government units make decisions on the rent for the premises they own or in relation to which they have special ownership powers. In most cases, these decisions foresee a reduction in rent for associations aimed at helping children or the sick, PWDs, associations working in the fields of health, culture, science education, sports, etc. There are no further elaborations, nor are there any other legal provisions in this regard. The newly established Ministry for Human and Minority Rights and Social Dialogue has a mandate to implement measures and activities aimed at raising the capacity and sustainability of the work and activities of CSOs, as well as collecting and distributing information relevant to the work CSOs. Before its establishment, the Government Office for Cooperation with Civil Society had provided different services as form of non-financial assistance (preparing and announcing publications and brochures, informing on relevant changes in legal framework, establishing dialogue with public sector and strengthening CSO capacities).

Practice indicates a partially enabling environment when it comes to use of non-financial support by CSOs. Only 6 MM Survey participants (7.2%) reported accessing non-financial state support in the past year-4 of them reported they used public space for free for implementing their activities, and 2 used CB program and expert's support provided by LSG). Responding to the FOI, MYS pointed out that it had provided non-financial assistance to one association in the form of providing space for its activities. MCI stated that, within the program Desk Creative Europe Serbia, non-financial support was provided to associations, endowments and foundations by organizing trainings for participation in the Creative Europe program. MTTT provided a free telephone line to the Association of Psychotherapists of Serbia so that citizens could receive psychotherapeutic help so as to mitigate the consequences of the COVID-19 pandemic. The Regulation on Fiscal Benefits and Direct Payments to Economic Entities during the State of Emergency was in some parts contradictory and unfinished, so as expected, it caused a lot of doubts and different interpretations, especially when it comes to its application to civil society organizations. Civic Initiatives addressed the Ministry of Finance for a more precise interpretation of the conditions under which civil society organizations can use the benefits provided by the Regulation. The clarification received from the Ministry of Finance states that CSOs as residents and taxpayers of the Law on Corporate Income Tax can use the fiscal benefits and direct benefits prescribed by the Regulation. With NRC' mentoring support, 3 youth associations from villages near Bor and Zaječar (East Serbia), which previously were active as informal groups and during the mentoring and advocacy process had registered as formal associations, succeeded to get space for their operation from the LSGs.

However, practice is not in line with standards regarding treating CSOs in an equal or more supportive manner compared to other actors when providing state non-financial resources. Only 6 CSOs (7%) which participated in the MM Survey agree that requirements for accessing non-financial support are easy to meet, and 3 of them agree that they have an advantage over other actors when accessing non-financial support. No available data on if MM participants which report that they have an advantage over other actors when accessing non-financial support or those CSOs are being deprived from or not given non-financial support due to their political affiliation/ critical stance. None of the interviewed/surveyed CSOs agree that decisions for allocation of non-financial support are fair. Only 3 CSOs which participated in the MM Survey agreed that organizations critical to the government can access non-financial state support.

The case of Zaječar Children's Center, which deals with the inclusion of children with Down syndrome and paralysis, finally got an epilogue. Since 2017, the association had been threatened with expulsion from premises they use under a lease agreement concluded with the City of Zaječar. Although the contract was concluded for a period lasting until 2023, the city government sent a request to the association in 2017 ordering them to vacate the premises for allegedly "inappropriate use". The Court of Appeals rendered a judgment after almost 4 years, according to which the association was deprived of the space. Furthermore, direct and indirect threats made by Zaječar mayor Boško Ničić to activist Selena Ristić-Vitomirović, who is managing the Center, continued during 2020. She was not allowed to participate in public events or TV shows, parents were under pressure and blackmailed not to use the services of the Child's Center, and funds from the local budget were not distributed to other associations which cooperated with the Child's Center.

Sub-area 2.3. Human resources

2.3.1. Employment in CSOs

When it comes to treating CSOs in an equal manner to other employers when it comes to laws and policies, legislation is partially enabling. Although [The Labour Law](#) and [the Law on Compulsory Social Security Contributions](#) doesn't treat CSOs differently than other legal entities (neither as employers nor their employees), changes made within [The Law on Personal Income Tax](#) and [The Law on Social Security Contributions](#) put them in an unequal position. Namely, the mentioned laws introduced benefits for employers who establish employment with a so-called "qualified new employee" by December 31, 2022. Under certain conditions, the employer would be released from the obligation to pay part of the taxes and contributions on earnings of such employees. However, CSOs weren't explicitly stated as users of those benefits. **However, practice indicates a disabling environment in the area of equal treatment of CSOs as beneficiaries of state incentive programs.** In response to our FOI request, the National Employment Service responded that it does not have data on the number of citizens' associations that have benefited from programs and initiatives during 2020, compared to other entities. The National Employment Service sent data that shows incentives given to a certain number of employers, as well as the number of contracts concluded and for how many persons, but there is no exact data on the number of CSOs that were beneficiaries of subsidies/incentives; CSOs are part of the category "other forms of organization", which includes not only CSOs but also other beneficiaries. So, there is no available data on the number of CSOs that benefited from employment support programs when compared to other entities. Only 2 CSOs participating in the MM Survey reported use of state incentive programs for employment.

There are clear and regular statistics on the number of employees in the non-profit sector. The Central Registry of Compulsory Social Insurance collects and analyzes data on registered applications for compulsory social insurance for taxpayers who have the status of associations, foundations and endowments (data were provided in total for all three types of CSOs). Total number of employees in those entities for an indefinite period in 2020 was 5012, total number of fixed-term employees was 2421, total number of full time employees was 7602, while 1002 people were engaged based on contract on temporary and occasional jobs and 951 people were engaged based on other types of contracts. According to the [Statistical Office of the Republic of Serbia's](#) official data on employment, the total number of full-time employees in CSOs in 2020 presents 0.34% of total number of employees in Serbia (2.215.475), which is a slight decrease compared to data from 2019. There is no systematic, comprehensive data on volunteers, volunteer hours or monetary value of volunteer work. Some data is being collected by MLEVSA, in accordance with the Law on volunteering, which [registers only organizers of volunteering](#), but the number of volunteers engaged and volunteering hours spent wasn't evidenced. From the total 379 organizers of volunteering registered, 172 of them (45.3%) are

CSOs. However, this data is not reliable because most CSOs do not send such data reports/information, nor does the Ministry publish comprehensive reports annually.

Regarding the impact of the COVID-19 pandemic on the number of employees and volunteers in CSOs, the majority of CSOs participating in the MM Survey (59 CSOs, 71%) responded that their number of employees remained the same, 16 CSOs reported that their number of employees has decreased, 8 CSOs reported that their number of employees has increased. 4 CSOs reported that their number of employees increased 20%-50%, and only one reported an increase of the number of employees by over 50%. On the other hand, 3 CSOs reported their number of employees had decreased by 50% to 100%, and 3 by 25% to 50%. 41 CSOs (49%) responded their number of volunteers has remained the same, 34 CSOs reported that their number of volunteers has decreased, and only 8 CSOs reported that their number of volunteers increased. 10 CSOs reported a decrease in the number of their volunteers by 50% to 100%, the same number reported a decrease of 20% to 50%. Only 2 CSOs reported that their number of volunteers decreased less than 10%.

Catalyst research from May 2020 on their assessment of the COVID 19 pandemic's impact on non-profit organizations and media in Serbia showed that only 7.8% of respondents had hired new staff, while almost 30% of them reduced the number of employees /hires. Almost 10% of respondents reported an increase in their number of volunteers, and significantly more of them - almost 34% decreased the number of volunteers.

2.3.2. Volunteering in CSOs

Legislation is not in line with standards when it comes to stimulating volunteering and incorporating best regulatory practices in this area, while at the same time allowing for spontaneous volunteering practices. The [Law on Volunteering](#) contains the necessary minimum provisions for the protection of volunteers and their organizations and leaves other issues for the parties to define. The law does not prevent spontaneous volunteering, but does not explicitly provide for spontaneous volunteer practice. With aim to assess the effects of the Law on Volunteering and the situation in the field of volunteering in Serbia, a Working Group was formed in early February 2020, involving representatives of relevant CSOs. Recommendations for changes to be made and conditions for their implementation are integral part of [the Analysis](#), and they are completely in the line with the key findings and recommendations which were already identified in earlier analyses conducted by CSOs: volunteering is not treated as a social value, but as free work, there is a lack of an adequate definition of volunteering, over-regulation of the Law, lack of incentives for both volunteers and volunteering organizers, unjustifiably high administrative obligations (and associated costs) for volunteering organizers, existing possibility (as well as examples) that employers will also abuse the Law to hire young, educated people as volunteers, instead of hiring them as full employees, a lack of contribution to the evaluation of volunteer engagement, a lack of protection of associations as organizers of volunteering, inconsistency of the Law with other laws that presuppose voluntary engagement, etc.

When it comes to incentives and state supported programs for the development and promotion of volunteering, the environment is assessed as disabling. Strategic state policies or other documents aimed at the promotion of volunteerism, and support or training for volunteers are still missing. Certain incentives are provided by the Law on Volunteering (reimbursement of contracted expenses in connection with volunteering, payment of pocket money and insurance in case of injury in the case of long-term volunteering, receiving a certificate of volunteering are envisaged). **However, there are clearly defined contractual relationships and protections covering organized volunteering which is in line with standards.** The law is detailed when it comes to regulating the

relationship between volunteers and volunteer organizers, as well as their rights and responsibilities within long-term volunteering (i.e. volunteers that work longer than 10 hours per week, for at least three months without interruption).

Practice indicates a partially enabling environment with regard to incentives and programs used by CSOs and the implementation, monitoring and evaluation of policies, strategic documents or laws governing volunteering. MLEVSA is responsible for the implementation of policy/strategic documents/ laws governing volunteering. After almost 10 years of the Law's implementation, MLEVSA formed a Working Group for Analysis of the Effects of the Law on Volunteering and the Situation in the Field of Volunteering in the Republic of Serbia. The group was formed in early February 2020 and included representatives of CSOs. The analysis was presented at the beginning of December. MYS also supports volunteer programs implemented by CSOs. One public call for support for the implementation of youth volunteer projects was announced in 2020. However, in response to our FOI request, it was stated that the Ministry doesn't have information on incentives for volunteers and volunteering organizers. None of the CSOs participating in the MM Survey reported they benefited from state programs for volunteering in the past year. No changes in procedure for state programs for volunteering were made; interviewed CSOs agree that the application procedure is easy, and that the procedure for provision of incentives for volunteers and volunteering organizers is transparent⁷.

Practice indicates that administrative procedures for organizers of volunteer activities or volunteers are somewhat complicated and with certain unnecessary costs. 15 CSOs participating in MM Survey agree that the administrative procedure for hiring volunteers is easy vs. 26 CSOs which do not agree; 42 (cca 50%) CSOs reported they didn't have experience involving volunteers in the past year. Even though there is legal requirement for organizers to register long-term and short-term volunteering (including a description of the volunteering program, number of volunteers engaged in the volunteering program, information about the beneficiaries), only 5 CSOs participating in the MM Survey reported they had to register volunteers to the state. In 2020, a special program aimed towards promotion of youth volunteer engagement "#ŠtaNamTeško" (#What'sHardforUs), was launched by Youth Researchers of Serbia, and supported by the MYS. A Total of 159 volunteering actions and 30 volunteer camps were implemented. Youth Researchers of Serbia engaged 18 volunteers from abroad and 1,900 young volunteers aged 15-30 in national and local volunteer camps and actions. According to statements from CSO representatives during a conference on the occasion of International Volunteers Day, some volunteer organizations focused their activities on mitigating the consequences of the COVID-19 pandemic, while others were focused on adapting their usual activities to the new situation. Youth Researchers of Serbia implemented the project "Volunteer Online" an example of online volunteering, and one of the ways for young people to become active, connect with each other and use technologies that are familiar and accessible to them. The project enabled young people who wanted to volunteer to connect with those who needed help. About 800 volunteers were involved and more than 4,000 young people were reached through this program. From the beginning of the crisis, the Novi Sad Volunteer Center cooperated with the Red Cross, LSG institutions, as well as other local youth organizations in providing assistance and necessary services to vulnerable populations. Its volunteers also assisted in the construction of a temporary COVID-19 hospital in Novi Sad.

Volunteering can take place in any form in Serbia and there are no cases of complaints of restrictions on volunteering in practice, which is in line with standards. None of interviewed/surveyed CSOs reported they faced sanctions or restrictions in cases when volunteers were engaged without contracts/ registration or state approval or reported they were sanctioned for

⁷ Interviews with Young researchers of Serbia and AIESEC Serbia representatives.
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spontaneous volunteering. During the state of emergency and lockdown/curfew, an initiative was adopted addressing the movement of personal assistants for persons with disabilities, who provide these services in the evening when a general ban on movement was in force. This initiative also applied to assistance and support services for people with disabilities, provided by informal individuals, relatives or friends, who do not live in a shared household, as well as for terminally ill citizens who use palliative care at home conditions and people with dementia. In that sense, CSOs (i.e. their activist and volunteers) were enabled to provide the mentioned services during the state of emergency.

2.3.3. Non-Formal Education

Non-formal education is partially promoted through policy/strategy/laws. Non-formal education is recognized by [the Adult Education Law](#) and [the Law on the Fundamentals of the Education System](#), and no changes have been made during 2020. Associations (the same as other institutions and organizations) are recognised as organizers of adult education activities if they are registered for implementation of educational activities. They may acquire the status of publicly recognized organizers of activities of non-formal adult education if they are registered for educational activities, fulfil the prescribed standards and obtain approval from the competent Ministry. CSOs' involvement in career guidance and counselling programs for young people in secondary and higher education and in the labour market, as well as CSOs' participation in enhancing the capacity of school teams for career guidance and counselling in high school, which realize educational profiles in dual education is recognised by [The National Employment Action Plan for 2020](#). Furthermore, CSOs' role in encouraging non-formal youth education in the youth sector and developing the quality of informal youth education is recognised by [the Law on Youth](#).

Civil society-related subjects are also partially included in the official curriculum at all levels of the educational system. Civic Education or Education for Democracy and Civic Society has been a part of the official education system for more than 19 years. It is implemented as a compulsory optional subject, included in the curriculum of elementary and secondary schools, which covers important social topics - human rights, a democratic society, the importance of civic activism and the work of the civil sector. During 2020, MESD offered more new elective programs to students in the third and fourth grade of the 6th Belgrade Grammar School, of which they could choose two. The offered programs are: Applied Sciences 1, Applied Sciences 2, Fundamentals of Geopolitics, Economics and Business, Religions and Civilizations, Modern Technologies. Also on offer are the subjects Education for Sustainable Development and Art and Design, elective programs that were on offer for the first two years. The idea is that these elective programs should direct students towards certain scientific disciplines in university education. The teaching material from these new elective programs is complementary to the topics normally studied in civic education, so it seems that instead of strengthening the material of civic education, its topics are distributed within the new elective programs, which will further scatter the number of students, who will then not be able to hear about all of these topics within one subject.

Practice indicates a partially enabling environment when it comes to including possibilities for civic engagement in the educational system. The Ministry of Education, Science and Technological development reported not to have data on volunteering possibilities with CSOs integrated within educational institutions. [The Institute for the Advancement of Knowledge and Education](#) reported that 327 associations and 9 foundations are accredited for implementation of continuing professional development programs for teachers, educators, associates and principals employed in educational institutions. Having in mind that the duration of the issued accreditation is 3 years; the number is the same as during 2019, the next accreditation cycle should start in October 2021. The Serbian Red

Cross (RC) has access to primary schools in which it implements the program Promotion of Humanitarian Values, which is still not part of the official curriculum. The topics of the program are also covered in Civic Education classes, as well as through extracurricular activities conducted in schools. Access to students was reduced during 2020 due to the COVID-19 pandemic and took place using online platforms and tools. A total of 5,219 students from 95 primary schools participated in the Humanitarian Values Promotion workshops; 2593 young people included in the RC's programs, volunteered for the first time. The RC's programs are also implemented in secondary schools, where basic and advanced first aid trainings are organized. High school students are involved in RC's activities in local communities and peer support programs, and workshops are occasionally organized as part of the Humanitarian Law Research Program (formerly an accredited program, but no longer part of the curriculum). During 2020, 1,772 children and young people aged 10 to 30 attended advanced first aid training. In 30 schools, the RC carried out activities aimed at reducing the risk of accidents (earthquakes, floods) and informing about preventative measures for the protection of human life. One of the programs of the RC also refers to the promotion of the principles of International Humanitarian Law. This program included 3259 students and more than 15,000 employees and volunteers. Also, the RC maintains the traditionally good cooperation with faculties where International Humanitarian Law is studied (Faculty of Political Sciences, Faculty of Law, private faculties). In this way, students are included in prevention programs for human trafficking; through 758 informative workshops, 28,000 children and young people were informed about the protection and precautionary measures against human trafficking⁸. In 2020, AIESEC Serbia sent 27 young people from Serbia for internships abroad, of which 26 people were sent as volunteers and 1 person received a paid professional internship. In that period, 56 people from other countries were engaged in volunteer practice in Serbia. The number of volunteer practices was decreased due to the COVID-19 pandemic, i.e. out of respect for adopted epidemiological measures, and the focus was shifted from volunteer to professional paid internships.⁹ During the last year a total of 51 calls for participation in capacity building programs were announced via the NRC [website](#). The calls were intended for CSOs, representatives of local and national institutions, students/pupils and young people, youth entrepreneurs, researchers, media and media representatives, but also for schools and other public institutions.

⁸ Interview with Mr Branimir Knežević, the Red Cross' expert associate for organizational development.

⁹ Interview with AIESEC representatives.

Area 3: Government-CSO Relationship

Sub-area 3.1. Framework and practices for cooperation

3.1.1. State Policies and Strategies for Development of and Cooperation with Civil Society

The Republic of Serbia has not yet adopted a comprehensive strategic document on cooperation between the Government and civil society, although such a document was drafted and passed a public debate in 2015. On that occasion, a draft Strategy, an Action Plan as well as Monitoring and Evaluation Plan were developed. The Law on Ministries envisages the establishment of a new Ministry for Human and Minority Rights and Social Dialogue, which is responsible for preparing and implementing strategic documents related to creating a supportive environment for civil society development, with the aim of further developing cooperation between the public, private and civil sectors. Certain elements of the strategic approach to civil society were contained in the Government Regulation on establishing the Office for Cooperation with Civil Society, as well as the Guidelines for the involvement of civil society organizations in decision making processes. The Decree on the Office for Cooperation with Civil Society ceased to be valid with the entry into force of the Law on Ministries and the establishment of the Ministry for Human and Minority Rights and Social Dialogue. However, some competences of the previous Office did not carry over into the new Ministry, such as collecting and publishing information on the financing of organizations from the budget. Also, the very important role of the Office to ensure the participation of citizens in the preparation of legal regulations by ministries and local governments has been abolished. For the purpose of the negotiation process for the accession of the Republic of Serbia to the European Union, in 2011 the Government created the Mechanism of Sectoral Civil Society Organizations (SECO). Additionally, in 2014, the Government adopted Guidelines for the Cooperation between the Negotiating Team and Negotiating Groups with Representatives of CSOs, the National Convention on the EU and the Serbian Chamber of Commerce in the process of programming IPA funds. Civil society organizations are also occasionally recognized in the annual work plans of the Government of the Republic of Serbia. CSOs are officially involved in the process of programming international development help, with a focus on helping the EU through SECO. From 2018, SECO is organized within 9 sectors (public administration reform, justice, home affairs, transport, environment, energy, competitiveness, human resource development and social development), reduced to the level of topics addressed by other sectors: civil society in public administration reform, media in justice, and culture in competitiveness. However, their real involvement and participation in consultation processes has been reduced to a minimum. The National Convention on the European Union gathers more than 720 members, who are working through 24 working groups, including two intersectoral groups: The Intersectoral for Freedom of Expression and Media, and the Intersectoral Group for Political Criteria.

30% of CSOs which participated in the MM Survey reported cooperation with state institutions in policy making/ legislation drafting and activities; 23% of CSOs reported they hadn't cooperated with any state institutions because they did not have a need for that and around 10% of CSOs stated they had tried to cooperate, but without success.

Although it has yet to be adopted, **the development of the Draft Strategy for CS Development (2014) was based on regular official statistical data as well as on a specific baseline study about the status of CSOs and cooperation between CSOs and public administration, based solely on data collected by state institutions.** This is a unique undertaking based on official

records and statistics, which provided an overview of the operation and functioning of CSOs in Serbia. Basic data for CSOs are available in financial statements submitted to the Serbian Business Registers Agency, except for the number of CSO networks; total number of CSOs; total number of CSOs who submitted financial reports, number of CSO employees (full-time and part-time); total income; total costs. SBRA also collects data on CSOs' areas of work, but those data aren't systematized; that information is requested for submitting registration requests, but SBRA doesn't publish statistical reports containing such data. The Ministry of Labor, Employment, Veteran and Social Affairs collects data/reports on the number of volunteers engaged, but it does not publish an annual report containing summary information, nor an analysis of the data collected and processed. That means that the reported number of volunteers engaged is not publicly available, nor comparable to the information obtained through conducting different types of research on or by CSOs. **The lack of consolidated data on and related to the civil sector, as well as regularly updated and publicly available data collected and analyzed by relevant authorities, and the lack of obligation for public announcement of associations founders' names or even official e-mail addresses are seen as some of the biggest challenges to cross-sector operation.**

3.1.2. Institutions and Mechanisms for Development of and Cooperation with Civil Society

There is no parliamentary committee whose area of activity is mainly focused on issues of cooperation and improvement of the environment and work of CSOs, but the Government had established an Office for Cooperation with Civil Society for this purpose. Although part of the [Office's responsibilities](#) has been transferred to the new Ministry, it has not been sufficiently clearly explained to the public why relations with civil society were placed under the auspices of one ministry. This significantly narrows the space for constructive cooperation between all public authorities and the civil sector, which, according to the standards of the European Union, should involve much more than a dialogue. Within the scope of the new Ministry, there are no competencies related to the collection and publication of information on the public financing of civil society organizations. In this way, an important mechanism for controlling the transparency of how these budget allocations are spent has been abolished. At the same time, the very important role the Office plays in ensuring citizens' participation in the preparation of legal regulations by ministries and local governments has been abolished. As stated in the Law on Ministries, The Ministry of Human and Minority Rights and Social Dialogue performs state administration tasks related to: preparation of regulations governing the position of associations and other civil society organizations, with the exception of political and trade union organizations; initiating a dialogue with civil society on issues of common interest; preparation and implementation of strategic documents related to the creation of an enabling environment for the development of civil society, with the aim of further development of cooperation between the public, private and civil sectors; measures and activities aimed at increasing the capacity and sustainability of the work and activities of associations and other civil society organizations; collecting and distributing information relevant to the work of associations and other civil society organizations; cooperation with the competent authorities in performing tasks related to the programming and management of pre-accession and other European Union funds for support to civil society, as well as other tasks determined by law. In order to enable more inclusive and transparent dialogue, consultation and communication with all relevant stakeholders in the field of planning and programming of EU funds and

In response to a comment by the President of the European Movement in Serbia, Jelica Minić, that Serbia's European path is advancing "at a snail's pace" and that the work of the Ministry for European Integration can be described as lethargic, Minister Jadranka Joksimović made a statement saying that the European Movement in Serbia is lethargic, and that instead of dealing with the work of the Ministry, Minić should work on the modernization of her organization. Additionally, Joksimović stated that critics of her work do so out of jealousy, as they "do not have adequate knowledge, energy or talent" to work in the state sector.

international development assistance, the Serbian European Integration Office (today Ministry of European Integration) established a consultation mechanism with CSOs in 2011 – the SECO mechanism. This mechanism was put in place to enable exchange of information and contribution of CSOs in relation to the planning development assistance, particularly the planning and programming of the Instrument for Pre-Accession Assistance (IPA), as well as to enhance constructive dialogue between state authorities and civil society in the programming process and in order to increase the efficiency of the use of development funds, especially EU funds. This mechanism is not in use today, but the Ministry of European Integration sometimes uses it to distribute information. The [National Convention on the EU](#) is a permanent body for thematically structured debate on Serbian accession into the European Union, between representatives of the governmental bodies, political parties, CSOs, experts, syndicates, private sector and representatives of professional organizations. NCEU was established primarily as body with the aim to facilitate cooperation between the National Assembly and civil society during the process of the EU accession negotiations. The cooperation is established in accordance to the good strategic cooperation between the highest Serbian legislative body and chosen representatives of civil society, which was enforced by the Resolutions of National Assembly from 2004 and 2013. In order to increase operability, efficiency and strengthen its role in the decision-making process, NCEU was registered as a separate legal entity in 2018.

At the Seventh Plenary Session of the National Convention on the European Union (a platform with over 700 civil society organizations whose opinion the Government has pledged to respect in the European integration process), Serbian President Aleksandar Vučić spoke about Chapter 35 (Chapter relating to Kosovo in the negotiation process) and the relationship between Belgrade and Pristina. The President's address to NCEU, which should cooperate with the government shows that the principle of the division of power in Serbia does not work. Talking to representatives of civil society, government officials made unacceptable comments in order to destroy the credibility of present civil society representatives. The newly established Ministry of Human and Minority Rights and Social Dialogue, at the initiative of the new Minister Gordana Čomić, established a dialogue with civil society within the events of the Belgrade Open School. It was later announced that this dialogue would be continued through sectoral meetings with various organizations. There is a legitimate concern of a large part of civil society

The [Philanthropy Council](#), established in 2018 by the Prime Minister's Decision, has the task to propose a development policy in the field of philanthropy and to consider issues such as the liaison and cooperation of relevant actors in the field of philanthropy, the refinement of the legal and financial framework in this area, including proposals and opinions giving on regulatory changes, and the promotion of philanthropy and corporate social responsibility in the Republic of Serbia and towards the international community. The Philanthropy Council includes 6 representatives of civil society organizations implementing the USAID Local Works project, which have been recognized and engaged in promoting and supporting philanthropic activities and corporate social responsibility for years. The council currently exists in a frozen state - its working groups, or rather initiatives involving its working groups are functioning, while no decision was made on the formation of a new Council following the formation of the new Government. Representatives of CSOs who were members of the previous Council started an advocacy campaign to make a decision on the formation of a new Council and re-elect its members.

There are certain binding provisions regarding CSO involvement in decision making processes undertaken by competent institutions or mechanisms. The Decision on Formation of the Negotiating Team for Accession Negotiations of Serbia to the European Union, [Decision on the formation of the Negotiating Team for Accession Negotiations of Serbia to the European Union and Guidelines for the Cooperation of the Negotiating Team and Negotiating Groups with Representatives of CSOs, the National Convention on the EU and the Serbian Chamber of Commerce](#) predict that the criteria for opening negotiations imply an obligation to adopt a document, which must be submitted

for consideration and consultation with civil society organizations, after which, in accordance to the Work plan of the Government, a public hearing is organized. Participants in public hearings should be informed in writing of the reasons for not adopting their suggestions. In accordance with the obligation of consulting civil society when drafting strategic and legal documents required by the Serbian government, NCEU is used as a suitable platform for cooperation and consultation with the government and its bodies in charge of the EU accession negotiations (the negotiating team, negotiating working groups). However, clear rules for CSOs participation in those processes have not been established, therefore their involvement is just a matter of pure formality. Short deadlines for conducting the consultation processes are also a problem, and it is unknown whether there is an adequate and objective analysis of the received comments from civil society on negotiating positions, as well as systemic explanations as to why certain comments have been rejected. Selected CSOs, members of the SECO mechanism, are involved in consultations, participation in the work of sectoral working groups and the preparation proposals for the use of EU funds based on a signed Memorandum on Cooperation with the Ministry of European Integration.

When it comes to the capacities and resources of national level institutions or mechanisms, practice partially meets standards. A growing number of state authority bodies approached the GOCCS for support in conducting consultative processes, public hearings and other forms of cooperation with CSOs, instead of independently inviting CSO representatives to participate in the activities they organize and to provide direct cooperation with them. This position of the Office indicates the weakening influence of this institution on political decision making. Actually, since 2016 the work of the GOCCS has been characterized primarily by its support to other institutions in implementing their regular tasks (forwarding information on public hearings, co-organization, etc.) and their lack of results in a fundamental improvement of the environment for civil society development. However, from October 2020, the Office ceased to exist in this format, and its employees were taken over by the Ministry of Human and Minority Rights and Social Dialogue. The budget for 2020 envisaged expenditures for the work of the Office for Cooperation with Civil Society in the amount of about 270,000 EUR. According to the GOCCS' public statements, funds allocated to the GOCCS did not correspond to its needs and its human resources were not sufficient for a more active and effective role in advocating and proposing policies regarding CSO development. With the establishment of the Ministry of Human and Minority Rights and Social Dialogue, the Government Office for Cooperation with Civil Society ceased to exist, and its responsibilities were transferred to the Ministry. On the other hand, the newly formed ministry has budgeted expenditures of around EUR 5,050,000. In response to our FOI request, the Ministry of Human and Minority Rights and Social Dialogue pointed out that, according to the latest data available to them, at the time of its dissolution the Office for Cooperation with Civil Society had 7 civil servants employed on indefinite term contracts, 2 on fixed-term employment contracts and 1 person hired on the basis of a contract on performance of temporary and occasional jobs. The Law on Ministries, through which this Ministry was established, also foresaw that the new Ministry would take on employees from the Office for Cooperation with Civil Society, which ceased to exist with the formation of the new Government. At the time of its formation, the new Ministry employed 44 persons, while 4 employees' contracts were terminated by March 2021. 7 current employees at the Ministry have CSO background. Due to not

Survey 60% of the CSOs which participated in the MM stated they are informed about the work of the GOCCS. Only 14 % of the CSOs reported they agree that decisions by the GOCCS are dominantly based on CSO input, 1 % – strongly agree and 4% of the CSOs don't agree with this statement. 37 % of the CSOs stated they have been involved in consultations for preparation of draft legislation and policies (e.g. laws and bylaws, national or local strategies, action plans, etc). 8% of the CSOs reported that some of their suggestions and comments have been considered; 5% of the CSO reported that most of their suggestions and comments have been considered and only 1 organization stated that all its suggestions and comments have been considered.

having yet adopted a Rulebook on the Systematization of Workplaces, they were unable to provide information on the number of civil servants assigned to the Sector for Cooperation with Civil Society.

Similar findings were obtained regarding regular consultations and involvement of CSOs in processes and decision making by the competent institution or mechanism. The Ministry of Public Administration and Local Self-Government organized 8 consultative meetings with CSOs within the project of drafting the OGP Action Plan. During the consultation process CSOs submitted 15 of 23 proposals which were elaborated and discussed during the meetings. However, adopted measures/obligations don't reflect the needs and efforts of CSOs to develop documents whose implementation's effects would be transformative and lead to substantial changes. Having in mind this WG was functioning as a regular working group, but not as a multi-stakeholder forum (which should have been the case, respecting OGP principles and procedures) CSOs don't have the opportunity to stand behind the AP and their proposals, because the proposals are first being sent to the competent institutions for approval. In practice, this is the stage when most proposals are rejected or changed to a significant extent, so their purpose is completely lost. Out of a total of 15 adopted commitments, 7 were initiated by CSOs. Just one proposal by CSOs was included in the Draft Action Plan in its original form, a number of proposals have been modified in cooperation with the proposer and the competent authority (6 in total), while certain proposals were rejected, with the explanation that they cannot be implemented under this Action Plan. For the two proposals in the field of fiscal transparency, the competent institutions (primarily the Ministry of Finance) did not submit any response. More than 57 working group meetings were held as part of the preparation of the draft Strategy for Public Administration Reform and the drafting of the Action Plan. In response to our FOI request, the Ministry of Human and Minority Rights and Social Dialogue pointed out that, during 2020, the Office for Cooperation with Civil Society did not conduct normative activities in terms of drafting regulations and public policy documents, which is why no consultations and consultative meetings were organized. In response to the FOI, MLEVSA stated that during the preparation of the text of the Draft Law on the Rights of Veterans, Military Invalids, Civilian War Invalids and Members of Their Families direct consultations were held with over 50 associations in the field of veteran-disability protection, who provided suggestions on the text of the Draft Law. In addition, 21 associations, as well as certain individuals, gave written remarks and suggestions on the mentioned text. There are no publicly available official reports on SECO members' involvement and impact in decision making processes. As previously mentioned, throughout the COVID-19 crisis, CSO members of the Philanthropy Council actively participated in the creation of proposals for improving the legal and fiscal framework for philanthropy in Serbia in order to alleviate the consequences of the pandemic, proposing measures and issuing recommendations to the Government and the Ministry of Finance in order to encourage more donations and enable more efficient assistance to the most vulnerable population.

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

3.2.1. Standards for CSO Involvement

There are clearly defined standards regarding the involvement of CSOs in policy and decision-making processes, in line with best regulatory practices prescribing minimum requirements which every policy-making process needs to fulfill. The provisions and standards that enable CSOs to participate in decision making process are available in several different laws and by-laws. The [Law on Public Administration](#) prescribes the duty and obligation of public administration bodies to provide conditions for public participation during the preparation of draft laws, other regulations and acts (Article 77). The [Law on Local Self Government](#) prescribes several obligations relevant to CSOs involvement. There is an obligation of local self-government units (LSGs) to regulate in their statutes the implementation of the obligatory procedure of public debate during the preparation of the statute, budget (in the phase of investment planning), strategic development plans, determination of source income rates, spatial and urban plans, and other general acts based on proposals of qualified number of citizens or request of one-third of city councilpersons. There is also possibility for citizens to initiate a public hearing, provided that such a proposal is supported by at least 100 citizens with voting rights in the municipality, collected in accordance with the regulations governing the citizens' initiative. The [Law on the Planning System](#) stipulates the principle of publicity and partnership, which implies that public policies are determined in a transparent and consultative process, i.e. that a transparent consultation process is conducted with all stakeholders and target groups, including citizens' associations and other civil society organizations, scientific and research organizations, taking into account the individual and legal interests of all stakeholders and target groups, while protecting the public interest. [The National Assembly's Rules of Procedure](#) prescribes that scientists and experts, who are not MPs may participate in the work of assembly's committees and also prescribes the possibility of organizing public hearings for the purpose of obtaining information or expert opinions on a proposal for an act that is in the parliamentary procedure, monitoring the implementation of the law, or for exercising the control function of the National Assembly; other persons may attend public hearings at the invitation of the chairman of the committee. [The Government's Rules of Procedure](#) provide that the Government, through the competent ministries and services, cooperates with associations, trade unions and municipalities. The document prescribes mandatory public hearings. The proponent is required to conduct a public hearing in preparation of a law that significantly modifies certain issues, or is related to issues of special interest to public. This obligation applies in particular to the preparation of new systemic laws or new laws regulating previously unregulated areas, as well as in the case of major amendments to existing laws. The deadline for submitting initiatives, proposals, suggestions and comments in written or electronic form is at least 15 days from the date of the public invitation. The public hearing lasts at least 20 days. [The Regulation on the Methodology of Public Policy Management and Regulatory Impact Assessment, and Content of Individual Public Policy Documents](#) was adopted in the beginning of 2019. The process of planning, drafting and adoption of public policy acts and documents at all levels was harmonized by this document, which should result in their better and more efficient implementation. By adopting this regulation, mechanisms have been put in place to systematically prevent the adoption of ineffective regulations and documents that do not meet the prescribed standards and criteria. The [Rulebook on good practice Guidelines for public participation in the preparation of draft laws and other regulations and acts](#) prescribes that consultation in particular includes the participation of other state bodies, relevant associations and the professional public, in a manner that ensures openness and effective public participation in the process, in accordance with the law.

However, legislation only partially meets standards when it comes to providing educational programs/training for civil servants on CSO involvement in state policies. [The National Academy of Public Administration](#) is the central institution of the system of professional development in public administration in the Republic of Serbia, with the status of an officially recognized organizer of informal adult educational activities. It was founded in accordance with the Law on the National Academy of Public Administration, and began work in January 2018. By implementing the training program, and along with using modern forms and methods of work on professional development, the Academy improves the competencies of employees working in public administration. The Government Office for Cooperation with Civil Society has developed training programs for public administration officials. Programs include several topics such as: a framework for cooperation with CSOs and the implementation of models of cooperation, transparent CSO financing from public sources etc. Also, internal regulations partially require specified units or officers in government, line ministries or other government agencies to coordinate, monitor and report CSO involvement in their work. **There is no regulation prescribing the mandatory existence of units or persons for cooperation with civil society at the level of the entire public administration.** The Action Plan for the Implementation of the Open Government Partnership Initiative in the Republic of Serbia for 2020-2022 envisages the participation of CSOs in decision-making and anti-discrimination processes in professional development programs for officials and monitoring their implementation, as well as in the process of establishing systematic monitoring and quality control of public participation in the preparation of regulations and policy documents. One of the most important projects envisaged by the AP is **the introduction of the eParticipation (eParticipacija) portal in order to improve opportunities and strengthen the capacity of citizens for electronic participation in consultations and public hearings.** In addition, Obligation 4 addresses the very important issue of citizen participation in the management of protected areas, which provides for the introduction of new mechanisms of civic participation in this area of environmental protection. Finally, Obligation 12 envisages the improvement of citizen participation in defining priorities when announcing public calls for the allocation of funds intended for co-financing media content.

At the end of 2019, the Office for Cooperation with Civil Society initiated the process of appointing contact points - points for cooperation with civil society organizations in government bodies at all three levels of government - national, provincial and local. During 2020, the Database of Contact Points for Cooperation with Civil Society Organizations was created with the aim of enabling and encouraging direct communication and cooperation of administrative bodies with CSOs. It numbers 191 persons appointed by a total of 140 administrative bodies, distributed as follows among the three levels of government: at the national level - 42 contact points in front of 23 state administration bodies; at the provincial level - 18 contact points in front of 11 provincial administration bodies; at the local level - 131 contact points in front of 106 local self-government units.

Objective restrictions conditioned by the decision to declare a state of emergency, as well as epidemiological measures that prevented mass gatherings, had a great impact on the functioning of institutions and respect for democratic procedures, which is reflected in the almost complete cessation of public hearings and consultations. According to data from the eGovernment website, a total of [15 calls for public debate](#) regarding the adoption of new laws, strategies and action plans were published during 2020.

The following answers were received in response to FOI requests sent to ministries: The Ministry of Labor, Employment, Veterans' and Social Affairs formed a working group on April 21, 2020 tasked with the drafting of 16 bylaws relating to the Law on the Rights of Veterans, War Invalids and Members of Their Families. During the meetings of the working groups, 16 proposals were sent by members who are representatives of citizens' associations. The Ministry of Education, Science and Technological Development has formed a Working Group to draft a Proposal of the Rulebook on Amendments to the Rulebook on the Protocol of Conduct in Institutions in Response to Violence, Abuse and Neglect. At least four proposals were submitted by representatives of professional associations who were members of the working group. The Ministry of Public Administration and Local Self-Government, in cooperation with the Office for Cooperation with Civil Society, organized eight consultative meetings related to the development of the Action Plan within the Open Government Partnership project. A public invitation was also sent to participate in the public debate on the Proposal of the Public Administration Reform Strategy for the period 2021-2030 and the Action Plan for the period 2021-2025, and one online meeting was held on December 23, 2020. The Ministry of Youth and Sports formed a working group to draft bylaws in December 2020, and on December 11, a working group was formed to draft amendments to the Law on Prevention of Doping in Sports, but there were no representatives of CSOs in the working group. The work of the WG for the development of an expert basis for amendments to the Law on Consumer Protection from 2019, in which representatives of CSOs are also participating, is still ongoing.

CSOs RERI and CZKD initiated a joint action of 11 civil society organizations, informal civic initiatives and experts in the field of urbanism and environmental protection due to issues related to CSO participation in urban planning in pandemic conditions. Their findings indicated that citizens were not allowed to submit objections in the manner prescribed by law, which jeopardized the legal principle of public participation, so they called for the suspension of public insight procedures during the pandemic, due to lack of basic conditions for public participation. Their initiative gained traction through media and social networks, and an open letter was additionally signed by over 40 experts and civil society organizations, after which the city planner announced the suspension of public insights into urban planning documents during the pandemic. The joint action continued between July and December of 2020, in which several public insights were held for urban plans of exceptional importance for the city of Belgrade (Block 39, Makiško polje, Kosačićev venac). During this time, the City Administration of the City of Belgrade introduced measures ruling that only certain citizens and "necessary" officials can attend public inspections, which additionally and alarmingly violated the principle of public participation, prescribed by the Constitution and legislative framework of the Republic of Serbia. In the area of spatial development, The Law on the Planning System of the Republic of Serbia specifically envisages the obligation to conduct consultations in all phases of drafting public policy documents.

Almost 26% of CSOs participating in the MM Survey reported they were invited and involved in consultation over policy/ legislation. About 5% stated they were involved in an early stage of legislation drafting. Almost 7.5 % reported that invitation for consultation is received at least a week in advance. Around 8% reported that sufficient time to prepare and submit comments (around 15-20 days) was given.

In response to our FOI request, the Legislative Sector of the National Assembly stated that 129 laws, 63 decisions, 2 authentic interpretations and 4 conclusions were adopted by the Assembly in 2020. According to the [Open Parliament database](#), in 2020 12 (9.30%) laws were adopted by urgent procedure. It is certain that there are acts which were adopted without conducting prior public consultations, but no official report/statistics on this. More precisely, this could only be analyzed by "manually" counting all laws or policy documents adopted, who proposed them and whether they were made public. The State Secretariat for Public Policies should be required to keep these records, but this is not the case. According to the Secretariat's data for 2020, the share of draft laws that consultations were organized for in relation to the total number of draft laws submitted to the

Secretariat for consultation in is 19:35, or 54.28%; The share of adopted laws for which consultations were conducted in relation to the total number of adopted laws for which consultations were to be conducted is 15/42, or 35.71%; The share of draft regulations consulted on in relation to the total number of draft regulations sent for the opinion of the Secretariat is 59/225 or 26.22%; The share of adopted regulations for which consultations were conducted in relation to the total number of adopted regulations is 29/253 or 11.46%.¹⁰ According to data from the [Annual report on the implementation of the Action plan for the Implementation of the Public Administration Reform Strategy 2018-20](#), the percentage of laws for which a preparatory consultation procedure was carried out respecting the Law of State Administration was 46,9%.

Practice also indicates that CSOs are only partially provided with adequate information on the content of the draft documents and details of the consultation in sufficient time to respond.

11% of the MM respondents reported they agree with the statement that adequate draft documents were made available to them before consultations. **Practice is also partially harmonized with**

The Government adopted the [Guidelines for the Inclusion of Civil Society Organizations in Working Groups for Drafting Public Policy Documents and Drafts, or Draft Regulations](#) at the session on January 30, 2020. A narrative report on the results of the consultation process, with a tabular view of report with adopted/non-adopted comments, the consolidated text of the Draft Guidelines, Draft Guidelines as amended in track changes format were published at the GOCCS's [web site](#). 8 CSOs sent a total of 58 comments on the Draft Guidelines, 11 of them were adopted (20%), 3 were partially adopted, 22 weren't adopted and 10 comments were recorded.

standards regarding written feedback on the results of consultations. There is no unique publically available evidence of summary reports on consultations held, including CSOs inputs sent and feedback provided. In their answers our FOI requests, no petitioned institutions reported that, after the consultation, a summary report was made publicly available regarding consultation inputs, nor that a list of CSOs that participated was included with the report or online, or an explanation provided as to why received inputs and recommendations

were not adopted. 23% of the CSOs from the MM Survey reported that some of their suggestions/comments were considered in consultation processes, 8% reported that most of their suggestions/comments were considered, and just 1 CSO reported that all of their suggestions/comments were considered. 2 respondents stated they don't have information on what was done with their suggestions and comments. During the public hearing on the Draft Law on Games of Chance, over 20 different participants submitted proposals, remarks and suggestions on the text of the Law, which two participants did not submit in accordance with the hearing program. While the Ministry of Finance reviewed and considered all submitted proposals, suggestions and objections to the Draft Law, the report on the conducted public debate did not mention any of the proposals that are of special importance for the position and functioning of CSOs.

Practice indicates an enabling environment in the area of educational programs for the majority of civil servants in charge of drafting public policies. Around 1.7% of surveyed CSOs agreed that designated public servants facilitated effective engagement of CSOs in the consultation processes. During 2020, the Government Office for Cooperation with Civil Society held 3 trainings on the topic "Cooperation of local self-governments with civil society organizations in the development of the local community." The trainings were held in Sombor, Novi Sad and Novi Pazar, and were attended by more than 80 participants. According to the data from its directory, the National Academy of Public Administration organized 62 trainings with a total of 2005 participants in 2020.

When it comes to available units/officers coordinating and monitoring public and their

¹⁰ Interview with a representative of the State Secretariat for Public Policies.

capacities, practice is partially harmonized with standards. In response to the FOI, MLEVSA stated that their employees did not attend training on the involvement of non-governmental organizations in the consultation process, and the same response came from the Ministry of Mining and Energy. The Ministry of Education, Science and Technological Development pointed out that employees have access to opportunities within the training offered by the National Academy of Public Administration, as well as that they attend trainings organized by CSOs whenever possible, but without specifying concrete programs. The Ministry of Public Administration and Local Self-Government replied that the planned trainings were not conducted due to epidemiological restrictions, bearing in mind that the planned trainings were not programmatically adapted to the holding of webinars. However, only around 1,7 % CSOs agreed that the majority of civil servants responsible for drafting documents have the necessary capacities to involve CSOs. **At present, there is no established mechanism for conducting and monitoring the consultation process.** Within the AP plan for OGP 2020/2022, a new measure was adopted related to the eParticipation portal. The expected result is the use of the eParticipation portal during the implementation of all phases of drafting regulations and public policy documents, from announcing the start of work on a document, through inviting participants and conducting public consultations and hearings, to publishing reports on them once they are conducted.

3.2.2. Public Access to Draft Policies and Laws

Legislation recognizes a clear obligation of public institutions to make all draft and adopted laws and policies publicly available, which is in line with standards. The list of acts adopted or proposed by the Government for adoption is provided for in the Government's Work Plan for 2019. The Law on the Planning System, in accordance with the principle of publicity and partnership, provides for the obligation to carry out the consultative process transparently. This issue is also regulated in the Law on Public Administration. In Article 77 of this law, which refers to public participation in the preparation of draft laws and other regulations and acts, it is stipulated that public administration bodies are obliged to provide conditions for public participation in the preparation of draft laws, other regulations and acts, in accordance with this law. [The National Assembly's Rules of Procedure](#) define the documents that must be published on the National Assembly's Website. **Also, an enabling environment has been detected regarding existing clear mechanisms and procedures for access to public information/ documents.** The [Law on Free Access to Information of Public Importance](#) regulates this area. **Furthermore, there are clearly prescribed sanctions for civil servants/authorities for breaching the legal requirements on access to public information which is harmonized with standards.** Article 22 of The Law on Free Access to Information of Public Importance provides that an applicant may lodge a complaint with the Information Commissioner if a public authority rejects or denies an applicant's request within 15 days or if failed to reply to submitted request within the statutory time limit. The same right is provided in the case that a public authority does not grant access to a document containing the requested information and/or does not issue a copy of the document. The Law also provides that complaints shall be inadmissible if lodged against decisions of the National Assembly, the President of the Republic, the Government of the Republic of Serbia, the Supreme Court of Serbia, the Constitutional Court and the Republic Public Prosecutor. According to the Law, an administrative dispute complaint may be lodged against the decisions of those bodies.

However, practice with regard to publishing draft and adopted laws and policies partially meets standards. All adopted laws can be accessed free of charge by citizens via [National Assembly web page](#) and [ParagrafLex](#) portals. There is a unified portal where all laws subject to consultation are published – [eGovernment](#). Citizens can post their opinions on the portal during the public debate's duration, but only if they are subscribed as users of e-Government services. The portal is also adjusted to blind and partially sighted persons. However, a small number of posts from citizens was recorded

comparing to number of this portal' s registered users (900.000 citizens,) which indicates that its potential wasn't used enough.¹¹ There is no official data on number (and %) of ministries that do not regularly publish adopted laws and policies on their websites. The Government's work plan for 2020 envisages changes to the Law on Games of Chance. The Law was adopted and published in the Official Gazette on March 3, 2020. This plan also envisaged the adoption of the new Law on Consumer Protection, but it was postponed due to the state of emergency and its adoption is expected during 2021, as is the case with amendments to the Law on Personal Data Protection and Access to Information of Public Importance. The planned adoption of the Law on Social Protection, as well as the Law on Social Entrepreneurship, was not implemented for identical reasons.

Practice can also be assessed as only partially enabling when it comes to answering the majority of requests for access to information of public importance within the deadline prescribed by law, in a clear format, providing written explanations on the reasons for refusal, and highlighting the right to appeal and the procedure for appealing. Preliminary data gathered from the Information Commissioner indicates that 19.387 FOI requests were evidenced in 2020, 15.317 of them were accepted and acted upon, 404 were dismissed, and 1.529 were rejected. Out of all the requests sent in 2020, 5.908 were issued by CSOs or their representatives, and out of that number, 4.934 were accepted, 50 dismissed and 187 rejected. According to the open data database of the Commissioner, this institution handled 3286 complaints related to free access to information in 2020. 1723 were due to not receiving any response from the government body addressed, while 1563 were from applicants whose requests were denied or who found the response they received unsatisfactory. 698 appeal procedures started in 2020 are still active as of March 2020, while 2588 have been resolved. Per the database, CSOs issued 376 complaints to this body during 2020. Out of those, 205 were related to "administration's silence" - not receiving any response in the mandated time, and 171 were due to the applicant CSO being dissatisfied with the response received. 173 of the cases initiated by the Commissioner based on CSO complaints were still active as of March 2021, while 203 have been resolved.

Out of the 30% of CSOs participating in the MM survey who indicated that they had requested access to information of public importance during 2019, 16% of them stated that they had received the information within the time limit prescribed by law. 16% of the CSOs were provided with an answer in a clear format, and only 2 CSOs were denied access without any explanation. 5 of the CSO reported they were advised on the possibility to appeal. Only 3 % of them reported they did not receive any answer on FoI request.

In mid-July, the Coalition for Free Access to Information, with the support of dozens of civil society organizations and the media, submitted a request for free access to information of public importance to the Institute of Public Health of Serbia "Dr Milan Jovanovic Batut", with the aim of making available reliable information on the epidemiological situation in Serbia. Since, according to the Law, it is indisputably in the interest of the public to find out information that is important for the protection of the health of the population, the Institute was obliged to act on this request within 48 hours. The Commissioner for Information of Public Importance and Personal Data Protection, deciding on the appeal of 90 associations, ordered "Batut" to submit the requested information within seven days. The "Batut" Institute received the decision on September 4, 2020, but they he did not act on the order of the Commissioner.

A partially enabling environment has also been identified when it comes to sanctions for the

¹¹ Interview with representative of the Office for information Technologies and eGovernment.

violations of the law. CI obtained through FOI requests and subsequently analyzed all the decisions reached by the Misdemeanor Court in Belgrade during 2020 in matters relating to access to information. Out of the 459 decisions, 319, or 69.5 percent resulted in a sanction being issued against the responsible person in the public authority that failed to follow the provisions of the Law on Free Access to Information. In 28 cases, the only sanction for the offender was a formal reprimand. This represents a little over 8% of the total number of sanctions. The rest of the sanctions issued were fines, ranging from 5.000 RSD (42 EUR), the minimum legal amount, to 65.000 RSD (553 EUR) in one case. A fine of 10.000 RSD (85 EUR) was most common, and was given in 136, or 45% of cases. The second most common fine amount was 5.000 RSD, which was given 81 times, or in 25% of the cases where a sanction was issued. It can be clearly observed that, even though the court issued sanctions in the majority of cases, the sanctions provided are nowhere nearly as harsh so as to serve as a deterrent against repeat offences, and institutions can simply decide that it is more economical for them to pay the required fines rather than give access to potentially damaging or controversial information. This is particularly well illustrated in the fact that 198 or 62% percent of the decisions were against the same person, Duncan Naysmith, CEO of Air Serbia. His example also illustrates the inconsistent court practice in this area, given that, in proceedings in front of the same court, instituted by the same plaintiff and concerning very similar if not identical cases of infringement on the right to access information, he was given wildly varying sentences, ranging from a formal reprimand to a fine of 65.000 RSD, which is 15.000 RSD above the legal maximum prescribed for this type of misdemeanor.

3.2.3. CSOs' Representation in Cross-Sector Bodies

Existing legislation partially requires public institutions to invite CSO representatives on to different decision-making and/or advisory bodies created by public institutions. The Guidelines for CSOs' Involvement in Working Groups for Drafting Public Policy Documents and Draft Regulations were adopted in the beginning of 2020. The Guidelines as a non-binding act propose principles and procedure for appointing representatives of CSOs to working groups for drafting public policy documents and drafts, that is, draft regulations established by the state administration body. Their purpose is to direct the work of state administration bodies towards further enhancing the involvement of civil society organizations in the processes of drafting regulations and public policy documents. The Guidelines provide for multiple levels of participation of CSOs in the process of preparing, adopting and monitoring the implementation of regulations: Information, Counseling, Involvement and Partnership. There are no clear guidelines on how to ensure appropriate representation of civil society, based on transparent and predetermined criteria which is not in line with standards. **Practice is partially met when it comes to decision-making and advisory bodies on issues and policies relevant for civil society including CSO representatives.** 28% of the CSOs participating in the MM Survey reported they were involved/represented in the work of advisory/consultative/ working group bodies and committees in the past year; None of the CSOs reported being subject to excessive state control (e.g. inspections, sanctions) or harassment due to critical stances expressed in advisory/consultative/ working group bodies and committees. On the other hand, only 34% of the CSOs stated they agree that CSOs are free to express critical stances at advisory, consultative, working group bodies and committees. 23% of CSOs from the MM Survey responded that they are involved in decision-making advisory bodies that report using alternative advocacy measures to promote their opinion (e.g. such advocacy measures may include media campaigns, demonstrations, petitions, mobilizing constituencies to send emails to representatives, joining and forming advocacy coalitions etc.), 4% of them responded that they aren't using alternative advocacy measures to promote their opinion and 13% of them responded that they don't know.

The members of the Coalition for Free Access to Information of Public Importance that submitted the above-mentioned request for free access to information to the Institute of Public Health of Serbia "Dr

Milan Jovanovic Batut" are mostly members of the Working Group of the Open Government Partnership. The working group rejected the CSOs' request to discuss anything related to the state's response to the crisis, because the argument was that it was not in the mandate of the working group.

Sub-area 3.3. Collaboration in social provision

3.3.1. CSO Engagement in Service Provision and Competition for State Contracts

Existing legislation allows CSOs to provide services in various areas, such as education, healthcare and social services, which is in line with standards. Existing laws allow CSOs to provide services in a variety of fields, such as education, health, and social services. [The Law on social Protection](#) has allowed CSOs to provide social protection services since 2011 as well as other public and private entities with the obligation to obtain a license, as provided for in Article 64 of that Law. Article 16 of the [Law on Adult Education](#) provides that the organizer of educational activities may also be an association, and therefore a CSO, if they are registered for performing educational activities. Article 17 of this Law provides that only an association which meets the established standards and which has been approved by the competent Ministry may be recognized as an organizer of activities. The conditions that CSOs must fulfill are related to programs, staff, space, equipment and teaching tools. [The Regulation on Accreditation, Manner of Engagement and Fees of Implementers of Professional Development Programs in Public Administration](#) allows CSOs that are recognized organizers of adult education activities to provide educational services to public officials. [The Law on Free Legal Aid](#) significantly limits the work of associations that have so far provided legal assistance and support to vulnerable categories. The adopted solutions virtually prevent CSOs from continuing to provide free legal aid, except in cases relating to asylum, domestic violence and non-discrimination. The role of CSOs in the field of health care is not defined in health policy and normative acts. The lack of a clear framework for co-operation prevents a greater role of CSOs in health care. The cooperation of the Ministry of Health and CSOs takes place through the Program of Support to Associations and Organizations which provides financial support through budget line 481 to certain CSOs. This Program also includes support to the activities of the Red Cross of Serbia. Article 130 of [The Law on the Consumer Protection](#) provides that associations, including CSOs, may perform work in the area of consumer protection if they meet the relevant criteria. The criteria stipulate that consumer protection must be a core area of work of this association, that they are ineligible and independent from political parties and traders, and that those occupying decision-making positions in the association are not employed by a state or regulatory body and are not in decision-making positions in a trade union and a political party. **An enabling environment has also been assessed when it comes to barriers to providing services that are not defined by law.** The legal framework generally does not contain provisions that hinder civil society organizations from providing services not defined by law ("additional" services). According to the Law on Social Protection, CSOs are explicitly allowed to provide innovative services, and they are not a subject of stricter requirements in the areas in which they provide services in compared to other service providers. When it comes to the areas for which a preliminary registration is required, CSOs are also allowed to license their services as well as other legal entities from public and private sector. Difficulties and limitations have been recognized in implementation of the Law on Free Legal Aid, which entrusts these tasks only to lawyers and legal services of local self-government units, except in aforementioned exceptions. Associations are given the opportunity to provide general legal information and to complete forms, as part of free

legal support. Article 131 of the Law on the Consumer Protection provides that associations working in this area may carry out activities: informing, educating, advising and providing legal assistance to consumers in exercising consumer rights; receiving, recording and acting on consumer complaints; conducting, independent tests and comparative analyses of the quality of goods and services and publicizing the obtained results; conducting research and studies in the field of consumer protection and publicizing the results obtained.

Existing legislation partially met standards regarding additional burdensome requirements on CSOs comparing to other service providers. According to the Law on Social Protection, CSOs are allowed to provide innovative services and they are not a subject of stricter requirements in the areas in which they provide services compared to other service providers. CSOs may provide activities in the field of social protection, precisely individual social protection services. The process of licensing CSOs as providers in the social protection system is not sufficiently entrenched, given the very high functional standards (in terms of the space for service providing). A license/work permit must be obtained by organizations providing the following community services: day care, home help, halfway house, supported housing, child's personal escort, personal assistant, rest shelter and shelter accommodation. The Law on Adult Education provides the possibility for citizens' associations to carry out activities of (non-formal) adult education if they are registered for educational activities, meet the established standards and obtain the Ministry's approval in accordance with the law. The Minister prescribes more detailed conditions regarding the programs, staff, premises, equipment and teaching tools, including the conditions for ensuring accessibility of teaching and programs for persons with disabilities. The Law on Free Legal Aid prescribes that CSOs may provide free legal aid only on the basic laws governing asylum law and non-discrimination. The Law also prescribes that legal aid providers shall be entered in the Register. Article 6 of [the Rules on the Method of Entry into the Register of Providers of Free Legal Aid and Maintenance of the Register](#) provides for registration to be made on the basis of an application containing the following information: the association's name and seat; the sector of responsibility and the goals for which it is being established, information about the person providing free legal aid and the e-mail address of the person providing the free legal aid. The application shall also be accompanied by documents certifying that the association has been entered in the appropriate register and that the person providing the free legal aid has adequate qualifications. The Law on Consumer Protection provides for the procedure for the registration of an association or alliance of associations in the records of the Ministry for Tourism Trade and Telecommunications. The procedure provides equal conditions and an identical procedure for all entities. The procedure is initiated by filing in an application which contains the name of the association, proof of registration in the SBRA, statute and evidence of fulfillment of the requirements for entry in the Register. The area of health services does not contain legal provisions related to this indicator.

CSOs are partially able to obtain contracts in competition with other providers and are engaged in various services. 19 % of MM respondents reported that they had competed for funds through state contracts. During 2020, MTTT did not enter into any service provision contracts with citizens' associations, endowments and foundations. They also stated that in the course of 2020, they received 60 bids in public procurement procedures for services, none of which were from CSOs. In response to the FOI, the Ministry of Youth and Sports stated that a total of 35 service offers were received during 2020, but none from CSOs. Ministries didn't report on the range of fields in which CSOs are contracted. The Ministry of Education, Science and Technological

During 2020, the city administration of Sombor, stating the basis of the lowest price, selected an LLC in a public procurement procedure for the provision of personal assistance services, regardless of the fact that it has a registered Center for Independent Living in its area, which has a license to provide this service.

Development has concluded a contract with CSOs in order to develop video training for employees in educational institutions. The Ministry of State Administration and Local Self-Government replied that only one association of citizens sent an offer for concluding a contract for the provision of services, but without stating which services or whether the offer was accepted. The Ministry of Construction, Transport and Infrastructure replied that it had signed nine agreements on the allocation of budget funds for financing nine projects. According to the government's [official public procurement information portal](#), out of 12.237 government contracts awarded in 2020, only 22 were given to CSOs. Providing services in the health care area by CSOs is financed only on a project base, unlike in the social protection area – based on tender procedure. There is no procedure for CSOs contracting for service provision; they are not recognized as providers but as “helpers” who have direct access to beneficiaries.¹²

When prior registration/licensing are required, the procedure for obtaining it is partially burdensome. 12% of the CSOs (from 19% of involved in service providing) participating in the MM Survey consider the process for obtaining license is burdensome. According to the Law on Social Protection, CSOs are obligated to be licensed for providing certain social services (daily community services, family accommodation and home placement services). [558 organizations in total were licensed](#) for providing social services until the end of 2019. 129 of them (almost 20 %) are CSOs licensed for providing social services in local communities. 27 CSOs provide more than one licensed service. The Law on Free Legal Aid states CSOs have to be registered in the official Register of legal aid providers – 18 CSO are registered for providing free legal aid and 21 are registered for providing legal support. The National Academy for Public Administration made a publicly available [list of accredited training facilitators](#) –from totally 66 accredited organizations, 13 of them are CSOs. Among 212 [registered providers of educational services for adults](#), only 5 of them (1,9%) are CSOs – 3 associations and 1 foundation. According to MTTT's [official Register](#), 26 associations and federations are registered for consumer protection and this number has been stagnant since 2015). There is no licensing/certification procedure for health service providing, but persons who are directly involved in service provision have to be certificated by the Ministry of Health. CSOs interested in health service provision (counseling and testing) need to sign a Memorandum of Cooperation with a territorially competent institution. Integrated socio-health services need to be accredited by the State Institute for Social Protection. Official register of health services providers is missing. The procedure for registering CSOs in the area of consumers: protection isn't burdensome: Associations or federations wishing to be registered have to submit an application to the Ministry of Trade, Tourism and Telecommunication. The application contains: the name of the association or federation, a certificate of registration with the SBRA, the statute of the association, as well as a certificate that the association or federation meets all the requirements prescribed by the Law on Consumer Protection. Associations and federations are eligible for registration if they have been active in the field of consumer protection for at least three years, have adequate personnel, material and technical capacities necessary for the performance of consumer protection activities and if their representatives have the appropriate experience, expertise and skill to perform activities in the field of consumer protection. Upon receipt of the application, the association or federation that submitted the application receives confirmation from the Ministry that it has been entered in the Register. However, the intent and purpose of prescribing an obligation for CSOs to employ a person with a Bachelor's degree (unspecified in which area) besides a Bachelor of Laws. The Institute for the Advancement of Education gives accreditation to CSOs for providing professional development training for teachers, professional associates and principals employed in educational institutions. A list of accredited CSOs is available within the Catalogue of professional development programs. The accreditation procedure isn't burdensome; there are no additional requests for CSOs as potential providers/organizers.

¹² Interview with Association's Duga representative.

However, the accreditation procedure is repeated every 2 years and there is a need to do it more often.¹³

3.3.2. State Funding for CSO-Provided Services

The budget partially provides funding for various types of services which could be provided by CSOs including multi-year funding. The state budget, as well as local budgets and financial plans, provide funds for financing various types of services provided by CSOs. The budget provides a specific budget line intended to finance the provision of social protection services: 472 - Social security allowances but there is a practice of financing services through budget line 481 - Donations to NGOs. The total amount of funds planned to be allocated in the 2020 budget from line 472 (social protection provisions from the state budget) was 1.012.808.230 EUR. Total amount of funds planned for CSOs support from the budget line 481 (Donations to NGOs) was 90.626.519 EUR. Funds planned for project financing of free legal aid and free legal support provided from public funds, may be transferred to registered providers or to bar associations. Public calls are announced for the project financing of this activity. There are no legal barriers to CSOs receiving public funding for the provision of different services (either through procurement or through another contracting or grants mechanism). **When it comes to legal barriers to CSOs receiving public funding for the provision of different services, legislation is in line with standards.** On budget line 481, the Law on the Budget for 2020 provides for the allocation of funds for the work of civil society organizations in the fields of support to citizens' activities in health care, the sector of support for youth employment and their active inclusion, for the development and implementation of youth policy and for the implementation of projects relevant to education. The only restrictions concern areas where there is exclusive competence of bodies or organizations established by the Republic of Serbia, as provided for example by the Law on Social Protection. Article 6 of Law on Public procurement prescribe that the subject matter of contracts on public procurement of services may be education and vocational training services, as well as healthcare and social services. The law also prescribes a transparent tender procedure in the case of bidding for the financing of services from public sources, with criteria that many civil society organizations cannot meet. The buyer may specify additional terms in terms of financial, business, technical and personnel capacity. The contracting authority may provide in tender documents that the bidding entity has to prove that it is not undergoing a liquidation or bankruptcy procedure, or a preliminary liquidation procedure, but may also define other additional requirements for participation in the public procurement procedure, especially if they relate to social and environmental issues. According to Article 61, CSOs are obliged to submit financial or banking guarantees for tenders with value in excess of RSD 250 million.

Out of the 15 CSOs (19%), who stated they had applied for service provision contracts, 31% CSOs reported that funding for services was not sufficient to cover basic costs of the services; Only 4 of them stated that the allocated funds were sufficient to cover their basic costs. 42% reported that funding for services did not include proportionate institutional and administrative (overhead) costs, and only 3 stated that the allocated funding was enough to cover their overhead costs

When it comes to signing long-term contracts for provision of services, legislation partially satisfies standards. The Law on Social Protection and the Law on Adult Education state that CSOs may provide services in this area. These services are provided on the basis of a contract concluded in accordance with the procedure followed, which is regulated by the provisions of the Law on Public Procurement. The

normative framework allows for the conclusion of multi-year contracts, but in practice it works

¹³ Interview with Center's for Education Policy representative.

differently, and contracts are only signed for the duration of the current year. Article 58 of the Law on Adult Education provides that funds for these purposes shall be provided in the budget of the Republic of Serbia, the budget of the autonomous province and the budgets of local self-government units. Article 135 of the Law on Consumer Protection provides that associations registered under the law may compete with programs of public interest for incentive funds of the MTTT. Article 136 provides that the activities of the registered associations may be financed or co-financed from the budget of the Republic of Serbia in accordance with the law, the Strategy and the Government's Work Plan.

When it comes to receiving funds for services, a disabling environment has been assessed. 17 CSOs from the MM Survey (20,5%) agreed that CSOs are excluded from public service tenders in their area of work, and more than 50% (46 CSOs) responded they don't know if that was the case. CSOs partially receive sufficient funding to cover the basic costs of the services they are contracted to provide, including proportionate institutional (overhead) costs. CSOs reported that funding for services was not sufficient to cover basic costs of the services. 6 CSOs reported that funding for services did not include proportionate institutional and administrative (overhead) costs. Interviewed CSOs representatives agree that funds allocated from public sources aren't sufficient for sustainable service providing. However, when it comes to delays in payments and flexibility of the funding practice is in line with standards and there is no data on violations.

3.3.3. Procedures for Contracting Services

Legislation is in line with standards when it comes to clear and transparent procedure through which the funding for services is distributed among providers. The control procedure is foreseen in the Law on Public Procurement and The Rulebook on the Close Regulation of the Public Procurement Procedure. Article 161 of the Law on Public Procurement provides that members of the Republic Commission may perform a control of the execution of the Republic Commission's decision. **Unfortunately, a disabling environment has been identified when it comes to the lead criterion for selection of service providers.** According to Articles 84 and 85 of Law on Public Procurement, price is not always the main criterion for the selection of service providers, but also the factors of service quality and financial stability of providers are considered. The same articles provide that the contracting authority is obliged to determine the same criterion and elements of the criteria for awarding the contract in the tender invitation and documents. The criterion for evaluating the bid, in addition to the lowest price, is the criterion of the most economically advantageous tender (which depends on a number of other issues). [The Rulebook on the Close Regulation of the Public Procurement Procedure](#) sets out the obligation of the Public Procurement Commission to prepare a reasoned proposal for a decision in accordance with the Report on the Expert Evaluation of the Bid. **There are clear guidelines on how to ensure transparency and avoid conflicts of interest, which is in line with standards.** The Law on Public Procurement contains provisions on the prevention of conflicts of interest, as well as certain mechanisms aimed at ensuring the transparency and legality of this procedure. **The same goes for the right to appeal against competition results.** The Law on Public Procurement provides for the possibility of submitting a request for the protection of rights to the Republic Commission, if the authorized person who has a legal interest in awarding the contract considers that he has suffered, or could suffer damage due to the actions of the contracting authority which are contrary to the provisions of the Law on Public Procurement. It also provides for the possibility of initiating an administrative dispute against the decision or in case of failure to act on the request for protection of rights by the Republic Commission.

Regarding the level of services contracted to CSOs, practice is partially harmonized with

standards. There is no unique record of CSOs that reported receiving contracts per different policy field. None of the surveyed/ interviewed CSOs t reported receiving contracts per different legal forms. **Data indicates enabling environment when it comes to competitions being considered fair and conflicts of interest avoided.** 22 % of the CSOs agreed that the allocation of state contracts is transparent and fair. The Anti-Corruption Agency exercises control over the disposal of public resources, reveals irregularities committed by individuals and / or groups, regardless of their status, educates representatives of the public sector and other target groups, including the general public, on issues relevant to anti-corruption activities; provides mechanisms to establish and enhance integrity within the institutional and regulatory framework. The Agency regularly publishes opinions on conflict of interest of public officials, but none of the published opinions refers to conflict of interest in case of calls/contracts for service providers. There is no available data on cases of conflict of interest reported in anti corruption reports by the state/CSOs or in the media by journalists.

State officials have partial capacity to organize the procedures. In response to our FOI requests, MCI stated that only 1 official in their employ has undergone training for state contracting, MYS confirmed that its officials attended mentioned trainings, but didn't state the number of civil servants involved; 4 MTTT officials have undergone the relevant training. In response to the FOI request, the MLEVSA stated that none of their officials had attended such training. The MRE stated that two of their officials responsible for concluding these contracts had passed the exam for public procurement officers. MGSI stated that a total of 7 civil servants in their employ participate in all phases of public procurement, but without specifying the number of those who attended professional training or coaching on this subject. Only 4 % of the CSOs agreed that state officials have the sufficient capacity (e.g. knowledge; training) to implement procedures for contracting of services.

3.3.4. Accountability, Monitoring and Evaluation of Service Provision

Legislation partially satisfies standards when it comes to the possibility for monitoring both the spending and quality of service providers. The control procedure is prescribed by the Law on Public Procurement and the Rulebook on Regulation of the Public Procurement Procedure. The Law on Free Legal Aid prescribes control over the conscientiousness and professionalism of the provision of these services. The control procedure is initiated on the basis of a proposal by the Ministry of Justice, ex officio or upon the complaint of the beneficiary. If these services are provided by CSOs, the

Thanks to the advocacy of the Center "Živeti uspravno", on July 16, 2020 the City of Novi Sad amended the Rulebook on exercising the right to financing the personal assistance service, providing for the circumstances under which the service provider may increase the total number of approved hours by 30%. Limiting the level of service by a percentage instead of assessing the actual needs is not in accordance with Art. 19 of the International Convention on the Rights of Persons with Disabilities and in August 2019 they started the advocacy process to omit the percentage and fully harmonize the text with the Convention, but with this change the City of Novi Sad is the first local government in Serbia to provide funding for higher levels of service than guaranteed minimum standard from the budget line intended for this purpose.

quality control is performed by a joint commission, chosen by mutual agreement between the Bar Association of Serbia, representatives of professional associations or law faculties. In a joint commission consisting of five members, two are selected among the lawyers, one from the professional association, one from the law faculty and one from the Ministry. During the control procedure, if the competent authority determines that there is an unconscientious or unprofessional provision of free legal aid or free legal support, it shall issue a decision to the Ministry. The possibility of monitoring the provision of social protection services is prescribed by the Law on Social Protection, as well as the

Regulation on Licensing of CSOs of Social Services Providers and the Rulebook on Conditions and Standards for the Provision of Social Welfare Services. Clear standards are set out in the Rulebook on Terms and Standards for the Provision of Social Welfare Services. Article 137 of Law on Consumer Protection provides that an association will be deleted from Register if it does not submit to the Ministry an annual report on activities and results achieved in the field of consumer protection, including the financial report, violates the consumer principles of the Code of Conduct adopted by the Consumer Council or does not publish their decisions on its website.

Legislation contains clear quality standards and monitoring procedures for services, which is in line with standards. *The Law on social protection prescribes the obligation to determine the minimum standards for social protection services, continuous professional development of social care providers and accreditation of training and service programs. The Rulebook on Close Conditions and Standards for the Provision of Social Services prescribe basic requirements that must be fulfilled by all social service providers, including CSOs, regardless of the user groups for which the service is intended. In addition, this Rulebook also provides specific minimum standards that must be met within a particular service group or specific service. The basic standards stipulate that the service providers have to define a basic program that contains basic information on users, program activities carried out and basic personnel information. They also must define a work plan that sets out goals in terms of staff development, service development and public awareness of the services provided. Article 137 of the Law on Consumer Protection provides that an association will be deleted from the Register if it does not submit to the MTTT an annual report on activities and results achieved in the field of consumer protection, including a financial report, if it violates the consumer principles of the Code of Conduct adopted by the Consumer Council, or if it does not publish their decisions on its website. Article 10 of the Law on Free Legal Aid stipulates the principle of control and improvement of the quality of the provision of free legal aid and the monitoring of the manner and outcome of the free legal aid provided. The law provides for the obligation of independent, conscientious and professional provision of free legal aid. It also stipulates in Article 25 the obligation for service providers to adopt a Code of Professional Ethics. Article 19 provides for the possibility of deletion of a free legal aid provider from the Register if it is determined that it provides free legal aid and support in an unlawful or unprofessional manner.*

No data on CSOs as a subject to excessive control which is in line with standards. *Interviewed CSOs representatives didn't report they have been subject to excessive control. Furthermore, they even stressed that control carried out by relevant state authority during service provision is lacking. However, when it comes to performing monitoring on a regular basis according to pre-announced procedures and criteria, a disabling environment has been assessed. Only 5% of the CSOs from the MM Survey agreed that accountability criteria in this area are clear. In response to the FOI, the Ministry of Youth and Sports stated that it does not monitor public procurement contracts. The MTTT stated that the criteria for monitoring public procurement contracts are contained in the contract itself through provisions that regulate the rights and obligations of the contracting parties. It is also pointed out that for each individual contract, a person is appointed who has the obligation to monitor the implementation of the contract, i.e. to control the application of contractual provisions, as well as to sign the Report on contract implementation made by the service provider. MRE responded that in 2020, on-site monitoring of eight contracts was carried out. The MAFWM stated that there is a Public Procurement Group within the ministry, whose competence includes, among other things, monitoring the implementation of contracts, but without specifying the number of controls performed. Interviewed CSO representatives pointed out that there is no established monitoring mechanism during service provision, so they weren't monitored during 2020. MYS answered there is no data on performed evaluation of the service provision; In their response to our FOI request, the Ministry of Construction, Transport and Infrastructure stated that during 2020, two civil society organizations submitted a Report on the Success of the Implementation of the Project in*

the Field of Social Housing. In response to the FOI, the MTTT provided an Evaluation Report on the Process of External Evaluation of the Project "Consumer Counseling Belgrade" for the period 2019-2020.

Conclusions and recommendations

AREA 1

Recommendation 1

Consistent implementation laws and by-laws in the area of freedom of association, freedom of assembly and freedom of expression is needed at all state levels in order to defend achieved standards in the legal framework, as well as strengthening the accountability of all relevant institutions responsible for the protection of fundamental rights. Urgent reaction of the competent authorities is also needed in cases of threats and attacks against activists and journalists, their personality, property and lives. A strong message must come from the highest political representatives as well as from the relevant EU institutions. Constant monitoring of the European Union with the pressure on political representatives. Clear messages and political punishments in this regard ("Pribe mechanism" or similar instruments).

Violation of fundamental freedoms is one of the strongest findings of this report. Numerous recorded cases of violations of freedom of association, expression and assembly are recorded. Cases include smear campaigns, intimidation and security threats in online and offline spheres, interference gatherings and public events. In some cases, high government officials initiate or participate in campaigns. This particularly affects CSOs with critical attitude toward the authorities at the national and local levels, who are intimidated and abandon their attitudes in the public space and media support the narrative of foreign mercenaries and traitors. It weakens citizens' confidence in the sector. CSOs and activists are committed to defending attacks that interfere with their daily work.

Recommendation 2

Establish a mechanism to prevent the abuse of regulations and standards in the field of prevention of money laundering and harmonize the work of the Administration for the Prevention of Money Laundering and Terrorist Financing with the standards prescribed by the FATF.

It is necessary to establish clear and measurable criteria for assessing the fulfillment of the conditions from Article 73 of the Law, which envisages the possibility of initiating the control procedure. The existing legal solution envisages the criterion of the existence of grounds for suspicion in relation to certain transactions or certain persons, but without a more precise definition of what can be subsumed under the criterion of "grounds for suspicion".

A lack of precise regulations and an insufficiently professional approach of the Administration for Prevention of Money Laundering and Terrorist Financing can lead to numerous abuses and meaninglessness of the purpose of the law, which can turn this mechanism into a means of exerting institutional pressure and limiting opportunities for CSOs.

Recommendation 3

Prevent legal interventions that would ban organizations from establishing social enterprises or impose new administrative and financial obligations on them. Introducing adequate incentives, financial and non-financial is also needed as well as recognizing social entrepreneurship as social value in the different sectorial policies

The potential of social entrepreneurship has not been recognized and it is still rare among CSOs. The current legal framework is liberal and allows it, although there are no adequate incentives by the state. There is an intention on the part of the state to regulate the legal framework in this area, but not in a direction favorable to CSOs. As the state of financial diversification of sector is not at the satisfied level, this is a good way to secure funds that are not dependent on the state or donors. Additionally, social entrepreneurship is a solid basis for the strengthening constituency relations of those CSOs and could contribute to the better public image of CSOs.

Recommendation 4

Establish an effective mechanism of internal control and sanctioning of excessive use of force and police brutality.

Existing internal control mechanisms have proved ineffective in prosecuting members of the interior ministry for excessive use of force or in cases of police brutality. This is evidenced by the fact that 57 internal control procedures were initiated, and only in one case a violation of citizens' rights was established. Most of the proceedings were initiated on the basis of reports from civil society organizations dealing with the protection of human rights.

AREA 2

Recommendation 5

Provide a stronger political label for philanthropy with stronger incentives for corporative giving, introducing incentives for individual giving, and harmonization of public interest between different laws as well as establishing system for collecting data.

Different domestic and international reports assess non-favorable framework for individual and corporate giving. There are no proper tax benefits underlying the further growth of giving. Implementation of existing incentives is not unique and different practices of the competent authorities in this regard are present. The definition of public interest is inconsistent in Law on Associations law and tax laws. There is no system for collecting data on donations from citizens and businesses. Diversification of the financial sources is weak and needs to be strengthened with funds raised through individual and corporate giving. Poor tax incentives directly reflect the number of those who wish to donate. Analyses of existing donations are not available and do not allow organizations to be adequately informed about those who donate, which also affects their approaches to individual and corporative donors

Recommendation 6

Develop additional qualitative criteria for participating in distribution of state funds on a basis of expertise and public interest contribution, as well as establish a system for effective regular collecting data on all types of state finding. Providing a political label for the EUG is also needed as it could be used as a regular mechanism for monitoring and pressure on the state (such as PAR). Stronger focus on qualitative indicators in EUG in relevant area. Providing full implementation of recommendations based on EUG criteria by the Government as well.

Although there is a general framework for transparent state funding, it still contains certain gaps, which allow for the prescribed procedures, and in particular the political influence on the final decisions. The state funding for CSOs in Serbia is one of the initial reasons for increasing GONGO activities and a number of such cases have been reported. Existing practices threatens access to the funds of those organizations that have expertise and act in the line with public interest, but criticizes certain actions of the authorities. Even those organizations that are not critical, give up, because it is known in advance who will receive the funding, especially at the local level

AREA 3

Recommendation 7

Building a normative and institutional framework in order to establish a supportive environment for the development of civil society. Legal regulation of legal gaps caused by non-transfer of all competencies from the scope of work of the Office for Cooperation with Civil Society to the newly established Ministry of Human and Minority Rights and Social Dialogue is necessary. It is also necessary to adopt a new National Strategy for a Stimulating Environment for the Development of Civil Society in the Republic of Serbia through an inclusive process.

The abolition of the Office for Cooperation with Civil Society without prior consultation with CSOs has raised the question of whether the newly established ministry will be able to help the process of establishing better links between state institutions and civil society. In this context, it is necessary to establish a mechanism according to which in the future practice of the Ministry the policy of citizen participation in the preparation of regulations will be implemented in accordance with the basic principles of the Guidelines for Involvement of CSOs in regulation processes.

Although the EC Progress Report on Serbia especially emphasizes the need to establish a Council for Cooperation with the Civil Sector, for the needs of the sector it is more important to adopt a new Strategy for a stimulating environment for civil society development that would be adapted to the current situation, needs and potentials of CSOs. an effective mechanism for removing GONGO organizations.

Recommendation 8

Developing additional qualitative criteria for participating in decision making processes on a basis of expertise and public interest contribution as well establishing a system for effective regular collecting data. Providing a political label for the EUG is also needed as it could be used as a regular mechanism for monitoring and pressure on the state (such as PAR). Stronger focus on qualitative indicators in EUG in relevant area. Providing full implementation of

recommendations based on EUG criteria by the Government as well.

Although certain changes in the legal framework have been observed, they are not qualitative and do not address the problem of limited influence in the decision-making process. Due to the focus of the EU on quantitative criteria, a trend of faking public participation and debates was observed, with strong GONGOs activities. The absence of a feedback mechanism, a lack of political will for qualitative contribution of CSOs to the decision-making process are leading to a self-excluding by an increasing number of CSOs, especially those that are critically positioned. Their place is filled by GONGOs that create a parallel reality this way, as well as discredit organizations with strong expertise and that act in the line of the public interest

Recommendation 9

Ensure the status of social service providers to civil society organizations in all relevant fields including equalizing their status with other actors in the field. Improvement of the legal is also needed in the parts related to the criteria for awarding the service contracts and clear monitoring and evaluation procedures.

Currently the most regulated area is the provision of social protection services and consumer rights. CSOs are generally recognized and equated with other providers, but the same needs to be done in other areas (free legal aid, health care, education, culture). In all areas, there is lack of clear procedures to ensure the quality of customer service, so the quality of services in different areas is different according to the beneficiaries. It is not always clear how much money and from which budget lines are allocated in practice for service delivery.

Annexes

1. Monitoring Matrix methodology

Operationalization and data collection

The Monitoring Matrix on Enabling Environment for Civil Society Development is a detailed theoretical framework based on international human rights and freedoms and regulatory practices of European countries and the EU. The framework is built around three core areas: Basic Legal Guarantees of Freedoms; Framework for CSOs' Financial Viability and Sustainability; Government – CSO Relationship, each divided in sub-areas. The areas are elaborated by standards, which are further specified through legal and practice indicators.

*The **legal indicators** are measured by coding the presence or absence of rules, costs, procedures and obligations enshrined in legal regulation (primary and secondary) and policy frameworks enacted in the respective countries. To assure standardization and comparability of the data gathering process regarding the **practice indicators**, country researchers follow a methodology plan in which each of the 80 indicators are further operationalized in concrete mandatory and additional data types (i.e. operationalized dimensions of a practice indicator) to be reported across the countries. The **mandatory data** types tap into the core building blocks of a practice indicator as described in the Monitoring Matrix Toolkit. They mandate the reporting of optimal information without which one could not be able to evaluate the respective indicator. The additional data (operationalized dimensions) specified for each practice indicator are reported if country researchers want to deepen and further illustrate specific practice indicator (e.g. via case study; see next section on country-specific notes on methodology).*

The data gathering strategy for the practice indicators is tailored to match the mandatory data types specified in the methodology plan. For each indicator there is a clear guidance on the data gathering strategy (instruments and sources) which should be utilized by country researchers. The specified data gathering instruments and sources follow an implicit hierarchy, in which publicly available factual data (e.g. official statistics) are the most important source of data for assessing practice indicators, followed by survey data from civil society organizations, which in turn is followed by relevant secondary sources (e.g. from CSOs reports, Ombudsman and media). Finally, at the end of the hierarchy are interview data, being subjective type of data, which covers smaller groups of respondents.

*The primary factual data and secondary data are gathered through **desktop research**. Following the data gathering strategy, country researchers utilize three core data gathering instruments: Freedom of Information requests (FoI), survey questionnaire and interview topic guides. The questions in the data gathering instruments are tailored to match the mandatory data types (operationalised*

dimensions) of each practice indicator. The **Freedom of Information requests** (FoI requests) are used by researchers when public information and statistics on the state of civil society and their environment (primary factual data) are not readily and publicly available. The researchers can draw from a detailed bank of FoI questions tailored to match the operationalized practice indicators.

The **survey questionnaire** collects information on civil society organizations' experiences and perceptions on the key aspects of the enabling environment for civil society for the year 2019. The organizational survey includes 50 questions matching the mandatory data types (operationalized dimensions) on basic rights and freedoms, organizational and financial sustainability and civil society's cooperation with the state. The questionnaire dominantly consists of closed questions, and fewer follow-up open questions which require the respondents to elaborate on their experience. The same questionnaire is implemented across all countries, and only the formulation of few items is slightly adapted to the concrete country context to assure questions are understood by respondents. The survey is sent to lists of formal CSOs compiled and updated by country researchers on the basis of available registers or other alternative lists of active CSOs in the country (for more information see section on country-specific notes on methodology). The data collected from the survey is confidential and used strictly on anonymous basis. Individual responses are not connected to the organizations which answered the survey and reported only in an aggregate form.

The **interview topic guides** include questions which – similar to the survey questionnaire – matches specified mandatory data types and are used in all countries. In addition to these core questions, researchers formulate additional questions that capture contextual developments in the country. The four topic guides are used in semi-structured interviews with the following groups of respondents: representatives of associations of journalists and media professionals; representatives of organizations of volunteers; representatives of the institution or mechanism for CSO cooperation and representatives of informal civil society groups (e.g. citizen initiatives, social movements and online initiatives).

Data analysis and interpretation

To analyze and interpret the data, country researchers use a unified data collection template which provides the indicators description (including the mandatory and additional data types for the practice indicators) and five category descriptions ranging from fully enabling to fully disabling environment provided under each indicator. The five category descriptions are specified for each legal and practice indicator in the Monitoring Matrix Toolkit, to enable researchers – based on the reported data – to choose one code (score) which most accurately summarizes the state of enabling environment concerning the respective indicator. In a first step, the researcher reports the required data types collected through different sources in the template box. For example, they report factual data from primary sources complemented with descriptive statistics or cross tabulations based on survey data. In a second step, they choose one of five category descriptions specified for the respective indicator which best illustrates the reported data. The categories enable unified comparison of findings on the level of indicators across all country reports.

2. Notes on methodology and country challenges

The basis of this report is a thorough analysis of the legal and strategic framework for CSOs operating environment as it exists in Serbia in 2020, as well as reports from independent institutions and expert organizations. This information was supplemented by data gathered through an online survey numbering 83 participants and interviews with key actors. Relevant documents (laws, by-laws, strategies, action plans, and reports) were collected through desk research; all were readily available online. Data on the implementation of current legal and strategic framework was also collected in daily communication with CSOs who used Resource Centre services, institutions, representatives of the donor community, independent experts and consultants.

Additional quantitative data was collected based on answers from Freedom of Information (FoI) requests. CI issued 43 FoI requests in total to 41 relevant state authorities, receiving 35 responses (81.3%). In four cases, the relevant institutions responded that they do not possess the requested information or are unable to conduct a search in accordance with the required parameters, while one body (Ministry of Finance) denied the request citing Article 13 of the Law on Free Access to Information (abuse of rights) due to “employees working from home due to COVID-19”. Appeals in front of the Information Commissioner are still ongoing in this and one other case.

Data on CSOs’ experience regarding basic freedoms was collected through our unique on-line survey (MM Survey). The Survey was launched in mid-December 2020 and was open for responses until mid-February 2021. Invitations to CSOs were sent through email and shared through the Resource Center network. In total, the survey was answered by 83 CSOs.

Important sources were also publications prepared and published by other CSOs, as well as state and independent institutions, such as the Statistical Office of the Republic of Serbia, the Protector of Citizens, and the Commissioner for Information of Public Importance and Personal Data Protection. For the purpose of gathering additional data on CSOs experience, interviews were conducted with selected CSOs representatives and state institutions and CSOs representatives involved in specific areas relevant for the assessment of MM indicators. In total, 9 interviews were conducted - with representatives from Association “Duga”, Narodni Parlament Leskovac, Center for Social Policy, Young Researchers of Serbia, AIESEC, Red Cross Serbia, Center for Education Policy, the State Secretariat for Public Policy and the Office for Information Technology and eGovernment. As the official national Resource Center for CSOs, CI were in daily communication with different CSOs who approached us with questions and shared experiences on different issues, which were also taken into consideration.

The key challenge was to collect the required information from state institutions in an adequate manner and within the agreed deadline, especially in pandemic conditions. In response to one FoI request, a Ministry declined to provide the requested information due to the fact its employees were working from home. Given that the Law on Free Access to Information only obligates state institutions to turn over information that’s contained in an official document, and doesn’t envision the obligation to consolidate data from multiple sources upon request, some authorities answered questions by referring to data published on their web pages (for instance, referring to their web page where their total annual budget can be accessed instead of providing information about total amount of funds allocated to CSOs) or claiming that they are unable to search their data according to the required parameters if it demanded cross-referencing multiple criteria. For this reason, additional time and efforts were needed to find, gather and count data. A lack of official data or its delayed publishing

(within the MM reporting timeframe) is recognized and presents a significant challenge in all monitoring processes. Also, a lack of comprehensive data and their public availability for some areas of CSO development (number of volunteers and volunteers' hours, types and number of different services provided by CSOs, etc.) presents an additional challenge to proper reporting and the creation of future advocacy strategies. Despite this, we were able to acquire preliminary data from some authorities/independent bodies. As in previous years, the online survey process showed certain deficiencies. Although the survey was sent to almost 4000 email addresses via Recourse Center newsletter, only a small number of CSOs responded, despite the survey being in Google Form format and technically very easy to access and fill. It seems that the complexity of the questionnaire still presents a barrier to getting more responses and ensure a more relevant sample.

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