

# BALKAN CIVIL SOCIETY DEVELOPMENT NETWORK



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

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

## COUNTRY REPORT FOR Montenegro



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# I Executive Summary

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

Legislation related to civil society is in accordance with the international standards and it creates basic pre-conditions for the establishment of the enabling environment for the development of civil society.

The Government has established several mechanisms for the cooperation with the NGOs as well as for the development of the sector. Participation of the NGOs in the decision-making process is regulated through several documents on national and local level. NGO members play an important role in the process of negotiations with the European Union, participating in the working groups, committees and coordinating specific parts of Action plans. The new legislative framework recognizes the importance of NGOs in the provision of social services and relevant second legislation will prescribe their licensing and providing services in cooperation with the state.

*However, in some cases it is evident that there is clear lack of political will to actually implement all of the legal regulations.* That is especially noticeable with state funding, since even after three years from the adoption of The Law on NGO, legal preconditions necessary for the adequate implementation of the Law have not been made. The amount of money allocated to NGOs is smaller than it is prescribed by the Law on the Games of Chance. Some procedures of state funding are done in a non-transparent ways, with no clearly prescribed criteria, as is the case with apart of the funding from local self-governments. Thus, in order to be possible to talk about the enabling environment, it is necessary to regulate state funding of the civil society. The amount allocated to NGO projects should go along with legal obligations while procedures for allocation should be improved in terms of quality and objectivity., in the sense of the actual amount allocated , but also in the sense of the procedures that need to be conducted according to the Law, transparently and based on clear criteria.

Also, even though the participation of NGOs, or the citizen participation in general, is regulated though several national and local legal documents, some state bodies do not fulfill their legal obligations in including these entities in the processes of deciding. Apart from that, it can be noted that large part of state bodies consider their obligation fulfilled by adoption of the documents and creation of mechanisms which ensure participation of NGOs and citizens in decision making processes, without making further effort in actual encouraging them to be active in society.

State bodies need to fulfill all of the legal obligations when it comes to citizen participation and to recognize NGOs` contribution to the decision-making process. This is especially relevant for the level of municipalities where the NGO impact should be the most direct and concrete. Local self-governments need to show more transparency and accountability in its work, as well as to show readiness to actually include all of the interested parts in the process of deciding. Moreover, it is important that all of the action plans and strategies related to civil society are implemented within given deadlines, which has not always been the case so far.

In order to be able to state that there is existing enabling environment for the development of the civil society, state and municipal bodies need to show higher level of political will in strengthening the cooperation with NGOs and the understanding of the civil sectors` contribution to the society.

## 2. Key Findings

### **Legal and institutional framework creates preconditions for the enabling environment.**

Law on NGO and other documents regulating the functioning of civil society are in accordance with international standards. These documents regulate the wide range of issues related to NGOs, from freedom of association, expression, assembly, though financing, to participation in decision making process. However, legislation needs to be improved in certain parts. Law on NGO need to be amended in the part of financing, and in order for some Laws to be implemented adequately it is crucial to adopt prescribed second legislation. Further, often it can be noted that there is obvious lack of political will for the implementation of certain legal regulations. In addition, there are still cases where NGO members are sometimes facing consequences for expressing their critical attitudes towards some governing structures. The negative attitude can still be noted in the certain areas of public discourse.

**Lack of official statistics** regarding NGOs is one of the most important problems in understanding the importance of the civil sector, as well as making long term plans and strategies. Data on the income, employees, salaries and volunteers can be found through different means, such as some state bodies, e.g. Tax Administration or researches conducted by organizations themselves. Sometimes they can be quite outdated and not reliable, and most often, they are only partial. For example, the data on the NGO income can be received from the Tax administration, but is only partial, given the fact that only NGOs with budget higher than 10 000 are obliged to submit yearly financial report. As far as the number of employees is concerned, the newest data CRNVO could find date from 2010 and come from a research done by NGO Agency for Democratic prosperity-Zid. The lack of these data deprives us of the information on how NGOs contribute to GDP, how many persons are employed by the sector and what is the sectors contribution through the payment of taxes. The existence of such data would be of immense importance for comprehending the value of the sector, as well as for creating long-term planning for its development.

From year to year, **The Law on Budget is not in accordance with the Law on Games of Chance**. Law on Budget prescribes significantly less money for the NGOs than it is

prescribed by the Law on Games of Chance. The Law on Games of Chance prescribes that 60% of the concession fees from games of chance is intended for financing of organizations (NGOs, media, etc.). At least 75% of that is to be allocated to NGOs. According to the Law on Games of Chance, the amount that should have been allocated to NGOs in 2013 is 2 482 317 EUR. However, the amount that was actually planned by the Law on Budget was 1 849 154 EUR.

**State funding of the NGO projects is not done accordingly to the Law on NGO.**

Namely. The law on NGOs consider creation of „central“ national fund that where all state funds for NGOs projects will be placed. According to the same law, the new national Commission will be in charge for distribution of the funds, based on new procedures. The establishment of the new commission, procedures for appointing its members, as well as procedures and criteria for project support should have been regulated by by-laws. However, even three years after the adoption of the Law, by-laws necessary for its implementation have not been adopted. At the moment, the biggest part of state funding is being done through the Fund from the Games of Chance. The Commission for the allocation of these funds is disobeying many of the rules prescribed by its Rulebook, such as deadlines for the public call, decision, publishing scoreboards and submitting report on its work to the Government. Large part of funds allocated to NGOs from local self-governments is being conducted outside the official call for project proposals, in a non-transparent way and upon non clear criteria. Local self-governments allocate means to NGOs through public call for project proposals, as well as by other legal basis, such as presidents' decisions. In 2013, amount allocated according to other legal basics was 238 310,60EUR, There are no criteria determined for these kinds of allocations. Although this does not represent breaking of the law, it is establishing non-transparent practice, based on unknown criteria.

**The cooperation between local self-governments and NGOs is not on satisfactory level.**

Local self-governments have mostly adopted documents related to citizen participation and cooperation with NGOs. However, provisions of these documents are not being obeyed. Local self-governments do not respect the obligation of conducting the process of previous consultations in the creation of the legal and strategic documents. Also, some of the participation mechanisms, such as the institute of "free chair" are being misused and monopolized. Local self-governments provide premises for the local NGOs, but without written decisions and without enough transparency of the process. However, the most worrying is the fact that local self-governments do not show initiative when it comes to motivating citizens to be active in the decision making process. There is the lack of political will in providing actual conditions, beside legal, for participation to be achieved. There is common belief among local self-governments' officials that their obligation finishes with the adoption of certain document.

**The new Law on Social and Children Protection provides possibility for organization to perform social services based on the process of licensing and accreditation of programs.**

Out of 127 social services that were available in the country during the past period, 103 of them, or 80% is provided by non-governmental organizations.. It is commendable that the state recognized, trough the new Law, the importance of the NGOs in this field and their contribution as service providers. The second legislation regarding the licensing, accreditation as well as financing is yet to be adopted.

No	Top 6 findings from the report.	Reference	
1	Legal and institutional framework creates preconditions for the enabling environment. However, it can often be noted that there is lack of political will to adequately implement all of the legal regulations. Public discourse still sometimes presents civil sector in negative context.	Area	1
		Sub-Area	1.1.
2	The Law on Games of chance is not in accordance with the yearly Law on the Budget. The amount of money planned for NGOs in the Law on Budget is significantly less than it should be according to The Law on Games of Chance.	Area	2
		Sub-Area	2.2.
3	State funding of the NGOs is being implemented through processes that are not in accordance with the Law on NGO. Law on NGOs prescribes centralized financing, but even after three years legal preconditions have not been met.	Area	2
		Sub-Area	2.2.
4	There is lack of statistical data regarding NGOs. The lack of these data deprives us of the information of the civil sectors` contribution to society and is an obstacle for long-term planning.	Area	2
		Sub-Area	2.3.
5	Cooperation between local self-governments and NGOs is not on satisfactory level. Significant part on funding on local level goes beyond public competitions and NGOs` participation in decision-making process is not high enough.	Area	3
		Sub-Area	3.2.
6	Even though the new Law on Social and Children and Social Protection prescribes possibility for NGOs to provide social services, second legislation for this to be achieved has not been adopted.	Area	3
		Sub-Area	3.3.

### 3. Key Policy Recommendations

As it has already been stated, the functioning of civil society has been regulated by several legal documents and it is followed by different strategies and their action plans. **However, greater political will for the adequate implementation of all of the legal regulations is necessary for the creation of enabling environment for civil society.** In addition, the overall public needs to be spared from the reporting on civil society and its members in negative context. Those who criticize the system need to do it freely without any kind of direct or indirect consequences.

**It is necessary that The Law on Budget is in accordance with the Law on Games of Chance** in the sense of the amount planned for projects of non-governmental organizations. The state cannot deprive civil sector for the amount of money that is envisaged for NGO projects by the Law on Games of Chance. Sustainable and significant financial support is necessary for an effective impact of a strong and competent civil society.

**It is necessary to amend The Law on NGO in the part regarding financing.** The last three years since The Law was adopted has shown that the current model has not become practice and that the financing is still being done according to the old mechanisms. The model of financing should be a combination of centralized and decentralized, allowing possibility for the Ministries to allocate money to the NGOs according to the clearly prescribed procedure and criteria. That way, those working in the field and who are actually

familiar with circumstances could decide on the needs in the area and evaluate projects based on concrete needs in the given field, instead of a centralized commission, acting more on the principles of the bureaucracy, than actual knowledge of the specific field. It is necessary to conduct public financing through clear and transparent procedures, within legally prescribed deadlines and having in mind the needs of the civil sector. Funding needs to be predictable and not significantly reduced from year to year as it has been the case in the last few years. Public calls for proposals need to be published within the legal framework and not close to the end of the year as it is case now. Score list need to be published online. All of the funding needs to be done according to clear and previously prescribed procedure. That especially refers to allocation of funds to NGOs from local self-governments . Priorities for the funding need to be set according to the state and local public policies.

**It is necessary to establish an effective system of statistics regarding NGOs.** In order to be able to make long term plans and strategies, some data are necessary to know about civil society, such as the income, its structure, number of employees and volunteers, the level of salaries, etc. These data will lead to understanding of NGOs contribution to the GDP, its contribution to providing working places as well as its contribution to state budget through paying taxes. This is important for the public and the Government to perceive the importance of the civil sector in an overall development of the society. On the other side, it is important for these data to be regularly gathered and analyzed in order to make effective long-term planning based on concrete facts and to make plans and programs that would actually be in accordance with the needs of the sector as well as with its possibilities.

**It is necessary to further improve cooperation between local self-governments and non-governmental organizations.** Local communities are just the right place for citizens to be most active in the decision making-process given the fact that decisions made at this level are having the strongest impact directly on them. The obligation of local governments does not finish with the adoption of legislation concerning citizen participation, they actually need to promote citizen participation and timely implement all those measures needed for the citizens and NGOs to be consulted and take participation in creation of the important decisions for the municipality. Local self-governments need to regularly publish yearly plans of citizen participation and to use citizen participation mechanisms which are prescribed by the law. The process of previous consultation in the preparation of legal and strategic documents needs to become regular practice. In addition, the allocation of the money to the NGOs needs to be done in a transparent manner, based on clear criteria.

**It is necessary to adopt second legislation regarding licensing and financing of social services.** Non-governmental organizations are recognized through the Strategy for the Development of the System of Social and Children Protection as important providers of the social services to the citizens of Montenegro. In order to establish an effective and quality system of social services, the state, local self-governments and non-governmental organizations need to achieve tighter and long-term cooperation. Social services provided by the NGOs need to be financially supported from the state as to provide sustainability of its services which now depend on the donors funding. But, also, those services need to be subjected to the state monitoring and evaluation, as well as to be a part of the state data base. Having data on all of the services provided on the territory of Montenegro would

enable for effective assessment of the needs of the citizens, and creation and tailoring of new programs according to that.

No	Top 6 recommendations for reform	Reference	
1	Greater political will for the implementation of certain legal regulations is necessary. Civil society needs to be spared from mentioning in negative context for their representatives expressing critical attitudes towards governing structures.	Area	1
		Sub-Area	1.1.
2	It is necessary that The Law on Budget is in accordance with the Law on Games of Chance in the sense of the amount planned for projects of non-governmental organizations.	Area	2.
		Sub-Area	2.2.
3	Create amendments to the Law on NGO in part of financing. Conduct financing of NGOs through clear, transparent procedures, according to the Law.	Area	2
		Sub-Area	2.2.
4	Establish an effective system of statistics regarding NGOs. That would contribute to the realization of sectors` real value and contribution as well as help long-term planning.	Area	2
		Sub-Area	2.3.
5	Improve cooperation between local self-governments and NGOs. NGOs need to take higher participation in the decision-making process. Financing of NGOs from local self-government needs to be transparent in all segments.	Area	3
		Sub-Area	3.2.
6	Adopt second legislation necessary for the adequate implementation of the Law on Social and Children Protection. Second legislation is to regulate licensing of NGOs as social service providers and their financing.	Area	3
		Sub-Area	3.3.

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

This Monitoring Report is part of the activities of the “Balkan Civil Society Acquis-Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs” project funded by the EU and the Balkan Trust for Democracy (BTD). This Monitoring Report is the first of this kind to be published on a yearly basis for at least the 48-month duration of the project. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev) developed by BCSDN and ECNL. It is part of a series of country reports covering 8 countries in the Western Balkans and Turkey<sup>1</sup>. A region Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area at [www.monitoringmatrix.net](http://www.monitoringmatrix.net).

The Monitoring Matrix presents the main principles and standards that have been identified as crucial to exist in order for the legal environment to be considered as supportive and enabling for the operations of CSOs. The Matrix is organized around three areas, each divided by sub-areas:

<sup>1</sup>Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

(1) Basic Legal Guarantees of Freedoms; (2) Framework for CSOs' Financial Viability and Sustainability; (3) Government – CSO Relationship. The principles, standards and indicators have been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They rely on the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries. The Matrix aims to define an optimum situation desired for civil society to function and develop effectively and at the same time it aims to set a realistic framework which can be followed and implemented by public authorities. Having in mind that the main challenges lies in implementation, the indicators are defined to monitor the situation on level of legal framework and practical application. Annual monitoring and reporting in 2014 is focused on 12 core standards<sup>2</sup> and the following elected standards:

Sub-area 1.2: CSO representatives, individually or through their organizations enjoy freedom of expression

Sub-area 2.2: State support: There is a clear system of accountability, monitoring and evaluation of public funding

Sub-area 3.1: Framework and practices for cooperation: The State recognizes, through policies and strategies, the importance of the development of and cooperation with the sector

Sub-area 3.3: Collaboration in service-provision: The state has committed to funding services and the funding is predictable and available over a longer-term period

Sub-area 3.3: Collaboration in service/provision: The state has clearly defined procedures for contracting services which allow for transparent selection of service providers, including CSOs

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<sup>2</sup> CSOs operate freely without unwarranted state interference in their internal governance and activities; CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities; CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly; Tax benefits are available on various income sources of CSOs; Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants; Public funding is distributed in a prescribed and transparent manner; CSOs are treated in an equal manner to other employers; There are enabling volunteering policies and laws; The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector; There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner; CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes; CSOs are engaged in different services and compete for state contracts on an equal basis to other providers;

# II Introduction

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## 1. About the Monitoring Report

The Monitoring Report on the Enabling Environment for the Enabling Environment of the Civil Society contains comprehensive overview of all relevant factors affecting the non-governmental organizations in Montenegro. The monitoring period is December 2013-November 2014.<sup>3</sup> Findings presented in the report represent the result of a research conducted through desktop research, online survey and focus groups. Creation of this report included participants of the civil sector, but also state and local administration.

The Report contains two parts– a narrative part and a tabular. While narrative part contains detailed explanations of all relevant topics, the tabular one gives basic overview of the level of compliance with the regionally defined indicators. The Executive Summary gave the short and aimed overview of the findings, highlighting those areas where the improvements are most urgent to happen. Key findings were followed with recommendations for the same topics.

The following part of the report describes the project “Balkan Civil Society Acquis-Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs”, within whose frames this Report has been done, as well as the basic information on the civil society in Montenegro. It further presents detailed methodology that was used in the monitoring, as well as in defining the recommendations.

The core part of the Report is section “Findings and Recommendations” which in details describes the state on the enabling environment for the civil society development in Montenegro and is divided into following sections:

- Basic legal guarantees of freedom
- Financial viability and sustainability of the civil society
- Government-CSO cooperation

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

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

This Monitoring Report is part of the activities of the “Balkan Civil Society Acquis-Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs” project funded by the EU and the Balkan Trust for Democracy (BTD). This Monitoring Report is the first of this kind to be published on a yearly basis for at least the 48-month duration of the project. The monitoring is

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<sup>3</sup> The Report included findings from different documents, such as reports on the implementation of different strategic documents that were published in 2014, but their findings are related to 2013.

based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev). It is part of a series of country reports covering 8 countries in the Western Balkans and Turkey<sup>4</sup>. A regional Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area at [www.monitoringmatrix.net](http://www.monitoringmatrix.net).

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

This Matrix does not aim to embrace all enabling environment issues, Rather it highlights those that the experts have found to be most important for the countries which they operate in. Therefore, the standards and indicators have

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

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

been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They have been drawn from the experiences of the CSOs in the countries in terms of the legal environment as well as the practice and challenges with its implementation. The development of the principles, standards and indicators have been done with consideration of the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries.

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

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

### 3. Civil Society and Civil Society Development (CSDev) in Montenegro

According to the data from the Registry of non-governmental organizations<sup>5</sup> lead by the Ministry of the Interior, there are 3300 registered NGOs, out of which 3104 are non-

<sup>4</sup>Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

<sup>5</sup>Registry of NGOs: <http://www.dokumenta.me/nvo/>

governmental organizations, 99 are registered as non-governmental foundations and 97 of them are listed as representative offices of foreign NGOs.

In the current year, i.e. in the period of 01.01.2014. - 30.09.2014 , 352 new non-governmental organizations, 9 non-governmental foundations and 4 representative offices of foreign non-governmental organizations have been registered.

Most of the non-governmental organizations are registered in the field of culture, a total of 516, followed by agriculture and rural development-246, social care for children and youth-253, social and health care-207, environmental protection-198, protection and promotion of human and minority rights-191, art-188, institutional and non-institutional education-169, sport-166 and technical culture-123.

Fields with the least number of registered NGOs are: craft-3, business and entrepreneurship-12, the fight against corruption and organized crime-11, sustainable development-15, help the elderly-16, Euro-Atlantic and European integration-18.

When it comes to non-governmental foundations, most of them are registered in areas related to cultural activities -17, social care for children and young people -12, the development of civil society and volunteerism -11 and poverty reduction- 12.

Most of the registered NGOs have its headquarters in Podgorica -1148 (40.19%), Nikšić is the center for 292 NGOs, while Bar and Bijelo Polje take third and fourth place with 183 and 164 NGOs registered.

Most of the Montenegrin NGOs are small, municipally based organizations dependent on the public funding. On the other hand, there are a number of big organizations, mostly funded by foreign donors and pre-accession funds and they are mostly located in the capital. Those are the organizations that have the stronger advocacy skills and it can be said that they have the influence on the process of creation of the public policies on both national and local level. What is important is that those organizations cover different fields, so that all of the areas such as civil society, European integration, human rights, youth, sport and culture, prevention of addiction, have at least one organization that is capable of advocating within the Government and help strengthen capacities of smaller, locally dispersed organizations.

# III Methodology

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## 1. Overview of the methodological approach

Having in mind the comprehensive nature of this report, its creation required the usage of several methodological tools. Methodology used in writing this report is:

### Desktop research

This methodological tool was used in the review of the documents regulating and assessing the environment for development of civil society. These documents included laws, decrees, regulations and rulebooks which regulate different aspects of civil society. The desktop research also included detailed revision of strategic documents related to civil society with special focus on their action plans and reports on their implementation. It must be stated here, that although the period covered by the monitoring is December 2013-December 2014, most of the reports on implementing strategies that were published in 2014 are referring to the year 2013 and as such were included in our report.

### Online survey

With the aim of collecting information of NGO representatives' experiences and opinions on the enabling environment for the development of civil society, an online survey was sent out to Montenegrin NGOs. The survey contained 39 questions, not counting those related to information on the NGO, divided into three sections:

- a) Basic legal guarantees of freedoms
- b) Framework for CSOs Financial viability and sustainability
- c) Government-CSO relationship

Apart from the questions related to the experiences NGOs had in these fields, the survey also included their opinions on different aspects, such as freedom of speech, financial support, and participation in decision making process.

Our survey covered NGOs active in different fields, such as human rights, environment protection, European integration, civil society development, promotion of woman and children rights, culture. It also covered organizations acting on national and international level, as well as those active in their local communities. Results of the survey gave us insight on the concrete experiences of the NGOs and gave us important inputs in defining the recommendations.

The questionnaire<sup>6</sup> was answered by 50 organizations.

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<sup>6</sup> The questionnaire can be found here: <http://goo.gl/forms/tPyv2vbHLR>

## **Focus groups**

Preparation of this report included 14 focus-groups<sup>7</sup> organized in 7 municipalities, with representatives of NGOs, as well as local self-governments. The main topic of the focus groups was the cooperation between local NGOs and local self-governments. Since the desktop research covered the examination of the legislation regarding the participation in decision-making process, focus groups gave us important information on the actual level of their implementation. Using this method, we came not only to concrete, quantitative data on the number of participations in public debates or working groups, but on their actual outputs, such as adopted suggestions, feedbacks and similar. Focus groups included 57 representatives of non-governmental organizations and 32 representatives of local self-governments.

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<sup>7</sup> Questions from the focus groups can be found as Annex 1 of the Report

# IV Findings and Recommendations

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## Area 1: Basic Legal Guarantees of Freedoms

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

Main duties and responsibilities CSOs have towards state authorities are in relation with timely reporting and financial aspects. This is prescribed by the Law on NGOs. Those are also areas where there are defined sanctions in case of disrespect of the rules prescribed. A fine ranging from 500 to 3000 EUR shall be imposed on a NGO if it does not report to the body in charge about the data changes which ought to be entered in the register within 30 days. The same fine is also envisaged in the event of failure to publish financial statements within ten days of its adoption. There are specific rules regarding NGOs which conduct economic activity. Apart from the limitation to 4000 EUR as maximum income on yearly level, there is also restriction in case when this limit is exceeded. A fine ranging from 500 to 4000 Euros shall be imposed on non-governmental organization if, during the calendar year it proceeds to conduct economic activity after crossing the allowed threshold of 4000 EUR or 20% of total annual revenue.<sup>8</sup>

Out of 50 respondents on our survey, 47 of them answered that the state did not interfere in the inner matters of the organization. One organization reported that the interference was unjustified. When it comes to the organizations being exposed to the pressure from the state, 43 organizations did not face any pressure, while 6 organizations faced it sometimes. Few organizations stated that they are often being warned not to deal with certain issues and threatened with inspections, closure of funds, etc. Forty two organizations did not have inspection during the last year, one organization had unannounced inspection, while 3 organizations included in our online survey stated that the inspection was excessive.

When it comes to the administrative supervision and the sanctions imposed by state authorities, large majority, 48 of them did not experience any of them. However, two organizations that did, consider it unfair and biased, caused by their critical attitude towards some official policies.

Ten organizations stated that they were exposed to different kind of pressure because of the critical attitude towards the Government. That pressure was mostly related to the limitations in the institute of ``free chair`` on local level, ignoring of different activities and initiatives passed by the organization, to even exceeding the pressure through donors.

The biggest part of our respondents answered that they partially agree and partially disagree with the statement that the civil sector representatives enjoy complete freedom of expression regardless of the attitudes they represent.

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<sup>8</sup> Article 25, Law on NGO-Official Gazette 39/2011

The findings of the survey, as well as several articles<sup>9</sup> published in the government-owned daily news-papers, clearly show that there is still tendency of criminalizing the civil society. Some governmental structures have an opinion that civil society should not deal with politics and that criticizing the Government should not be part of their work. If even one organization or one NGO representative is facing consequences for being critical towards the government then we cannot speak on the existence of the enabling environment, since the basic principle of democracy is not being complied with.

When it comes to seeking and securing financial means to support its activities, Montenegrin NGOs can acquire revenue from membership fees, donations, gifts, grants, bequests, interest on deposits, dividends, rents, income and economic activity in a way that is not contrary to the law. They can also directly engage in economic activities specified in the statute, if they are registered in the Company Register. There are very concrete regulations regarding NGOs` economic activities, starting from the annual income limit, which is set to 4000 EUR, to restrictions in case that limit is exceeded and regulations about the money above the limit which is set to be allocated to the state budget. The money earned by conducting economic activity can only be used for the purposes of achieving goals of the organization. All the above mentioned regulations are regulated by the Law on NGOs.

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

The area which concerns the right of *free assembly* is mainly regulated by the Constitution<sup>10</sup> and the Law on Public Assembly<sup>11</sup> which guarantees freedom of peaceful assembly, without a requirement for obtaining permission for it. However, those seeking to assemble should prior send notification to the competent authority. Notification needs to be done 5 days in advance.

According to the Law on Public Assembly this freedom may be temporarily restricted by the decision of the competent authority for the prevention of disorder or crime, protection of health or morals or for the protection of people and property in accordance with law. Unannounced assemblies shall be banned and the organizers of those assemblies can be fined. The ban can be a reason to a late or improper notification. The ODIHR`s Report on the Monitoring of Freedom of Peaceful Assembly in Selected Participating States<sup>12</sup> marks this as a bad practice. In case of a ban, authorities must notify the organizers 48 hours before the start of a planned assembly. Montenegro`s legislation provides for the possibility of submitting a complaint against a ban to the state authorities, which must make a decision within 24 hours. As stipulated in The law, organizers may be fined 100 to 300 times the

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<sup>9</sup> Article published in daily newspaper ``Pobjeda``: <http://portalpobjeda.blogspot.com/2014/09/nvo-za-osam-godina-potrosile-vise-od-20.html>

<sup>10</sup> Constitution of Montenegro-Official Gazette 1/2007

<sup>11</sup> Law on Public Assembly-Official Gazette 31/2005

<sup>12</sup> ODIHR Report on the Monitoring of Freedom on Peaceful Assembly in Selected Participating States (May 2013-July 2014), December 2014.

amount of the average monthly salary for the following reasons: for holding an assembly without prior notification, for holding it in a location where assemblies are not allowed based on Public Assembly Act, for holding a banned assembly, for failing to inform the public about a ban, for failing to provide sufficient monitors, for failing to take all necessary measures to ensure that the participants are not armed and for failing to ensure an undisturbed passage for police and other emergency vehicles.

In 2014 The Pride Parade was organized in November and there were no counter-gatherings as it was in the last years. The number of 1800-2000 police men was in charge of the participants' protection. Prior to the event, organizers and the police developed a security plan, as well as the emergency evacuation plan. Members of the authorities took participation in the Parade, including the Minister of the Labor and Social Welfare, as well as the Mayor of Podgorica.

Organizations participating in the survey stated that they mostly were not prohibited to hold an assembly, and when they did, they got clear explanation of that decision. However, participants in the survey had a remark that when they wanted to organize an assembly on an urgent matter, the gathering needed to be up to 20 people. That limit should be changed in the Law, since, according to European standards, there is a right for the organization of urgent assemblies. In case of counter-gatherings, organizations stated that they were protected by the police.

## Recommendations:

- It is necessary to provide complete freedom for the NGO members to express their opinion, no matter how critical it is towards the Government. In the 21<sup>st</sup> century in a country which is a candidate for the EU membership, people cannot be facing consequences and be subjected to direct or indirect threats for their attitudes. The basic feature of a democratic system is the existence of freedom of its criticism.
- Provide the possibility for urgent gatherings to be organized. Current provisions require the notification of 5 days before the assembly of more than 20 people.

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

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

NGOs are broadly speaking the subject to the same VAT regulations (payable at the standard rate of 19 percent as of 2013) as commercial enterprises, although NGOs do not have to register for VAT if their annual turnover does not reach the VAT threshold of 18 000 EUR. Also, CSOs are exempted from VAT in key areas. Foreign grants and donations are not subject to VAT, nor are imported humanitarian goods. In addition, the Law provides a broad exemption of VAT charges for all services provided by NGOs, unless there is a probability that the exemption would distort market competition. Services “of public interest”, which include educational, cultural, sporting and religious services, are also exempted from VAT. These regulations are prescribed by The Law on Corporate Income Tax and The Law on Value Added Tax.<sup>13</sup>

Organizations participating in our survey mostly did not have complaints regarding tax payment. Those few that did stated that the tax exemptions procedures are sometimes being too long.

### Sub-area 2.2: State support

*Public financing is one of the most important obstacles for the creation of the enabling environment for the civil society development.* Not only that the allocations from the budget are not sufficient for the needs of the effective civil sector, but the state organs are not meeting all of the legal regulations that define the area.

According to the Law on NGOs adopted in 2012, state support towards NGOs is being centralized. The Law prescribes forming of a unique, centralized fund which is to substitute all of the existing funds allocating money to NGOs. However, even after three years, the legal preconditions for this to be achieved have not been met. At the end of 2012, the Ministry of Finance formed two working groups which would work on the development of the Regulation on the Establishment of the Composition, Selection Criteria and Procedure for the Nomination of Members of the Commission for the Allocation of Funds and the Regulation on Detailed Criteria for Evaluation of Projects and Programs of NGOs in the Procedure of Allocation of Budget Funds to finance these projects and programs. *These documents have not been adopted yet.*

According to the Law on Games of Chance<sup>14</sup>, concession fees from games of chance belong to the budget of Montenegro.

The Law further states that the funds from concession fees, in amount of 60% will be used to finance plans and programs that are: dealing with social protection and humanitarian

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<sup>13</sup> The Law on Corporate Income Tax-Official Gazette 65/2001; The Law on Value Added Tax- Official Gazette 29/2013

<sup>14</sup>The Law on Games of Chance-Official Gazette 40/2011

activities; dealing with problems and needs of persons with disabilities; contribute to the development of sports, culture and technical culture; dealing with non-institutional education of children and youth; contribute to the fight against drugs and all forms of addiction.

The Law further provides that these funds shall be used to finance plans and programs of non-governmental organizations in the amount of at least 75%.<sup>15</sup>

The revenue earned based on concession fees of games on chance in 2013 amounted to 5 540 068,65 EUR.

According to the Law on Games of Chance, the amount that should have been allocated to NGOs is 2 482 317,97 EUR. However, the amount that was actually planned by The Law on Budget was 1 849 154,69 EUR, out of which 55.474,64 EUR was intended for the work of the Commission for the allocation of funds from games of chance.

By the Decision on the allocation of the funds from games of chance, allocated amount was 1 793 680,04 EUR, out of which **1 345 260,04 EUR** for NGOs.

Comparison between Law on Games of Chance and Law on Budget for year 2013		
1.	Amount that should be allocated according to the Law on Games of Chance to organizations (NGOs, media, other non-profit organizations, etc.)- 60% of the concession fees	3 324 041 EUR
1a	Amount that should be allocated according to the Law on Games of Chance to NGOs- 75% of the item 1.	2 482 317 EUR
2.	Amount that is actually planned for allocation to organizations (NGOs, media, other non-profit organizations, etc.) according to The Law on Budget	1 849 154 EUR
2a	75% of the above figure- Amount planned for the NGOs according to the Law on Budget	1 386 865 EUR
1-2	The difference between what it should have been allocated according to the Law on Games of Chance and what is actually planned by the Law on Budget	1 474 886 EUR
3.	Amount that is allocated	1 345 260 EUR

**This indicates that the Law on Budget and Law on Games of Chance are in clear discordance, and to the detriment of NGOs.**

Half of the respondents to our survey stated that in the previous year they did get the funds from the state budget. The majority of the amount was from the Fund for the allocation of the part of revenue from games of chance. 78% percent of respondents stated that they were not consulted in the procedure of setting the priorities for the financing.

<sup>15</sup> Paragraph 3, Article 15, The Law on Games of Chance- Official Gazette 40/2011

Only nine organizations stated that they were subjected to the monitoring for the usage of the public finances. In most of the cases the monitoring was conducted according to established rules, with prior notification.

Means of the allocation of public funding are the following:

- **Fund for the allocation of the funds from part of revenues from games on chance**

The Fund from the Games on Chance represents the most important state source of financing of NGOs. It allocates 60% of the annual income from games on chance. Out of that amount 75% goes for projects and programs of NGOs, 10% for media and 10% for other non-profit organizations and public institutions.

Sources from this Fund are also available for co-financing of projects funded by the European Union, in the amount not higher than 10% of the total budget of the project.

The work of the Fund is regulated by Regulation on criteria for determining the user and manner of distribution of part of income from games of chance.<sup>16</sup>

The evaluation of the submitted projects is being conducted by the Commission which is chaired by the Deputy Minister of the Ministry of Labor and Social Welfare, and according to the Regulation on the Criteria for Determining the Beneficiaries and Manner of Distribution of the Revenues from Games of Chance. Apart from the President, Commission has 14 more members, seven of them are representatives of the state administration and seven are representatives of non-governmental organizations.

Allocations of the funds are done once per year, based on a public call for proposal which should be published by the end of first quarter for the current year. Commission published public call for proposals in August 2013, which is four months later than defined by the Law. The competition was finalized on September 4th and the Decision was published on December 12th. The Law stipulates that the Decision is to be adopted within the deadline which cannot be longer than 45 days since the termination of the competition. As stated in the Audit Report on Financing of NGOs<sup>17</sup>, Commission justified these delays with changes in the composition of the Commission, as well as by waiting for the foreseen legal changes.

The public call for financing of NGOs for 2014 was published on September 22nd. The Decision has not been adopted yet.

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<sup>16</sup>Regulation on criteria for determining the user and manner of distribution of part of income from games of chance- Official Gazette 42/2011

<sup>17</sup> Audit Report on the Financing of non-governmental organizations, National Audit Agency, July 2014, Podgorica, Montenegro

Commission does not have its premises, stamp, archive or web-site, but it publishes its information the web-site of the Ministry of Finance.

The Regulation on the Criteria for Determining the Beneficiaries and Manner of Distribution of the Revenues from Games of Chance does not regulate which body is in charge of the monitoring the work of the Commission.

Commission is obliged to submit annual report to the Government within the first quarter of next year. The Commission did not submit Report to the Government as stated in the Audit report.

All of the supported projects are available online since 2010. Commission is conducting the evaluation of the supported projects, and those organizations whose projects are supported with more than 30 000 EUR, are envisaged for the direct inspection in the organization. During the 2013.the first external financial revision of the supported projects has been conducted. Four out of 21 projects did not fulfill the standards of the financial management prescribed by the Commission. Out of those four projects, two have been implemented by NGOs.

However, the amount of money allocated through this Fund which is being determined by the Law on the Budget, is significantly smaller then it is prescribed by the Law on the Games of Chance, as it is explained in the previous paragraph.

The Decision on the allocation of the means to NGOs, published on the web-page of Ministry of Finance does not contain explanation on the criteria according to which the allocation was done. In addition, point charts were not published, which is not in accordance with the Rules of the Procedure of the Commission.

- **Commission for the allocation of funds to NGOs**

*This Commission is still positioned in the budget, although it is not in accordance with the Law on NGOs.* This Commission was established by the previous Law on NGOs and it was formed by the Parliament of Montenegro. The Law on Games of Chance stated that this Commission will continue to perform its work until the centralized commission is formed. However, the Parliamentary Commission ceased with its work even though the centralized commission is still not formed. It is still positioned in the budget. In 2013 the amount of 160 000 EUR was assigned to this budget line. The amount remained un-allocated.

- **Fund for the Protection of Minorities**

This Fund is financing projects aiming to contribute to the protection of minority rights and cultural promotion of national and ethnic minorities. Apart from NGOs, beneficiaries of the funds from this Fund can also be individuals and public institutions. Competitions for the

funding are published annually and the list of supported projects is available online<sup>18</sup>. In the year 2013, The Fund allocated 727 500 EUR to NGOs, Councils, individuals and other beneficiaries. According to the budget for 2014 year, the amount being allocated through this Fund is around 765 500 euros.

- **Local self-governments**

Financing of NGO projects from the budget of local self-governments is done according to the article 116 of The Law on Local Self-Government. However, the exact amount of funds allocated to NGOs from the local self-government in 2014 cannot be determined with certainty, since there are no aggregated data on this issue for all municipalities

Financing of the non-governmental organizations from budget of local self-government can be made according to the public call for proposals as well as according to other legal basics, such as decision made by the Mayor. The practice from few recent years shows that this possibility of allocating means beside the official call is often being abused in some municipalities where there is significantly more money being allocated on that manner then through the public call for project proposals. For example, Municipality of Cetinje allocated 2000 EUR through the public call for project proposals and more than 30 000 EUR based on other legal basics.

*This practice does not represent breaking of the Law, but it does establish non-transparent practice of financing, without clear criteria and conditions.*

In 2013, according to the Audit Report, the amount of funds allocated according to other legal basics reached 238 310,60EUR, while 346 380,66 EUR was allocated through the public call for proposals.

- **Budget Consumer Units**

Even though the Law on NGOs prescribes centralized way of financing of NGOs and thus, eliminate the possibility of different state bodies allocating money to them, in 2013 there were bodies that, according to the Law on Budget for 2013 had approved funds on the position 431- transfers to institutions, individuals, non-governmental and public sector. According to the Report on the Revision of the Financing of Non-Governmental Organizations<sup>19</sup>, done by the State Audit Agency, state bodies that were providing financing means to the non-governmental organizations in 2013 were: Ministry of Education, Ministry of Economy, Ministry of Agriculture and Rural Development, Ministry of Health, Ministry of Tourism and Sustainable Development, Ministry of Human and Minority Rights, Ministry of labor and Social Welfare, Ministry of Science, Department for Education, Directorate of

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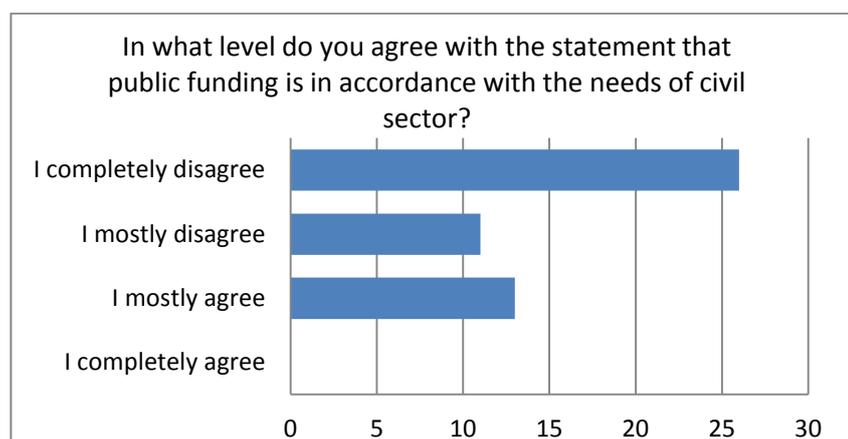
<sup>18</sup> <http://www.fzm.me/1/index.php?lang=en>

<sup>19</sup> Audit Report on the Financing of non-governmental organizations, National Audit Agency, July 2014, Podgorica, Montenegro

Youth and Sport, Maritime Museum, Association of Warriors, Matica of Montenegro, The Red Cross of Montenegro, Directorate for Employment, and the Parliament of Montenegro.

These units allocated funds in the amount of 1024346.86 EUR altogether. However, most of these units did not have approved amounts on the budget line 431-transfers to non-governmental organizations, so that their allocations to NGOs cannot be recognized as transfers to NGOs, as stated in the Audit Report.

It may be concluded that the Law on NGOs is not being respected in the part related to financing. Audit Report on the Financing of NGOs states that the legal documents based on which the Commission for the allocation of part of revenues from games on chance did the allocation are not in accordance with the Law, article 33 of the Law on NGOs to be precise, since it is prescribed that the allocation will be done by the Commission for the allocation of means to non-government organizations.



The results of our survey show that 26 organizations or 52% think that public funding is not in accordance with the actual needs of the civil sector.

Also, 36% of the respondents think that the participation of the civil sector in the process of public funding is not transparent, and 34% thinks that criteria for the public funding are not clearly defined.

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

*Labor Law treats NGOs equally as other employers.* On the one hand it means that NGOs have the same rights, such as possibility to participate in different activities and programs.

For the past two years NGOs are participating in the state program for the professional training of young graduates through which they had the opportunity to have an intern for the period of nine months and he is paid by the Government. However *on the other hand, The Law does not take under consideration special characteristics of the NGOs*, such as their mostly temporary financing and dependence on project duration and donors. NGOs are, therefore, obliged to, just like other employers, give contracts to the indefinite period of time to their employees who have worked there for the period of two consecutive years.<sup>20</sup>

*Lack of official statistics regarding NGOs represent a huge problem* in understanding the importance of the civil sector, as well as making long term plans and strategies. Data on the income, employees, salaries and volunteers can be found through different means, such as some state bodies or researches conducted by organizations themselves. Sometimes they can be quite out dated and not reliable. For example, the data on the NGO income can be received from the Tax administration. However, not all of the NGOs are obliged to submit financial reports to the Tax administration<sup>21</sup> therefore, the data is only partial. As far as the number of employees is concerned, the newest data we could find dates from 2010 and it comes from a research done by one of the NGOs. The lack of these data keeps us away from the information on how NGOs contribute to GDP, how many persons are employed by the sector and what is the sectors contribution through the payment of taxes, which are important data in perceiving the importance of the sector. In addition, lack of these information is a serious drawback when it comes to long-term planning of the development of the civil society.

The Law on Volunteer Work<sup>22</sup> defines a number of issues relevant to the volunteerism: the definition of volunteers, their rights and obligations, the definition of the organizers of volunteer work, rights and obligations, the definition of user voluntary services, mandatory elements of the volunteering, international volunteering, development and monitoring of volunteerism, etc. The Law defines contractual relationships and protections covering organized volunteering. It also prescribes different benefits for the volunteers. Law on Volunteer Work treats volunteering as a special form of labor-law relations, rather than voluntary, private citizens' initiative. The law prohibits employees and minors less than 15 years of age to volunteer even in cases where the action is organized by school or other academic institutions and it is the function of the education of children. It is necessary to adopt Law on Volunteering that will fully correspond to the nature of volunteerism as a voluntary citizens' initiative. Existing Law defines contractual relationships and protections covering organized volunteering. The Law bureaucratise and complicates the process of volunteering, causing obstacles for volunteer engagements in the civil sector, rather than promoting voluntarism as one of the key ways of contributing to the community.

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<sup>20</sup> Labor Law-Official Gazette 59/2011

<sup>21</sup> According to the Law on Accounting and Auditing (Official Gazette 32/2011), only NGOs registered for performing economic activity are obliged to submit yearly financial reports to the Tax Administration.

<sup>22</sup> The Law on Volunteer Work- Official Gazette 14/2012

One of the activities planned by the Action Plan for Chapter 23 in the process of negotiations with the European Union is "Development of the Law on Volunteerism in order to create an enabling framework for civic activism and sustainability of civil society organizations", in 2014.

Most of the respondents consider that the official employment policies are not (20 respondents) or are very little stimulant (21 respondents) for the employment in the civil sector.

According to the data from the survey, 40 organizations hire volunteers for their activities, but only 8 of those hire them according to the Law on Volunteer work. All of the other volunteer actions are spontaneous.

## Recommendations:

- It is necessary to amend The Law on NGO in the part regarding financing. The last two years since The Law was adopted has shown that the current model has not become practice and that the financing is still being done according to the old mechanisms. The model of financing should be a combination of centralized and decentralized, allowing possibility for the Ministries to allocate money to the NGOs according to the clearly prescribed procedure and criteria. That way, those working in the field and who are actually familiar with the circumstances could decide on the needs in the area and evaluate projects based on concrete needs in the given field, instead of a centralized commission, acting more on the principles of the bureaucracy, than actual knowledge of the specific field.
- The Budget Law needs to be put in accordance with the Law on Games of Chance, as to avoid further reduction of the money that belongs to the NGOs according to the Law on NGO.
- The Commission for the allocation of the funds from games of chance needs to publish calls for project proposals, as well as decisions according to the legally prescribed deadlines. Also, it needs to follow all of the obligations stated in the Rulebook, such as publishing score lists of the projects as well as timely submitting reports on its work to The Government in order to increase transparency and credibility of its work.
- Financing NGOs from local self-governments upon other legal basics, besides the official call for project proposals needs to be properly regulated. There should be clearly defined percentage of money that can be allocated to NGOs on other legal basics, and calculated upon the amount allocated through the public calls for project proposals. That way we would not have the situation where the money allocated on other legal basics is up to 15 times bigger than the amount allocated through the official call.

- It is necessary to establish an effective system of statistics regarding NGOs. In order to be able to make long term plans and strategies, some data are necessary to know, such as the income, its structure, number of employees and volunteers, the level of salaries, etc. These data will lead to the NGOs contribution to the GDP, its contribution to providing working places as well as its contribution to state budget through paying taxes. This is important for the public and the Government to perceive the importance of the civil sector in an overall development of the society. On the other side, it is important for these data to be regularly gathered and analyzed in order to make effective long-term planning based on concrete facts and to make plans and programs that would actually be in accordance with the needs of the sector as well as with its possibilities.
- Create the Law on Volunteerism according to the deadlines prescribed in the Action Plan for Chapter 23 in order to legally define volunteering in accordance with its actual aim, and that is voluntary contribution to society, instead of complicating and bureaucratizing what it should be basic action of civil activism.

### **Area 3: Government-CSO Relationship**

Daily newspapers ``Pobjeda``, the only newspapers in the state ownership, published on 18<sup>th</sup> and 19<sup>th</sup> September 2014 two articles regarding the financing of the NGOs. It is stated in the articles that in the period 2007-2013, more than 20 million euros of public money was allocated to the NGOs.<sup>23</sup> The articles further contained alleged, also unsupported information on luxury vehicles, extra high incomes, etc. thus generalizing whole civil society based on subjective and one-side perception. Apart from these data, which are far from being true, the articles contain biased and unsupported statements which do not contribute to the improvement of the cooperation between CSO and the Government.

In relation to this, Council for the Development of NGOs issued a statement in which it says that these allegations harm the whole society, especially civil one, and do not contribute to the creation of the enabling environment for the development of NGOs which is one of the aims stated in The Strategy for the Development of NGOs 2014-2016<sup>24</sup>.

Coalition of NGOs ``With Cooperation towards the Goal`` also issued a press release stating that this kind of random accusations on account of all the NGOs, without presenting arguments and locating individual responsibility for potential misuse, is a clear intention to criminalize the entire civil sector which has been the case continuously in the recent years.<sup>25</sup>

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

<sup>23</sup><http://portalpobjeda.blogspot.com/2014/09/nvo-za-osam-godina-potrosile-vise-od-20.html>

<sup>24</sup><http://www.vijesti.me/vijesti/savjet-za-razvoj-nvo-pobjeda-objavila-neistine-805616> ,  
[http://www.gsv.gov.me/sekretarijat/Kancelarija\\_za\\_saradnju\\_s\\_NVO/143723/Saopstenje-sa-nastavka-trece-sjednice-Savjeta-za-razvoj-nevladinih-organizacija.html](http://www.gsv.gov.me/sekretarijat/Kancelarija_za_saradnju_s_NVO/143723/Saopstenje-sa-nastavka-trece-sjednice-Savjeta-za-razvoj-nevladinih-organizacija.html)

<sup>25</sup><http://www.saradnjomdocilja.org/index.php/item/40-reagovanje-na-tekstove-objavljene-u-dnevnom-listu-pobjeda-od-18-i-19-septembra-2014-godine>

In July 2014 Government appointed new *Council for Development of Non-Governmental organizations*. The Council is consisted of president and 22 more members, 11 Government representatives and 11 NGO representatives. The main task of the Council is to follow the implementation of the Strategy for Development of NGOs 2014-2016, along with its Action Plan as well as the implementation of the Action Plan for Chapter 23, in the part related to civil society. The Council should also give opinion on legislative and strategic documents regarding civil society as well suggesting the areas which are priority for financing.

*The Office for Cooperation with NGOs* exists since 2012. It is involved in the development of almost all regulations and documents relating to CSOs and is facing problems that are primarily related to the "modest" jurisdiction, as a result of its dependent position- The Office is organizational segment of the General Secretariat. On the other hand, there are high expectations from the Office which exceed its current jurisdiction, personnel and financial capacities. The Office does not have a sufficient number of employees and no separate budget, which significantly affects the quality and pace of its work, especially given the additional burden and new responsibilities of the Office in connection with the performance of technical and administrative tasks for the Council for Development of NGOs.

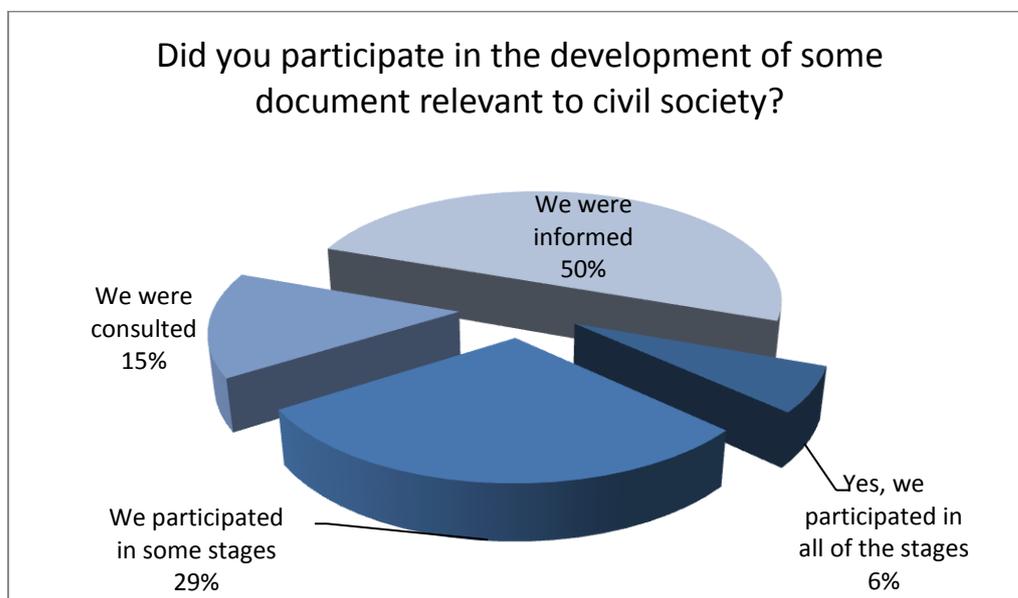
*Contact persons for NGOs* in the ministries, other state administration bodies and local self-governments are designed as a specific mechanism of horizontal cooperation with NGOs. This mechanism was necessary in order to create institutional preconditions for horizontal (decentralized) cooperation between the Government and CSOs. However, this practice has not been fulfilled in its full range. First of all, most of the appointed contact persons for NGOs have only been added with this new function to their existing work. Therefore, being contact person is only their secondary engagement. In addition, there are no clear job descriptions, containing list of duties of contact persons. Some state bodies did not publish names of contact persons on their web presentations as it was previously planned. There are often replacements of contact persons in some state bodies, on which CSOs are not being timely informed.

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

Representatives of civil society participate in decision-making process through several mechanisms. This kind of participation is regulated through few legal documents such as Decree on the procedure and manner of developing cooperation between public administration bodies and NGOs, Decree on the procedure and manner of conducting public debate in preparing laws, Rules of Procedure of the Parliament of Montenegro, as well as Rules of the Procedure of local self-governments parliaments.

This involvement is achieved through participation in the working groups or other bodies formed by state institutions, participation in public debates and consultations as well as participation in the Parliaments` committees.

When it comes to participation in the development of legal and strategic documents, 24 of respondents in the survey, or 50% stated that it was informed on the process, 14 of them (29%) participated in some stages, 7 of them (15% were consulted) and 3 organizations (6%) participated in all stages.



Parliamentary committees in 2013 held 399 sessions. NGO members participated in 132 of them.

The largest number of meetings with the presence of NGO representatives was held by following bodies: Committee on Economics, Finance and Budget- 17, the Committee for Human Rights and Freedoms-17 and the Working Group on Building Confidence in the Electoral Process-15.

But when it comes to the number of sessions with NGO representatives compared to the overall number of session, then the Committees with the highest NGO participation are Committee for Human Rights and Freedoms with 80.9% or 17 out of 21 session, and Committee for Anti-Corruption with 75% or 9 out of 12 sessions.

NGO representatives participate in these committees based on their application or the official call from the parliament.

During the 2013 Montenegrin ministries published 107 calls<sup>26</sup> for NGO members to take participation in the working groups for the preparation of different legal and strategic documents. The biggest number of calls was published by Ministry of External affairs and EU Integration- 34 and most of them were related to the working groups for the preparation of negotiating chapters. Ministry of Education published 16 calls, Ministry of Tourism and Sustainable Development 19, Ministry of Labor and Social Welfare 13, just as the Ministry of Justice.

Three Ministries<sup>27</sup> did not publish calls for the participation in the working groups.

Through the search of internet pages of the Ministries we came to the data that 70 NGO members participated in the working groups formed by the Ministries in 2013. However, this number is not completely accurate, given the fact that not all of the decisions on forming the working groups are published on the web-page. But, out of these 70 NGO representatives, 51 took participation in the working groups related to the negotiating chapters which were formed by the Ministry of External Affairs and EU Integration.

When it comes to the participation in the process of previous consultations, only six Ministries published the calls for consultations of the interested public. This process is regulated by the Decree on the procedure and manner of conducting public debate in preparing laws and it prescribes that the consultations should be realized before the actual Draft of the act is created. However, this has not yet become practice in the state bodies, given the fact that only six ministries published calls for previous consultations. The situation is even worse when it comes to the publishing of the reports on the consultations- only five of them have been published in the monitoring period.<sup>28</sup>

When it comes to public debates, in the 2013 Montenegrin ministries published 45 calls for participation in public debates on different legal as well as strategic documents, but only 27 reports from the debates were published.

### **Participation in the process of the negotiation with the European Union**

Montenegro included representatives of the civil sector in the negotiating structure in the process of accession negotiations with the EU. Members of NGOs are participating in the working groups for the preparation of different accession chapters.

NGOs are involved in the working groups for the preparation of negotiating positions for the following chapters: Free movement of goods; Freedom of movement for workers; Right of

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<sup>26</sup> These data were acquired through the search of internet pages of relevant state bodies. Therefore, smaller mistakes in the number of calls are possible, due to the technical problems, updating sites or erasing older announcements.

<sup>27</sup> At the official internet pages of the Ministry of Justice, Ministry of Economy, Ministry of Health we could not find calls for participation in working groups in 2013.

<sup>28</sup> Not all of the consultations have actually been conducted during the monitoring period.

establishment and freedom to provide services; Free movement of capital; Public procurement; Commercial Law; Intellectual property law; Competition policy; Financial Services; Information society and media; Agriculture and Rural Development; Food safety, veterinary and phytosanitary policy; Fisheries; Transport policy; energy; taxes; Economic and Monetary Union; Statistics; Social policy and employment; Enterprise and Industry; Trans-European networks; Regional policy and coordination of structural instruments; Judiciary and fundamental rights; Justice, freedom, security; Science and research; Education and Culture; Environment; Consumer protection and health; Customs Union; External relations; Foreign, security and defense policy; Financial supervision; Financial and budgetary provisions (33 working groups - data from July 2013).

NGO members of the working groups for the negotiating chapters are based on the Decree on the procedure and manner of developing cooperation between public administration bodies and NGOs. However, the costs of the participation in the working group are covered by the organization itself.

The negotiating structure counts 1300 persons, out of which 293 are representatives of civil sector (including representatives of the University). In the 22 working groups there are 48 representatives of the NGOs. Two members of the NGOs are members of the Joint Consultative Committee between Montenegro and Economic and Social Committee of the EU. In certain chapters, NGO representatives have the role of the coordinator in some areas. For example, NGO representatives, members of the working group for the Chapter 23 Judiciary and Fundamental Rights, have coordinated development of some parts of the Action Plan for this area.

Apart from the participation in the negotiating structure, NGO members were included in the creation of the important documents. For example, three NGO representatives were members of the working group that was working on the Strategy on Informing the Public about Montenegro` accession to the EU for the time period 2014-2019 and 8 NGO representatives are members of the operation team for the implementation of this document.

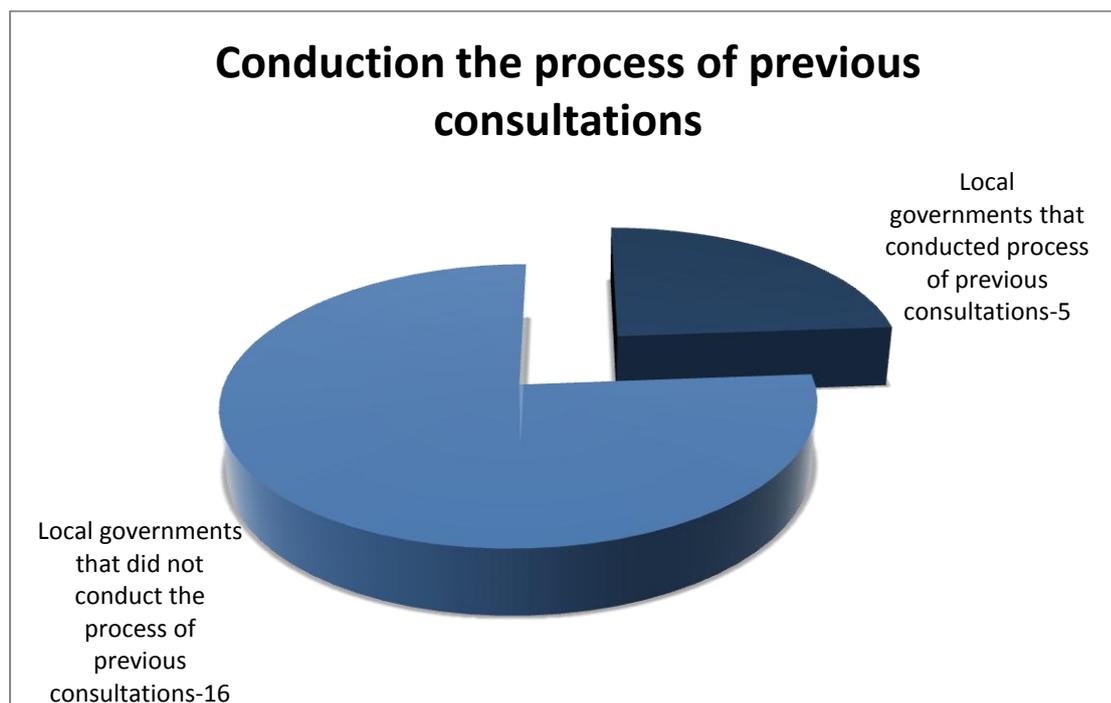
### **Participation in decision-making process on the local level**

When it comes to participation on local level we can speak about it from two different viewpoints. One is in the sense of the citizens and NGO members` interest to participate and their shown initiative and the other one concerns the conditions provided by the municipalities.

Local self-governments are required to adopt yearly Citizens` Participation Plan containing all of the legal and strategic documents that are going to be subject to the public debate during the year. However, this legal provision is differently interpreted and no municipality has actually adopted this document in the 2013. The process of the previous consultations that has been mentioned already has not become practice even on the local level. Data from 2013 says that only 5 local self-governments conducted this process of consulting the interested public, including civil society before the initial document is created. This is partly

the consequence of municipality officials lack of understanding of the process of previous consultation as a legal obligation, even though it is clearly prescribed by the Law on Local Self-Government<sup>29</sup>. Many of them are confusing previous consultations with the public debate which actually provides much less place for the actual impact to the final text of the document.

When it comes to public debates, they are being conducted regularly, but there is existing problem of not publishing reports after they have been realized and frequent comment by NGO members in our focus groups was that they did not get any feedback after the public debate, including the explanation why their suggestions were not accepted.



NGO members have also taken participation in the working groups formed by local self-governments as well as in the local parliaments through the institute of "free chair"<sup>30</sup> However, the biggest problem with these two participation mechanisms is that they are evaluated as not transparent enough, by the participants in focus groups. In some municipalities, especially the smaller ones, the process of choosing members of the working groups is not conducted publicly, but rather through private contacts. In addition, there are cases where one NGO member is permanently following the work of the local parliament, thus completely stultifying the institute of the "free chair", not to mention the breaking of the law.

<sup>29</sup> Article 110, Act 1

<sup>30</sup> This institute is used in order to increase the level of citizen's participation on the local level. According to the Model of the Rules of the procedure of Local parliaments, created by the Union of Municipalities, the representative of the interested citizens or the NGO that is participating in the local parliaments' session has the right to give his proposals on the item on the agenda, with the presentation not lasting longer than 10 minutes.

Our survey shows that out of 50 received responds, the biggest part, 24 organizations was informed about the process of a development of a strategic document related to civil society. Seven organizations were consulted, 14 participated in some stage of the preparation, while 3 organizations participated in all phases of the documents development. Most of the organizations have stated that some suggestions were accepted and some not.

When it comes to the participation in the working groups 23 organizations had their representatives in the working groups formed by state or local bodies. However, some organizations had negative remarks on the organization of the work including discontinuity of the meetings, process of selection of the working group members, reports from the sessions.

When it comes to the process of selection of working groups members from the NGOs, most of the organizations, 40% partially disagrees that the procedures are transparent.

## Recommendations:

- Strengthen human and financial capacities of the Office for Cooperation between Government and the NGOs in order for it to be more effective and have more jurisdiction to perform concrete tasks
- Define clear job description for NGO contact persons in state bodies; Their job should not be limited just to being those who will be contacted by the NGOs, but as well have duties that will include their initiative, such as informing NGOs, organizing meetings, mailing important notifications.
- Ministries should adopt and publish yearly Citizens` Participation Plan with the list of documents that will be put to public debate during the year. That way, citizens and non-governmental organizations could prepare themselves in advance and create more detailed and quality suggestions.
- State bodies, as well as local self-governments need to start practicing the process of previous consultations. Not only because this is prescribed by the Law, but this mechanisms allows citizens to create better impact in decision making process and the authorities to examine the citizens` needs before the actual work on the document has started.
- State bodies and local self-governments need to regularly publish reports from conducted debates, consultations as well as working group sessions. Citizens and NGO representatives need to get timely feedbacks and concrete explanations in regard to their suggestions.
- Local mechanism for participation, the institute of ``free chair`` needs to be applied within the legally prescribed matter. Local officials need to be educated on its adequate application, as well as the NGOs on the possibility provided.
- State bodies and local self-governments need to make more effort in actual motivating and encouraging citizens to participate in decision making process. The obligation of the body does not finish with the creation of the legal framework

for the citizens participation, but it requires further work on the promotion of the regulation. In the aim of every state body is for its legal and strategic documents to be implemented in its full extent.

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

The Law on Social and Children protection<sup>31</sup>, adopted in May 2013 prescribes possibility for other entities, besides from state institutions to provide different social services. Previous Law that was in force since 2005 did not recognize the institute of social protection service. Social protection was limited to the institutionalized one, meaning the one that is provided by the state body. The only providers of social work service, as stipulated by this Law were centers for social work.

The new Law prescribes the procedure of licensing of service providers as well as accreditation of programs. The new Law enables organizations, entrepreneurs as well as individuals to provide social services if they fulfill conditions required and thus gain the license. The process of licensing will be conducted by the Institute for Social and Children Protection that is to be established as stipulated by the Law on Social and Children Protection. Apart from licensing, Institute will have the role in the analysis of the needs, monitoring and evaluation of the services and programs, as well as in their overall improvement.

When it comes to financing of these services, the Law stipulates that they will be financed by the state budget, local self-governments budgets as well as by the users themselves. However, the Law prescribes adoption of second legislative that will regulate financing, but also accreditation and licensing. Deadlines for the adoption of these regulations are ranging from six months from the law adoption, to two years.

In accordance with the process of decentralization of the social services, The Law states that other entities, apart from the state, including non-governmental organizations can perform following services:

- Services of support to community life are: daycare/centre, assistance at home, housing with support, shelter, personal assistance, interpretation and translation to and from sign language and other services of support to community life.
- Counseling-therapeutic and social-educational services include: counseling, therapy, mediation, SOS hotline and other services whose goal is to overcome crisis situation and to foster family relations.

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<sup>31</sup> Law on Social and Children Protection (Official gazette of Montenegro 27/2013)

- Accommodation is a service which includes the stay of beneficiaries in: family accommodation-foster-care, family accommodation, social and child protection institution, reception center – shelter and other forms of accommodation. In this research, only the shelter/reception center form of accommodation was covered as an extra-institutional form of protection.

In June 2013, Government adopted Strategy for the Development of the System for Social and Children Protection, along with its Action plan<sup>32</sup>. The Strategy states that out of 127 social services available in the country, 103 of them, or 80% is provided by the non-governmental organizations. The Strategy recognizes that the services provided by the non-governmental organizations, legal and private entities are underdeveloped and that the sources from the state budget are most often unavailable to them.

The Report on the Implementation of the Action Plan for the Implementation of the Strategy for Development of the Social and Children protection 2013-2017<sup>33</sup>, for year 2013, was adopted in September 2014. The Report stated that through the project Reform of the social and child protection - Improvement of social inclusion, IPA 2010 it was supported 40 social care services in 9 municipalities in the period 2012/13 and most of them were performed by NGOs.

Regulations on the contents of the database and the content and method of keeping records in social and Child Protection<sup>34</sup> ("Official Gazette", No. 56/13) was adopted in 2013 and among other provisions, contains rules about keeping record on the service providers, holders of license, as well as accredited programs.

Publication "Mapping of Social Services in Montenegro"<sup>35</sup> published by NGO Institut Alternativa states that there was a total of 284 services available in the Montenegro in the period 2012-2013, provided by 175 providers. Service providers were NGOs in 80,5 % cases (175 providers and 27 587 beneficiaries). They are followed by municipal organizations of Red Cross with 9,7% and public institutions 8.5%.

Our survey data showed that 35 organizations provided some kind of services to the citizens. Most of those services are given for free and some are symbolically charged. Fourteen organizations cover the expenses from the foreign donations, 12 from domestic ones. It must be stated that these services are mostly funded as project activities. Four organizations were in cooperation with the Government or local self-government in the service provision.

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<sup>32</sup> [file:///C:/Users/x/Downloads/18\\_27\\_27\\_06\\_2013.pdf](file:///C:/Users/x/Downloads/18_27_27_06_2013.pdf)

<sup>33</sup> [file:///C:/Users/x/Downloads/35\\_82\\_25\\_09\\_2014.pdf](file:///C:/Users/x/Downloads/35_82_25_09_2014.pdf)

<sup>34</sup> "Official Gazette", No. 56/13

<sup>35</sup> Mapping of Social Services in Montenegro, Institut Alternativa, 2013. <http://media.institut-alternativa.org/2013/12/mapping-of-social-services-in-montenegro.pdf>

## Recommendations:

- Adoption of the second legislation according to the deadlines prescribes in the Action Plan for the Implementation of the Strategy for Development of Social and Children protection,
- Provide for financial sustainability of the services established through the project ``Reform of the Social and Children protection`` IPA 20120.
- Improve cooperation of the Ministry of Labor and Social Care with civil sector in order to encourage process of decentralization of social care.
- Establish data base of available social services, as well as effective system of monitoring and evaluation.

# V Findings and Recommendations (Tabular)<sup>36</sup>

## Area 1: Basic Legal Guarantees of Freedoms

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

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

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>2. CSOs operate freely without unwarranted state interference in their internal governance and activities</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) The legal framework provides guarantees against state interference in internal matters of associations, foundations and other types of non-profit entities.</li> <li>2) The state provides protection from interference by third parties.</li> <li>3) Financial reporting (including money laundering regulations) and accounting rules take into account the specific nature of the CSOs and are proportionate to the size of the organization and its type/scope of activities.</li> <li>4) Sanctions for breaching legal requirements should be based on applicable legislation and follow the principle of proportionality.</li> <li>5) The restrictions and the rules for dissolution and termination meet the standards of international law and are based on objective criteria which restrict arbitrary decision making.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• State control over the work of CSOs is regulated by the Inspection Law</li> <li>• A fine ranging from EUR 500 to EUR 800 shall be imposed on a non-governmental organization if it does not report the body in charge about the changes in data which are to be entered in the register within 30 days</li> <li>• The same punishment is also envisaged in the event of failure to publish financial statements within 10 days of adoption.</li> <li>• A fine ranging from EUR 500 to EUR 4,000 shall be imposed on non-governmental organizations if, during the calendar year proceed to conduct economic activity after crossing the allowed threshold of 4,000 or 20% of total annual revenue</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Consider revising the amount of sanctions</li> </ul>

	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) There are no cases of state interference in internal matters of associations, foundations and other types of non-profit entities.</li> <li>2) There are no practices of invasive oversight which impose burdensome reporting requirements.</li> <li>3) Sanctions are applied in rare/extreme cases, they are proportional and are subject to a judicial review.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• 3 organizations out of 50 from our survey said that the state has interfered in their inner matters</li> <li>• 43 organizations said that they have not been exposed to the pressure, while 6 of them said that sometimes they were.</li> <li>• One organization had unannounced visit from state authorities, and one had excessive inspection according to its opinion.</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Provide necessary freedoms for the functioning of NGOs, no matter how critical they are towards certain policies</li> </ul>
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### Area 1: Basic Legal Guarantees of Freedoms

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

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

STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>3. CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) Legislation allows CSOs to engage in economic activities.</li> <li>2) CSOs are allowed to receive foreign funding.</li> <li>3) CSO are allowed to receive funding from individuals, corporations and other sources.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Legislation allows CSOs to be funded by foreign institutions and organization, domestic legal and private individuals as well as corporations.</li> <li>• Non-governmental organizations can directly engage in economic activity specified in the statute if they are registered in the Company Register</li> <li>• If the income from economic activities in the current year exceeds 4, 000 or 20 % of the annual income, a non-governmental organization cannot directly engage in economic activity later that year</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Regular monitoring of the legislations implementation</li> </ul>

	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Legislation on CSOs engaging in economic activities is implemented and is not burdensome for CSOs.</li> <li>2) There are no restrictions (e.g. administrative or financial burden, preapprovals, or channelling such funds via specific bodies) on CSOs to receive foreign funding.</li> <li>3) Receipt of funding from individuals, corporations and other sources is easy, effective and without any unnecessary cost or administrative burden.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Performing economic activities is not burdensome for NGOs</li> <li>• Organization participating in our survey did not have any objections on the process of receiving funds of any kind.</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Continue with relevant practice</li> </ul>
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### Area 1: Basic Legal Guarantees of Freedoms

#### Sub-area 1.2. Related freedoms

#### Principle: Freedoms of assembly and expression are guaranteed to everybody

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>1. CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) The legal framework is based on international standards and provides the right for freedom of assembly for all without any discrimination.</li> <li>2) The laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies.</li> <li>3) The exercise of the right is not subject to prior authorization by the authorities, but at the most to a prior notification procedure, which is not burdensome.</li> <li>4) Any restriction of the right based on law and prescribed by regulatory authority can be appealed by organizers.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The Constitution of Montenegro guarantees freedom of peaceful assembly, without a permit, subject to prior notification to the competent authority.</li> <li>• Freedom of assembly may be temporarily restricted by the decision of the competent authority for the prevention of disorder or crime, protection of health or morals or for the protection of people and property in accordance with law.</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Regular monitoring of the legislations implementation</li> <li>• Amend the Law in a way that urgent gatherings can include more than 20 people</li> </ul>

	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) There are no cases of encroachment of the freedom of assembly, and any group of people can assemble at desired place and time, in line with the legal provisions.</li> <li>2) Restrictions are justified with explanation of the reason for each restriction, which is promptly communicated in writing to the organizer to guarantee the possibility of appeal.</li> <li>3) Simultaneous, spontaneous and counter-assemblies can take place, and the state facilitates and protects groups to exercise their right against people who aim to prevent or disrupt the assembly.</li> <li>4) There are cases of freedom of assembly practiced by CSOs (individually or through their organizations) without prior authorization; when notification is required it is submitted in a short period of time and does not limit the possibility to organize the assembly.</li> <li>5) No excessive use of force is exercised by law enforcement bodies, including pre-emptive detentions of organizers and participants.</li> <li>6) Media should have as much access to the assembly as possible.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• 98% of the organizations participating in the survey said that they had no problems while organizing public assemblies</li> <li>• One organization was prohibited to organize a gathering and it got written explanation.</li> <li>• This year's Pride Parade was organized with the protection of more than 1000 policeman, with no counter-gatherings. Organizers stated good cooperation with the authorities.</li> <li>• One organization couldn't organize an urgent gathering with more than 20 people since the deadline of 5 days in advance was passed</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Provide possibility for organizing urgent gatherings with more than 20 people</li> </ul>
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**Area 1: Basic Legal Guarantees of Freedoms**

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

**Principle: Freedoms of assembly and expression are guaranteed to everybody**

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
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2. CSO representatives, individually or through their organizations enjoy freedom of expression	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) The legal framework provides freedom of expression for all.</li> <li>2) Restrictions, such as limitation of hate speech, imposed by legislation are clearly prescribed and in line with international law and standards.</li> <li>3) Libel is a misdemeanour rather than part of the penal code.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• By The Constitution of Montenegro everyone has the right to freedom of expression by speech, writing, painting, or otherwise</li> <li>• The right to freedom of expression can be limited only by the other persons' right to dignity, reputation and honor, and if it threatens public morality or security of Montenegro.</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Adequate monitoring of the legislations implementation</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) CSO representatives, especially those from human rights and watch dog organizations enjoy the right to freedom of expression on matters they support and they are critical of.</li> <li>2) There are no cases of encroachment of the right to freedom of expression for all.</li> <li>3) There are no cases where individuals, including CSO representatives would be persecuted for critical speech, in public or private.</li> <li>4) There is no sanction for critical speech, in public or private, under the penal code.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Four organizations stated that sometimes they have faced in limitations in freedom of speech</li> <li>• 10 organizations said that they have faced consequences for expressing critical attitude towards authorities</li> <li>• Several organizations stated that they have been indirectly threaten by inspections or contacts with donors because of their criticism</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Terminate the practice of direct or indirect threatening NGO members for their critical attitudes</li> <li>• NGO members need to be able to publicly express their opinion no matter how critical it is towards the governing structures</li> </ul>

**Area 2: Framework for CSOs' Financial Viability and Sustainability**

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

**Principle: CSOs and donors enjoy favorable tax treatment**

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
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1. Tax benefits are available on various income sources of CSOs	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs.</li> <li>2) The law provides tax benefits for economic activities of CSOs.</li> <li>3) The law provides tax benefits for passive investments of CSOs.</li> <li>4) The law allows the establishment of and provides tax benefits for endowments.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• CSOs are generally, subjected to same VAT regulations as commercial enterprises</li> <li>• CSO do not have to register for VAT if their total annual income is less than statutory limit of 18 000 euros.</li> <li>• CSOs are exempt from VAT in key areas.</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Regular monitoring on the legislations implementation</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) There is no direct or indirect (hidden) tax on grants reported.</li> <li>2) Tax benefits for economic activities of CSOs are effective and support the operation of CSOs.</li> <li>3) Passive investments are utilized by CSOs and no sanctions are applied in doing so.</li> <li>4) Endowments are established without major procedural difficulties and operate freely, without administrative burden nor high financial cost.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Some organizations stated that the procedures for tax exemptions are too long or demanding</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Simplify the tax exemptions procedures</li> </ul>

## Area 2: Framework for CSOs' Financial Viability and Sustainability

### Sub-area 2.2.: State support

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

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
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1. Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) There is a law or national policy (document) that regulates state support for institutional development for CSOs, project support and co-financing of EU funded projects.</li> <li>2) There is a national level mechanism for distribution of public funds to CSOs.</li> <li>3) Public funds for CSOs are clearly planned within the state budget.</li> <li>4) There are clear procedures for CSO participation in all phases of the public funding cycle.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The Law on NGOs prescribes the centralized financing of NGOs.</li> <li>• Even after two years from the adoption of the Law, other legal documents have not been put in accordance, and second legislative has not been adopted</li> <li>• The Law on Budget is not in accordance with The Law on Games of Chance, which causes allocation of significantly smaller means to NGOs</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Amend the Law on NGO in the part of financing</li> <li>• The new Budget Law should be created in accordance with the Law on Games of chance, in the part which regulates the amount of money allocated to NGOs.</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Available public funding responds to the needs of the CSO sector.</li> <li>2) There are government bodies with a clear mandate for distribution and/or monitoring of the distribution of state funding.</li> <li>3) Funding is predictable, not cut drastically from one year to another; and the amount in the budget for CSOs is easy to identify.</li> <li>4) CSO participation in the public funding cycle is transparent and meaningful.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Procedures for the funding of NGOs from the state budget are not in accordance with the Law</li> <li>• The biggest part of state funding of NGOs goes through the Fund for the allocation from the part of revenues from games on chance</li> <li>• Fund for minority rights is also funding NGO projects.</li> <li>• NGOs are being financed through local self-governments, but significant part of money is being allocated apart from public call for proposals, based on other legal basic, which is process that lacks transparency and defined criteria.</li> <li>• Some state bodies allocated all together 1 024 346,86 euros to NGOs, even though the Law on NGO eliminates that possibility.</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Public funding needs to be put in accordance with the Law</li> <li>• Regulate the financing of NGOs from budgets of local self-governments</li> </ul>

## Area 2: Framework for CSOs' Financial Viability and Sustainability

## Sub-area 2.2.: State support

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

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
2. Public funding is distributed in a prescribed and transparent manner	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) The procedure for distribution of public funds is transparent and legally binding.</li> <li>2) The criteria for selection are clear and published in advance.</li> <li>3) There are clear procedures addressing issues of conflict of interest in decision-making.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Legal documents regulating state funding of the NGOs are not in accordance with each other</li> <li>• Second legislative needed for adequate application of the Law on NGO has not been adopted even two years after the Law adoption.</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Amend the Law on NGO in the part of financing</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Information relating to the procedures for funding and information on funded projects is publicly available.</li> <li>2) State bodies follow the procedure and apply it in a harmonized way.</li> <li>3) The application requirements are not too burdensome for CSOs.</li> <li>4) Decisions on tenders are considered fair and conflict of interest situations are declared in advance.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Funds for NGOs are being allocated within the procedures that are not in accordance with the Law on NGO</li> <li>• Public calls for project proposals for funding from the part of revenue from games on chance for current year was published in September and legal deadline is the end of first quarter of the year.</li> <li>• The Decision on the funding for 2014. year has not yet been made</li> <li>• The allocation is being made by the Commission publicly elected.</li> <li>• There are clear criteria for the allocation of funds</li> <li>• Supported projects are available online, but without score charts</li> <li>• One part of funding from local-self governments are being allocated through non-transparent</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Public calls should be published within legally prescribed deadline, just as the decisions on supported projects</li> <li>• Establish criteria for the allocations based on other legal basics when it comes to funding from local self-governments</li> </ul>

		procedures without publically known criteria	
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**Area 2: Framework for CSOs' Financial Viability and Sustainability**

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

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

<b>STANDARD 3</b>	<b>INDICATORS</b>	<b>FINDINGS</b>	<b>RECOMMENDATIONS FOR THE STANDARD</b>
3. There is a clear system of accountability, monitoring and evaluation of public funding	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) The procedure for distribution of public funds prescribes clear measures for accountability, monitoring and evaluation.</li> <li>2) There are prescribed sanctions for CSOs that misuse funds which are proportional to the violation of procedure.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Legislation does not regulate which body is in charge for the monitoring the work of the Commission</li> <li>• According to the Law on NGO, The Commission shall submit to the Government, once a year, a report on the implementation of projects and programs funded.</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Regulate the procedures for the evaluation of the Commission's work, as well as evaluation of supported projects</li> </ul>

	<b>Practice:</b> 1) Monitoring is carried out continuously and in accordance with predetermined and objective indicators. 2) Regular evaluation of effects/impact of public funds is carried out by state bodies and is publicly available.	<b>Practice:</b> <ul style="list-style-type: none"> <li>The Commission did not submit the report for year 2013, as stated in the Audit Report</li> <li>Procedures for monitoring of project implementation from the Commission for allocation of revenues from games of chance and reporting have not been developed, or are not sufficiently developed</li> </ul>	<b>Practice:</b> <ul style="list-style-type: none"> <li>Establish an effective mechanism of control over Commissions' work as well as the monitoring of the implementation of the supported projects</li> </ul>
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**Area 2: Framework for CSOs' Financial Viability and Sustainability**

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

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

<b>STANDARD 1</b>	<b>INDICATORS</b>	<b>FINDINGS</b>	<b>RECOMMENDATIONS FOR THE STANDARD</b>
1. CSOs are treated in an equal manner to other employers	<b>Legislation:</b> 1) CSOs are treated in an equal manner to other employers by law and policies.	<b>Legislation:</b> <ul style="list-style-type: none"> <li>The Labor law treat CSOs in an equal manner to other employers, which has its advantages, but drawbacks as well</li> <li>There is no statistics in regard to employees and volunteers in civil sector</li> </ul>	<b>Legislation:</b> <ul style="list-style-type: none"> <li>Take under consideration the nature of CSOs and its differences from other employees</li> </ul>
	<b>Practice:</b> 1) If there are state incentive programs for employment, CSOs are treated like all other sectors. 2) There are regular statistics on the number of employees in the non-profit sector.	<b>Practice:</b> <ul style="list-style-type: none"> <li>There is lack of official statistical data on employers and volunteers in civil sector, as well as on CSOs incomes.</li> <li>CSO participated in the program of professional education of graduates, along with other interested employees.</li> </ul>	<b>Practice:</b> <ul style="list-style-type: none"> <li>Regular gathering of data related to the employees in the civil sector</li> </ul>

**Area 2: Framework for CSOs' Financial Viability and Sustainability**

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

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

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
2. There are enabling volunteering policies and laws	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) Legislation stimulates volunteering and incorporates best regulatory practices, while at the same time allowing for spontaneous volunteering practices.</li> <li>2) There are incentives and state supported programs for the development and promotion of volunteering.</li> <li>3) There are clearly defined contractual relationships and protections covering organized volunteering.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The Law on Volunteer Work regulates number of issues related to volunteer work</li> <li>• The Law on Volunteer Work treats volunteering as a special form of labor-law relations, rather than voluntary citizens' initiative.</li> <li>• Action Plan for chapter 23 included the creation of Law on Volunteering with the aim of supporting civic activism.</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Adoption of the Law on Volunteerism in order to legally define volunteerism as voluntary citizens' initiative, focusing on the real nature of volunteerism.</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Incentives and programs are transparent and easily available to CSOs and the policy/strategic document/ law is fully implemented, monitored and evaluated periodically in a participatory manner.</li> <li>2) Administrative procedures for organizers of volunteer activities or volunteers are not complicated and are without any unnecessary costs.</li> <li>3) Volunteering can take place in any form; there are no cases of complaints of restrictions on volunteering.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Current Law on Volunteer Work complicates and bureaucratizes process of hiring volunteers, thus ignoring the core meaning of the voluntarism</li> <li>• Most volunteer actions are spontaneous</li> <li>• NGOs mostly do not engage volunteers using procedures prescribed by the Law on Volunteer Work.</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Further promotion of the voluntarism and civic activism, especially focusing on the youth.</li> </ul>

**Area 3: Government – CSO Relationship**

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

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

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
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1. The State recognizes, through policies and strategies, the importance of the development of and cooperation with the sector	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) There are strategic documents dealing with the state-CSO relationship and civil society development.</li> <li>2) The strategic document includes goals and measures as well as funding available and clear allocation of responsibilities (action plans incl. indicators).</li> <li>3) The strategic document embraces measures that have been developed in consultation with and/or recommended by CSOs.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Strategy for development of nongovernmental organizations for period of 2014-2016 and the Action Plan for the same period has been adopted in December 2013.</li> <li>• In July 2014, Government appointed the new Council for development of NGOs.</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Regular monitoring of the implementation of relevant documents</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) CSOs from different areas of interest regularly participate in all phases of the strategic document development, implementation and evaluation.</li> <li>2) There are examples demonstrating that cooperation between state and CSOs and civil society development is improved and implemented according to or beyond the measures envisaged in the strategic document.</li> <li>3) The implementation of the strategic document is monitored, evaluated and revised periodically.</li> <li>4) State policies for cooperation between state and CSOs and civil society development are based on reliable data collected by the national statistics taking into consideration the diversity of the sector.</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• The Council for Development of NGOs is in charge for following the implementation of the Strategy for development of NGOs, as well as the implementation of the Action Plan for chapter 23 in part regarding the civil society.</li> <li>• Small number of activities planned for year 2014, by the Action Plan for the Strategy for development of NGOs, was actually implemented within the deadline</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Create conditions for the implementation of the implementation of the Action plan for the Strategy for development of NGOs</li> <li>• Regular publishing of the reports on the implementation of the Strategy</li> </ul>

### Area 3: Government – CSO Relationship

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

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

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>2. The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) There is a national level institution or mechanism with a mandate to facilitate cooperation with civil society organizations (e.g., Unit/Office for cooperation; contact points in ministries; council).</li> <li>2) There are binding provisions on the involvement of CSOs in the decisions taken by the competent institution or mechanism(s).</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• There is Office for Cooperation between Government and NGOs</li> <li>• There is Decree on the procedure for cooperation between state authorities and non-governmental organizations as the obligatory documents for state bodies to inform, consult and involve CSOs representatives in drafting public policies</li> <li>• There is Decree on the procedure and manner of conducting public debate in preparation of the laws as obligatory document for ministries to consult civil society in drafting laws</li> <li>• Some municipalities either don't have, either have the legislation which is not the best model for the cooperation with the NGOs and their inclusion in the decision making process</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Strengthen the capacities of the Office by giving it more independence and its own budget</li> <li>• Adopt necessary legislation on the local level</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) The national level institution or mechanism(s) has sufficient resources and mandate for facilitating CSO-government dialogue, discussing the challenges and proposing the main policies for the development of Civil Society.</li> <li>2) CSOs are regularly consulted and involved in processes and decisions by the competent institution or mechanism(s).</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• NGO representatives participate in decision-making process on several levels (working groups formed by state bodies, parliamentary committees, public debates...)</li> <li>• NGO representatives participate in the working groups for the preparation of negotiating chapters in the process of accession to EU</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• State and local bodies should make more effort in promotion of the citizen participation</li> </ul>

**Area 3: Government – CSO Relationship**

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

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

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>1. There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner.</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) There are clearly defined standards on the involvement of CSOs in the policy and decision making processes in line with best regulatory practices prescribing minimum requirements which every policy-making process needs to fulfil.</li> <li>2) State policies provide for educational programs/trainings for civil servants on CSO involvement in the work of public institutions.</li> <li>3) Internal regulations require specified units or officers in government, line ministries or other government agencies to coordinate, monitor and report CSO involvement in their work.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• There are contact persons in the Ministries and other state bodies, as well as in the local self-governments</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• It is necessary to better define the actual tasks of the contact persons for NGO</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Public institutions routinely invite all interested CSOs to comment on policy/legal initiatives at an early stage.</li> <li>2) CSOs are provided with adequate information on the content of the draft documents and details of the consultation with sufficient time to respond.</li> <li>3) Written feedback on the results of consultations is made publicly available by public institutions, including reasons why some recommendations were not included.</li> <li>4) The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/training.</li> <li>5) Most of the units/officers coordinating and</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Process of previous consultations in creating strategic and legal documents is not being conducted on regular basis. Only 26 previous consultations has been conducted in all of the municipalities in 2013.</li> <li>• Institute of ``free chair`` which is a mechanisms for NGO participation on local level is often being misused</li> <li>• Reports from public debates are not being published regularly, especially on local level.</li> <li>• Most of the participants of our focus groups complained about not getting feedbacks to their comments and suggestions.</li> <li>• NGO participants are actively involved in the</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• State bodies and local self-government should publish yearly Citizens-Participation Plans</li> <li>• Process of previous consultations should become practice on national as well as on the local level</li> <li>• Reports from the consultations and public debates need to be published and participants need to get feedback on</li> </ul>

	monitoring public consultations are functional and have sufficient capacity.	process of negotiations with the EU, through the participation in the working groups for different chapters.	their suggestions. <ul style="list-style-type: none"> <li>Capacities of the local officials should be strengthened in order for the better implementation of all of the mechanisms of citizen participation</li> </ul>
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### Area 3: Government – CSO Relationship

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

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

STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
3. CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>Existing legislation requires public institutions to invite CSO representatives on to different decision-making and/or advisory bodies created by public institutions.</li> <li>There are clear guidelines on how to ensure appropriate representation from civil society, based on transparent and predetermined criteria.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>There are mechanisms regulating citizen participation on national level</li> <li>Union of Municipalities created Models of four different Decisions regarding citizen participation on the local level</li> <li>Less than half of the municipalities have put their decisions in accordance with the Models</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>Adopt or amend relevant legislation on the local level</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>Decision-making and advisory bodies on issues and policies relevant for civil society generally include CSO representatives.</li> <li>CSO representatives in these bodies are enabled to freely present and defend their positions, without being sanctioned.</li> <li>CSO representatives are selected through</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>NGO representatives in the working groups formed by Ministries are chosen in a transparent matter, based on clear criteria.</li> <li>Members of the working groups formed by local self-governments are sometimes chosen based on personal contacts, not following the legally prescribed procedure</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>Ensure adequate application of legislation regulating citizen participation on local level</li> </ul>

	<p>selection processes which are considered fair and transparent.</p> <p>4) Participation in these bodies does not prevent CSOs from using alternative ways of advocacy or promoting alternative stand-points which are not in line with the position of the respective body.</p>		
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### Area 3: Government – CSO Relationship

#### Sub-area 3.3.: Collaboration in service provision

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

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
1. CSOs are engaged in different services and compete for state contracts on an equal basis to other providers	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) Existing legislation allows CSOs to provide services in various areas, such as education, healthcare, social services.</li> <li>2) CSOs have no barriers to providing services that are not defined by law (“additional” services).</li> <li>3) Existing legislation does not add additional burdensome requirements on CSOs that do not exist for other service providers.</li> </ol>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The new Law on Social and Children Protection has been adopted.</li> <li>• The Law prescribes possibility for other entities, including non-governmental organizations to provide social services through the process of licensing.</li> <li>• Licensing, accreditation of the programs as well as the financing of the social services is to be regulated by the second legislation.</li> </ul>	<p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Adopt second legislation needed for the implementation of the Law on Social and Children Protection</li> </ul>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) CSOs are able to obtain contracts in competition with other providers and are engaged in various services (e.g., education, health, research, and training).</li> <li>2) CSOs are included in all stages of developing and providing services (needs assessment, determining the services that best address the</li> </ol>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• For these to be achieved second legislation need to be adopted previously. There are existing cases of service provision in cooperation with state or local authorities, but they are individual examples, nit part of a bigger system and done aside from the process of licensing and accreditation.</li> </ul>	<p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• It is necessary to adopt second legislation and then to implement these processes according to the rules</li> </ul>

	needs, monitoring and evaluation). 3) When prior registration/licensing is required, the procedure for obtaining that is not overly burdensome.		
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### Area 3: Government – CSO Relationship

#### Sub-area 3.3.: Collaboration in service provision

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

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
2. The state has committed to funding services and the funding is predictable and available over a longer-term period	<b>Legislation:</b> 1) The budget provides funding for various types of services which could be provided by CSOs, including multi-year funding. 2) 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). 3) CSOs can sign long-term contracts for provision of services.	<b>Legislation:</b> <ul style="list-style-type: none"> <li>The Law on Social and Children protection prescribes that services will be funded by the state budget, local self-governments budget and by users themselves.</li> <li>Financing is to be defined by second legislation that has not been adopted yet.</li> </ul>	<b>Legislation:</b> <ul style="list-style-type: none"> <li>Adopt second legislation necessary for the implementation of the Law</li> </ul>
	<b>Practice:</b> 1) CSOs are recipients of funding for services. 2) CSOs receive sufficient funding to cover the basic costs of the services they are contracted to provide, including proportionate institutional (overhead) costs. 3) There are no delays in payments and the funding is flexible with the aim of providing the best	<b>Practice:</b> <ul style="list-style-type: none"> <li>A number of social services are financially supported by the state of local governing mechanisms. However, these are individual, mostly project-based cases, not part of a well-established system.</li> </ul>	<b>Practice:</b> <ul style="list-style-type: none"> <li>In order for the financing of the service to be regulated, second legislation need to be adopted first</li> </ul>

	quality of services.		
<b>Area 3: Government – CSO Relationship</b>			
<b>Sub-area 3.3.: Collaboration in service provision</b>			
<b>Principle: There is a supportive environment for CSO involvement in service provision</b>			
STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
3. The state has clearly defined procedures for contracting services which allow for transparent selection of service providers, including CSOs	<b>Legislation:</b> 1) There is a clear and transparent procedure through which the funding for services is distributed among providers. 2) Price is not the lead criterion for selection of service providers and best value is determined by both service quality and a financial assessment of contenders. 3) There are clear guidelines on how to ensure transparency and avoid conflict of interests. 4) There is a right to appeal against competition results.	<b>Legislation:</b> <ul style="list-style-type: none"> <li>Licensing, accreditation of the programs of the social services is to be regulated by the second legislation.</li> <li>Legislation that will regulate details about service provision is yet to be adopted</li> <li>The only adopted document which concerns NGOs is Regulations on the Content of the Database and the Content and Method of Keeping Records in Social and Children Protection.</li> </ul>	<b>Legislation:</b> <ul style="list-style-type: none"> <li>Adoption of the second legislation according to the deadlines prescribes in the Action Plan for the Implementation of the Strategy for Development of Social and Children protection</li> </ul>
	<b>Practice:</b> 1) Many services are contracted to CSOs. 2) Competitions are considered fair and conflicts of interest are avoided. 3) State officials have sufficient capacity to organize the procedures.	<b>Practice:</b> <ul style="list-style-type: none"> <li>284 social services were available in Montenegro in the period 2012-2013.</li> <li>175 of those were provided by non-governmental organizations, which makes 80%</li> <li>NGOs provided services mostly through projects funded by foreign donors.</li> <li>Through the project Reform of the social and child protection - Improvement of social inclusion, IPA 2010, in the period 2012/13 it was</li> </ul>	<b>Practice:</b> <ul style="list-style-type: none"> <li>Provide for financial sustainability of the services established through the project ``Reform of the Social and Children protection`` IPA 20120.</li> <li>Improve cooperation of the Ministry of labor and Social</li> </ul>

		<p>supported 40 social care services in 9 municipalities and most of them were performed by NGOs</p> <ul style="list-style-type: none"> <li>• Most of the social services providing shelter are provided in partnership between NGOs and local self-governments.</li> <li>• There is no system of keeping record on the available services as well as evaluating them.</li> </ul>	<p>Care with civil sector in order to encourage process of decentralization of social care.</p> <ul style="list-style-type: none"> <li>• Establish data base of available social services, as well as effective system of monitoring and evaluation.</li> </ul>
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# VI Used Resources and Useful Links

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- Constitution of Montenegro (Official Gazette 1/2007)
- Law on NGOs (Official Gazette 39/2011)
- Law on Public Assembly (Official Gazette 31/2005)
- Law on Volunteering Work (Official gazette 14/2012)
- Law on Corporate Income Tax (Official Gazette 65/2001)
- Tax Law (Official Gazette 36/2013)
- Labor Law (Official Gazette 59/2011)
- The Law on Accounting and Auditing (Official Gazette 32/2011)
- The Law on Administrative Fees (Official Gazette 20/2011)
- The Law on Value Added Tax (Official Gazette 29/2013)
- The law on Budget of Montenegro (Official Gazette 78/2010, 66/2011, 66/2012, 61/2013)
- Law on Social and Children Protection (Official gazette of Montenegro 27/13)
- Inspection Law (Official Gazette 39/2003)
- Action Plan for Chapter 23
- The Strategy for NGO Development in Montenegro 2014-2016
- The Strategy for the development of the social and child protection 2013-2017
- Regulation on criteria for determining the user and manner of distribution of part of income from games of chance (Official Gazette 42/2011)
- Mapping of Social Protection Services in Montenegro, Institute Alternative, November 2013, Podgorica, Montenegro
- Decree on procedure for achieving cooperation between state bodies and NGOs (Official Gazette 07/2012)
- Decree of the procedure method of a public discussion in preparing laws (Official Gazette 12/2012)
- Action Plan for the chapter 23, Judiciary and Fundamental rights
- Report on the implementation of the Strategy for social and child protection for 2013
- Montenegro Needs Assessment Report 2013, TACSO, November 2013, Podgorica, Montenegro

Montenegro Progress Report, European Union, October 2014

Audit report on the financing of non-governmental organizations, National Audit Agency, July 2014.

Report on the Compliance with the Principle of Good Governance in Local Self-Governments in Montenegro, CRNVO

# VII Annex I

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## Guidelines for the focus groups with representatives of local self-governments and non-governmental organizations

1. What are the obligations that local self-governments has towards NGOs based on Law on Local Self-Government, Statute, decisions, etc.?

2. How do you rate level and way that local self-governments are informing NGOs on matters relevant for them?

-Current state- good and bad sides

-What can be improved and how?

3. How do you rate the process of consulting NGOs on the development programs of local self-governments as well as other legal and strategic documents?

-How is the consultation process conducted? Is feedback regular?

-What can be improved and how?

4. What are your experiences with the NGO members participating in the working groups formed by local self-governments for the developments od legal, strategic and other documents?

-Name positive and negative aspects of the current state

-What can be improved and how?

5. Are you familiar with the organization of events, seminars, round tables, etc. jointly by local self-government and NGOs?

-Name examples of good practice

-If there not enough events organized jointly, what is the main cause for that?

-What can be improved and how?

6. What is your opinion on the current state in financing NGOs from the budget of local self-government?

-Name positive and negative aspects of the procedures conducted?

-What can be improved and how?

7. In what level does the local self-government help the work of NGOs by providing non-financial support, such as work space or similar.

-Name good and bad examples

-What can be improved and how?



November 2014.

