

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

Monitoring Matrix on Enabling Environment for Civil Society Development

-TURKEY Report -

“The Civil Society Environment in Turkey”

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

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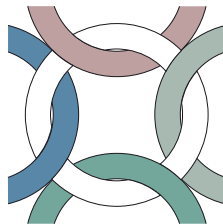
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CONTENTS

EXECUTIVE SUMMARY, 5

1. CIVIL SOCIETY AND CIVIL SOCIETY DEVELOPMENT IN TURKEY, 5
2. KEY FINDINGS, 6
3. KEY POLICY RECOMMENDATIONS, 7
4. ABOUT THE PROJECT AND THE MATRIX, 8

INTRODUCTION, 9

1. ABOUT THE MONITORING REPORT, 9
2. THE MONITORING MATRIX ON ENABLING ENVIRONMENT FOR CIVIL SOCIETY DEVELOPMENT, 9
3. CIVIL SOCIETY AND CIVIL SOCIETY DEVELOPMENT (CSDEV) IN TURKEY, 10
4. SPECIFIC FEATURES AND CHALLENGES IN APPLYING THE MATRIX IN TURKEY, 12
5. ACKNOWLEDGEMENTS, 13

METHODOLOGY, 14

1. OVERVIEW OF THE METHODOLOGICAL APPROACH, 14
2. PARTICIPATION OF THE CSO COMMUNITY, 15
3. LESSONS-LEARNT, 16

FINDINGS AND RECOMMENDATIONS, 17

AREA 1: BASIC LEGAL GUARANTEES OF FREEDOMS, 17

Sub-Area 1.1.: Freedom of Association, 18

Sub-Area 1.2.: Related-Freedoms, 19

AREA 2: FRAMEWORK FOR CSO FINANCIAL VIABILITY AND SUSTAINABILITY, 22

Sub-Area 2.1.: Tax/Fiscal Treatment For Csos and Their Donors, 23

Sub-Area 2.2.: State Support, 24

AREA 3: GOVERNMENT-CSO RELATIONSHIP, 26

Sub-Area 3.1.: Framework and Practices for Cooperation, 27

Sub-Area 3.2.: Involvement in Policy- and Decision-Making Process, 29

Sub-Area 3.3.: Collaboration in Service Provision, 31

FINDINGS AND RECOMMENDATIONS (TABULAR), 33

USED RESOURCES AND USEFUL LINKS, 54

BIBLIOGRAPHY, 54

NATIONAL DATABASES, 56

USEFUL LINKS, 56

ANNEX 1, 56

List of National Advisory Meeting Members, **56**

List of Interviewees, **56**

ANNEX 2, 57

Supplementary TUSEV Research, **57**

ANNEX 3, 57

Interview Guide, **57**

ANNEX 4, 59

Turkey Profile: Economic Political and Social Indicators, **59**



EXECUTIVE SUMMARY

1. CIVIL SOCIETY AND CIVIL SOCIETY DEVELOPMENT IN TURKEY

Civil Society in Turkey is growing in number and has become a significant actor of political, social and economic change in the post 1980s era. Over the past years CSOs have been recognized as an indispensable part of the democratization process by public institutions and other actors. Yet, the definitions of 'civil society' and 'civil society organizations' (CSOs) are absent in the relevant legislation and policy documents. Registration for CSOs is mandatory in Turkey and despite the existence of other models of association – e.g. initiatives, platforms - foundations and associations continue to be the only legal entities recognized as CSOs. Foundations and associations are subject to different legislations and regulated by different public agencies. As of February 2014, the number of active associations in Turkey is 99,418. The number of New Foundations -i.e. established after the Republican Period- is 4,734 according to 2013 data. Although CSOs are active in all of Turkey's provinces, available data depicts uneven geographical distribution. In terms of quantity, CSOs in Turkey are concentrated in the urban areas. The largest number of associations exists in İstanbul (19.771), Ankara (9.475) and İzmir (5.521). CSOs in Turkey predominantly concentrate on areas such as religious services, sports and social solidarity. Despite their increasing role and visibility, rights based organizations constitute a smaller segment of civil society in Turkey. The extent of civic engagement in Turkey has improved over the years. Still, the civil society movement in Turkey remains detached from a large portion of the public. Data gathered in 2011 shows that only 12% of the total population has membership in associations.

Restrictions in the legal and fiscal environment along with the lack of access to financial and human resources are among the most important challenges faced by CSOs in Turkey. This report analyzes the current state of the civil society in Turkey in reference to the indicators provided by the Matrix. Some of the major findings are as follows:

A. BASIC LEGAL GUARANTEES OF FREEDOMS

The laws directly governing freedom of association in Turkey are the Law on Associations (No 5253), Law on Foundations (No 5737), Law on Collection of Aid, their respective regulations and relevant articles in the Constitution and the Penal Code. There have been improvements on the legal framework within the context of the EU accession process, in 2004 and 2008. However, problems and issues continue to exist in the legal framework, in the implementation and limitations of the existing laws.

Department of Associations (DoA) and General Directorate of Foundations (DGoF) are the highest public authorities responsible from associations and foundations in Turkey. These public bodies also have the authority and responsibility to audit CSOs. Inconsistencies are observed in the frequency, duration and scope of audits, especially for the rights-based organizations. Furthermore, penalties constitute an important barrier before freedom of association. Penalties and fines are quite heavy for breaching the comprehensive bureaucratic requirements laid down in the laws. Penalty cuts, guidance and warning mechanisms are not effective if not totally absent.

Freedom of assembly remains as one of the most problematic areas for civil society in Turkey. Gezi Park protests was among the instances where freedom of assembly was not respected. The Article 34 of the Constitution recognizes the right of citizens to organize an assembly or demonstration without having to obtain any prior authorization. However, various articles of the secondary legislation which regulates the implementation of the rules and principles outlined in the Regulation on the Implementation of Law on Meetings and Demonstrations violate the European Convention on Human Rights. The latest democratization package accepted by the Turkish Grand National Assembly in March 2014 did not bring any notable reforms.

B. FRAMEWORK FOR CSO FINANCIAL VIABILITY AND SUSTAINABILITY

CSOs face serious problems in their fundraising activities mainly resulting from The Law on Collection of Aid adopted in 1983. The Law creates a repressive environment and brings bureaucratic restrictions on fundraising activities of CSOs. According to this Law, CSOs have to get permission each time they want to fundraise and state the total amount of funds they would raise. In recent years, funds raised by several organizations have been confiscated because they put their bank account numbers on brochures, Facebook pages and websites in an effort to raise donations.

The regulation that defines the framework for obtaining the 'public benefit' (for associations) and 'tax exemption' (for foundations) statuses is vaguely defined and the process is highly political. The statuses are granted by Council of Ministers to a very limited number of organizations. As of 2013, there are 254 tax-exempt foundations and 403 associations that have the public benefit status. Contrary to very bureaucratic and long decision making process, the privileges provided with the statuses are very limited and far from facilitating the development of philanthropy and financial sustainability of CSOs.¹

C. GOVERNMENT - CSO RELATIONSHIP

There is no binding overarching policy or legal framework in Turkey governing civil society and government relations. Accordingly, a strategic approach laying down clear goals, measures, responsibilities, action plans do not exist. The lack of strategy also applies for public funding.

All public institutions including Ministries are required to draft strategic plans. These plans are not specifically drafted for civil society development or support but for planning all operations. According to the Regulation on Procedures and Principles of Strategic Planning in Public Administration (2006), clause 5, the institution makes sure that the participation of CSOs is ensured and their contributions are received. However, no clear indication regarding the selection process, criteria, or methods and

means of integrating received contributions is available in the regulation. Furthermore, no consistent mechanism for monitoring and reporting the participation of CSOs and/or their contributions has been defined. With regards to institutions, there is no specific institution responsible to facilitate and monitor relations between the public sector and CSOs, and expect a few examples, there are no relevant units within public institutions to maintain, sustain and foster the relations. Majority of Ministries do not have contact points for CSOs.

Due to absence of policy and legal frameworks, there is no holistic approach with regards to participation of CSOs in policy and decision making processes. Thus, participation usually occurs in an ad-hoc and inconsistent manner mostly based on personal relations and initiatives rather than on institutional duties and responsibilities. The Regulation on the Procedures and Principles of Legislation Preparation and the Law on Municipalities are the two legislations that lay down different aspects of the civil society-public sector relations.

There is no regular and continuous public funding mechanism that supports the institutional infrastructure and activities of CSOs in Turkey. Furthermore, a holistic approach or legislation with respect to state funding does not exist. The budget for such funding schemes for CSOs is determined at the discretion of Ministries and they are not predictable since total budget may vary from year to year. The only exception applies for the distribution of EU funds by The Central Finance and Contracts Unit (CFCU). In the general budget there is no budget item on the percentage of the total budget allocated to CSOs; yet it is known that the budget remains insufficient and not proportional to the size and density of civil society in Turkey.

In the legislation there is no specific provision with respect to promoting service provision by CSOs. Thus contracting services to CSOs is still not a common practice. CSOs should be identified as capable service-providers and in order to promote them, special provisions regarding CSO participation should be included in the relevant texts.

2. KEY FINDINGS

As part of monitoring report of Balkan Civil Society Acquis-Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs project, legal and

¹ Directorate General of Foundations (DGoF).The New Foundation Statistics. Access Date: November20,2013. <http://www.vgm.gov.tr/db/dosyalar/webicerik205.pdf>
Department of Associations.Association Statistics. Access Date: November 20, 2013
<http://derbis.demekler.gov.tr/SSL/istatistik/KamuYarari.aspx>

practical environment for civil society in Turkey was assessed with the methodology provided by the Matrix.

The findings below highlight the key findings and present the pressing needs of the civil society in Turkey. These findings were developed as a result of a desktop research on existing laws and regulations, secondary sources on civil society in Turkey developed by TUSEV and other national and international stakeholders. Some

of the resources used are: EU legal documents and reports, reports on enabling environment published by international organizations such as Freedom House, CIVICUS, Hudson Institute, Transparency International and Bertelsmann Stiftung’s Transformation Index. Furthermore, information gathered from interviews were used to provide the practical aspect of the Report.

Major findings are reflected in the following table:

No	Top 6 Findings From The Report	Reference	
		Area	
1	The definition of civil society and civil society organizations are absent in the related legislation. The legal framework only recognizes associations and foundations as legal entities of CSOs and other organizational forms such as platforms, initiatives, social enterprises and grant-making foundations are not recognized by law.	Area	1
		Sub-Area	1.1
2	The legal framework regulating auditing of CSOs is complicated, restrictive, bureaucratic and is focused on limitations rather than freedoms, defining penalties and sanctions that do not meet the principle of proportionality. In addition, monitoring and inspection of CSOs activities are not clearly defined resulting in inconsistent and ad-hoc implementation in frequency, duration and scope.	Area	1
		Sub-Area	1.1
3	The Law on Meetings and Demonstrations recognizes the right of citizens to organize an assembly and demonstration without having to obtain any prior authorization. However, the places and duration allowed for meetings and demonstrations are restrictive while the Law provides the administration and security forces with wide discretionary powers. The restrictions and limitations are further intensified via secondary legislation.	Area	1
		Sub-Area	1.2
4	Tax exemption and public benefit statuses are granted to very limited number of CSOs by Council of Ministers. This is a highly bureaucratic, political and non-transparent process and the privileges provided with the status are very limited. Furthermore, The Law on Collection of Aid with heavy limitations, bureaucratic rules and procedures creates obstacles for financial viability of CSOs.	Area	2
		Sub-Area	2.1
5	There is neither a government strategy for nor relevant legal or operational framework laying out Public Sector-CSO relations. To this end, CSO participation in the decision making processes are not ensured. Furthermore, there is no specific state institution to coordinate, monitor and facilitate public funding. Therefore, public funding is ad-hoc, inconsistent and scattered. Major criticisms on the transparency and accountability of the funds allocated by the public bodies exist.	Area	2 / 3
		Sub-Area	2.2 / 3.1
6	Practice for CSO involvement in service delivery is not developed. The existing legislation does not involve specific clauses related to service provision of CSOs.	Area	3
		Sub-Area	3.3

3. KEY POLICY RECOMMENDATIONS

The section below presents key policy recommendations. The following recommendations are proposed in

accordance to the findings presented above and to provide fields of policy interventions to provide enabling environment for the civil society development in Turkey.

No	Top 6 Recommendations For Reform	Reference	
		Area	
1	The legal framework should be revised and include definition of civil society with variety forms of association including foundations, associations as well as platforms, initiatives, social enterprises and grant-making foundations.	Area	1
		Sub-Area	1.1
2	The legal framework regulating auditing of CSOs should be revised and the limits of public interference in internal affairs of CSOs should be clarified. The rules of auditing and the limits of authority of the public auditors should be clearly defined in the legislation. Conditions that require penalties must be clearly defined under the Penal Code, and punitive provisions in the Laws of Foundations and Associations must be removed.	Area	1
		Sub-Area	1
3	The Law and regulations for Demonstrations and Meetings should be annulled completely and a new law should be drafted that would allow peaceful assemblies and demonstrations to be held in a framework in line with the European Convention on Human Rights.	Area	1
		Sub-Area	1.2
4	There should be a comprehensive re-examination of tax laws for supporting financial sustainability of civil society organizations. Turkey should adopt tax exemption practices that are compatible with EU countries. The Law on Collection of Aid should be amended in a way to exclude associations and foundations for prior permission to collect aid.	Area	2
		Sub-Area	2.1
5	A principle document setting forth the process of public funding for CSOs and the framework of the civil society-public sector cooperation should be prepared in a participatory manner.	Area	2 / 3
		Sub-Area	2.2 / 3.1
6	Specific provisions with respect to service agreements of CSOs should be included in the legislation. These provisions should recognize CSOs as service providers and specify the defined procedures for contracting services which allow for transparent selection of CSO to provide services.	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 its 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.² 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.

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

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

The principles, standards and indicators have been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They rely on the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries. The Matrix aims to define an optimum situation desired for civil society to function and develop effectively and at the same time it aims to set a realistic framework which can be followed and implemented by public authorities. Having in mind that the main challenges lies in implementation, the indicators are defined to monitor the situation on the level of legal framework and practical application.

² Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

INTRODUCTION

1. ABOUT THE MONITORING REPORT

Third Sector Foundation of Turkey (TUSEV) has been contributing to improving civil society legislation, generating research about the sector, and encouraging dialogue and cooperation among private, public and non-profit sectors since 1993. TUSEV is the implementing partner of the Monitoring Enabling Environment for Civil Society Development Project coordinated by Balkan Civil Society Development Network (BCSDN) for the years between 2012-2014. This report addresses the enabling civil society environment of Turkey as of 2013.

“Balkan Civil Society Acquis-Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs” project is implemented since 2012 and has a duration of two years. The project has an objective of assessing the quality of the enabling environment for civil society development in Turkey through reviewing the legal framework and its application in practice. The data collection method includes desk-research on the available legislation and the secondary data; combined with fieldwork including conducting semi-structured expert interviews and consultation meetings with national experts.

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 its kind to be published on a yearly basis for at least the 48-month duration of the project. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev). It is part of a series of country reports covering 8 countries in the Western Balkans and Turkey.³ 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 is available as of March 2014.

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.

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.

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 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

³ Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

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 IV. Findings and Recommendations 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 TURKEY

History of civil society in Turkey can be traced back to Ottoman era where foundations were important actors of societal life. Yet, civil society in the post-1980 era has started to act as actors of social change in Turkey through contributing to the public participation and democratization. Especially in 2000s, the significance attributed to CSOs and their roles has diversified and civil society in Turkey has started to function as similar to those in liberal democracies.

In parallel to the late-development, CSOs have only recently been able to gain the attention of policy-makers and academics. Therefore, there is quite limited data on civil society, which is particularly scarce concerning issue-oriented CSOs (TUSEV 2011: 41). The Department of Associations (DoA) started to collect data on civil

society since e-registration system was introduced in 2013 and more than half of the associations have submitted their profiles on the database of the system and submit their annual reports digitally.⁴ These statistics on the number of associations indicate that there are 97,686 active associations in 2013; this number was 60,931 in 2000, moreover, the number of registered volunteers reached over 8 million in 2012, compared with only 4 million in 2004. According to the information obtained via application from the General Directorate of Foundations (DGoF), there is an increase in the number of foundations, as well. In 2009, number of new foundations was 4.463, while the total number of foundations had reached 4.734 by the end of 2013.⁵ This shows a positive trend and a striking increase.

Despite the increasing numbers, Turkish civil society lags far behind the European average.⁶ Only 12% of Turkish citizens are members of CSOs, with one CSO exist for every 800 individuals. There are also imbalances evident in the civil society environment. First, the data depicts gender inequality in civil society. Among 8,852,907 association members in Turkey, only 1,606,739 are women. The concentration areas of associations in Turkey are predominantly religious services, sports and solidarity. In total, there are 47,329 organizations working in these areas. There are only 1,714 environmental and 795 youth associations and only 861 of CSOs focus on rights based issues. Furthermore, the distribution of number of CSOs throughout country is uneven, with 75% located in major cities of Turkey such as Istanbul, Ankara and Izmir.⁷ While civil society sector is developing rapidly, the majority of CSOs are at an early stage in their organizational development. According to a study, almost

⁴ Associations Information System (DERBIS) became active in 18 February, 2013.

⁵ The New Foundation Statistics. Directorate General of Foundations (DGoF). Access Date: November 20,2013 <http://www.vgm.gov.tr/icerik.aspx?id=192>
<http://www.vgm.gov.tr/db/dosyalar/webicerik205.pdf>

⁶ In the scope of the research conducted by Eurostat entitled "Europeans' Engagement in Participatory Democracy"; 25,551 respondents from different social and demographic groups were interviewed from EU27. In average 20% of respondents are members of organizations with as specific, economic, social, environmental, cultural or sporting interest. 17% of respondents are members of any other organization or association that has a specific interest. 16% of respondents are members of are trade union. 11% of respondents are members of a professional association. 5% of respondents are members of a chamber of commerce / industry/ agriculture. 4% of respondents are member of employer organization. European Commission. Flash Eurobarometer 373. Europeans' Engagement in Participatory Democracy. Access date: January 16, 2014. http://ec.europa.eu/public_opinion/flash/fl_373_en.pdf

⁷ Data is compiled from website of the General Directorate of Foundations (DGoF). <http://www.dernekler.gov.tr/tr/Anasayfa/Linkler/dernekler-grafik-tablo.aspx> Access date: February 13, 2014.

79% of CSOs do not find their financial resources to be sufficient and they defined insufficient human resources as one of the top organizational weaknesses of CSOs in Turkey (TUSEV, 2011). Financial difficulties remain to be the main constraint before the institutionalization and professionalization of CSOs. Many CSOs do not have general strategies and a lack of policies on human resources while communication still constitutes a major problem.

On the contrary, a small number of large, strong urban-based organizations dominate the civil society environment. These ‘Mega CSOs’ enjoy the financial sustainability since they have been established by well-known and highly-skilled figures from the private, public and academic sectors who have been able to exploit their personal networks to attract significant private and public funding, and high quality programmes with broad geographical scope (TUSEV 2006).

In the period between 2004 and 2008, within the scope of the EU accession process the regulatory environment of the civil society has been slightly improved and various laws and regulations related to civil society were reviewed and amended. By 2008, amendments made to the Law on Foundations and Law on Associations furthered the freedom of association and extended the legal framework to all existing CSOs. These new provisions eased the CSOs’ operations regarding their establishment and funding of activities. Although there have been major improvements in the legal structure, it has been observed that deficiencies in the implementation of the existing laws hamper the enabling environment of civil society. To illustrate, as a recent example, EU Progress Report 2013 cites examples of a restrictive interpretation of legislation vis-à-vis civil society in Turkey including excessive fining, limiting the right to publish press statement, requiring advance notification of demonstrations and disruption of demonstrations and disproportionate use of force by the police against demonstrators. Moreover, although there have been significant initiatives, the government-civil society relations remain in the nascent stage; the dialogue and consultations are not applied systematically.

The strong state tradition inherited from the Ottoman era and in return lack of opposition culture are structural political conditions posing challenges to the development of government-civil society relations and can also explain backlashes in the democratization processes.

Table 1: The Number of Members of Associations

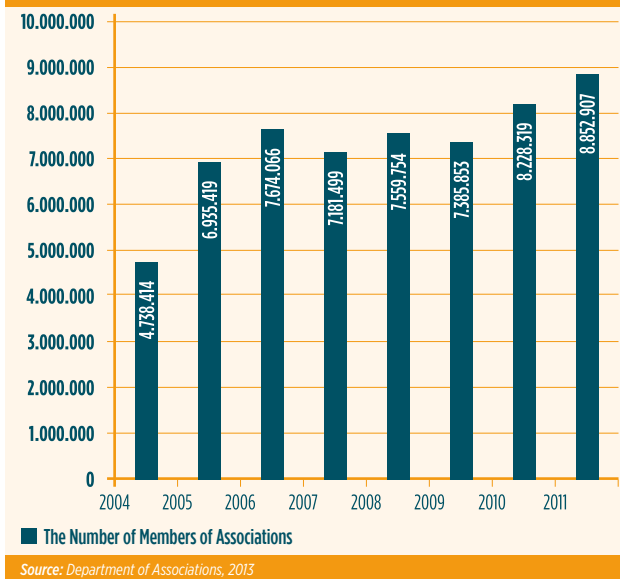
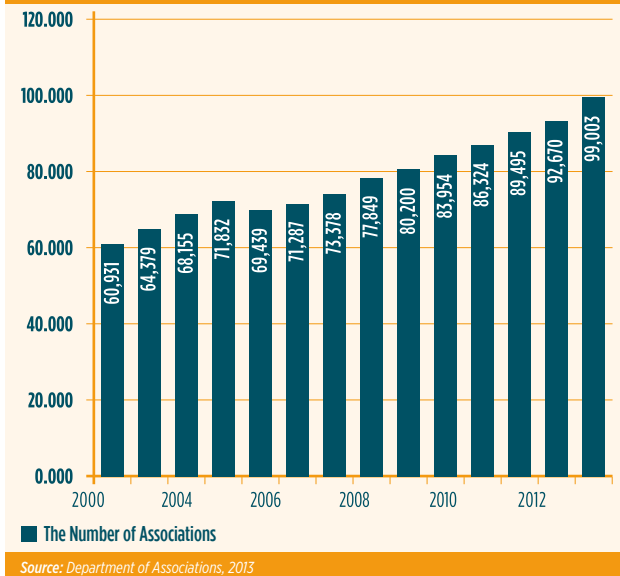


Table 2: The Number of Associations



Despite the fact that there is a civil society getting increasingly vibrant and diverse, civil society have had limited competences to influence policymaking in recent years (Transformation Index BTI 2014).

Furthermore, the socio-cultural context is not conducive to civil society development in Turkey. According to the CIVICUS Civil Society Index Turkey Report published by TUSEV in 2011, widespread low interpersonal distrust is embedded in Turkish society and a low level of trust is detrimental to civil society. The findings of the 2013 World Giving Index confirm that the culture of giving is not cultivated in Turkey. Turkey has ranked 128th in the world and scored strikingly low in the components of this study measuring frequency of helping a stranger, donating money and volunteering full time.⁸

Contrary to these aspects, CIVICUS Civil Society Index Report published by TUSEV in 2006 cites the results of World Values Survey reflecting the high level of helpfulness among society members that explain the majority of CSOs operating in fields of solidarity and helping disadvantaged populations. Studies have shown that, 80% of citizens claimed they have donated. Donations are categorized under donating to institutions, donating for religious purposes or donating for different reasons (helping beggars or compulsory donations). However, the amount of donations remains low and majority of people prefers donating to other individuals directly (87%) rather than donating to institutions. Respondents explain their preferences with the low amount of their donations (53%), irregular donating (21%), lack of confidence to institutions (12%) and lack of knowledge (9%).⁹

On the other hand, the civil society sector is not free from ideological, political and cultural divisions, rather remaining as an arena where divergent societal visions compete. This situation limits the potential of civil society to ensure democratization since such controversial divisions embedded in the society are replicated and/or reproduced once again in Turkey's public sphere through civil society activism.

The table provided in Annex 4, provides a profile on Turkey with respect to economic, political and social indicators. Available data includes indicators and rankings in terms of the civil society environment in Turkey as of 2013.

4. SPECIFIC FEATURES AND CHALLENGES IN APPLYING THE MATRIX IN TURKEY

In conducting the research, the major challenge inheriting from the methodology which aims to produce comparative results across cases. Application of the Matrix to specificities of Turkey seemed as the major challenge. As an example, in the case of Turkey, there are two types of CSOs and separate legislation applicable for each. This doubles the findings for each indicator preventing a generalization for the whole sector.

Experts of national consultation panel gave their recommendations on the application of the Matrix and its indicators to specific conditions of Turkey. For instance, there are some issues regarding financial sustainability of the CSOs needed to be covered but the matching question and indicator was not covered in the Matrix. In the application of Matrix, a guideline is needed to enable adaptation of Matrix to case-specific conditions of the country under examination. To illustrate, under Area 3 of Matrix, Government-CSO relationship is examined. In a country like Turkey, where there is no strategy document on this relationship it is not possible to fully answer all of the criteria in the Matrix without repetitions. The Matrix should also have a format enabling opt-out from sub-questions of major questions which are already not applicable to enabling civil society environment of countries.

During conducting of the research, there have been also several challenges inherited from the problems of the legal framework concerning the right of access to information in Turkey and lack of transparency with regard to data on the civil society. In some instances, it was hard to access reliable data on the practical application of legislation which shows that further research is necessary in some fields including but not limited to service provision and education related sections. Additionally, it is a general problem that access to information applications to public institutions do not work efficiently to consolidate sufficient data.

⁸ World Giving Index: a global view of giving trends. (2013) Charities Aid Foundation. Access date: January 30, 2014. https://www.cafonline.org/pdf/WorldGivingIndex2013_

⁹ TUSEV.(2006).Sivil Toplum Ve Hayırseverlik Araştırmaları 2004-2006 Araştırma Bulguları Ve Çözüm Önerileri. [Civil Society and Philanthropy Research 2004- 2006. Research Findings and Solutions]

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METHODOLOGY

1. OVERVIEW OF THE METHODOLOGICAL APPROACH

This project employed the following research methods in collection of data and analysis: a national consultation meeting, desk research on the existing laws and their implementation, review of results of the existing secondary research and expert interviews.

The primary data collection method is the desk research and analysis of legislation applied upon foundations and associations in Turkey. To crosscheck the results in the data analysis, EU legal documents and reports, state policy documents, country-specific reports and media scanning published by international organizations and NGOs were also included in the research.

Apart from reviewing existing law and regulations, the Matrix includes a section on practical implementation of such laws and their limitations. This data is produced based on TUSEV's know-how on enabling environment of civil society and results of the previous studies, especially Civil Society Monitoring Report published annually

since 2011. This report presents the developments and achievements in the area of civil society, as well as the shortcomings and difficulties observed in practice with a comparative perspective to previous years.

The national consultation meeting for Monitoring Enabling Environment for Civil Society Development Project has been conducted on 8 July 2013.

CSO representatives from different fields have participated in the meeting and discussed the research methodology of the Monitoring Matrix on Enabling Environment for Civil Society Monitoring and Turkey specific issues that should be included in the research. Following this national consultation meeting, two major areas - i.e. service provision of civil society and provision of non-formal education by CSOs- were selected as areas to examine more closely. To gain more reliable knowledge on the mentioned issues, project team conducted five structured interviews with experts. The question sets used for these interviews were developed in accordance to the analytical framework and indicators of the Matrix. Please see Annex 3 for the interview guide.



The Matrix project, kick-off meeting, Turkey. March, 2013.

2. PARTICIPATION OF THE CSO COMMUNITY

In preparation of the Matrix, project team benefitted from the findings of TUSEV's Civil Society Monitoring Report 2012. The methodology of the report employs desk research, media review and in depth interviews with more than 80 representatives who actively work in the area of civil society via interviews, e-mails, and phone conversations. In addition to expert interviews, this report feeds the Matrix in terms of data collected from various public institutions in line with the criteria defined by

the Right to Information Law. A media review has been conducted for over a period of three months and 16 extensive case studies from the Report relevant to scope of the Matrix were examined. Please see Annex 2 for details on additional TUSEV research and publications.

17 CSO representatives from different fields have participated and brought their insight in the methodology of the Matrix and under-researched areas that need further data collection in the national consultation meeting of the Matrix project. Please see Annex 1 for the list of National Advisory Meeting participants.



The Matrix project national consultation meeting, Turkey, July, 2013.

5 semi-structured expert interviews were conducted with CSO representatives; several were consulted via e-mails and phone interviews or have been consulted on ad hoc basis in relevant meetings, conferences on the issues related to civil society participation in service provision and provision of non-formal education by CSOs in Turkey. Please see Annex 1 for the list of interviewees and Annex 3 for the interview guide.

LESSONS-LEARNT

The Matrix offers a solid methodological framework with a set of indicators to overview the development of enabling environment of civil society in a systematic way. This was a significant contribution in compiling existing information

on civil society and providing further data not just on the existing regulatory framework but its implementation in context of Turkey. The country-specific knowledge is also comparable cross-nationally to other cases in Western Balkans project.

Furthermore, the Matrix introduced new research areas to be intensively analyzed in the context of Turkey that include service provision of civil society and provision of formal education by CSOs. In the scope of this project, TUSEV reviewed the available legislation and conducted expert interviews on these under-researched issue areas. Thereby, the Matrix has extended the scope of research and added new research topics to its agenda.

FINDINGS AND RECOMMENDATIONS

AREA 1: BASIC LEGAL GUARANTEES OF FREEDOMS

TOP FINDINGS

The definition of civil society and civil society organizations are absent in the related legislation. The legal framework only recognizes associations and foundations as legal entities of CSOs and other organizational forms such as platforms, initiatives, social enterprises and grant-making foundations are not recognized by law.	Area	1
	Sub-Area	1.1
The legal framework regulating auditing of CSOs is complicated, restrictive, and bureaucratic and is focused on limitations rather than freedoms, defining penalties and sanctions that do not meet the principle of proportionality. In addition, monitoring and inspection of CSOs activities are not clearly defined resulting in inconsistent and ad-hoc implementation in frequency, duration and scope.	Area	1
	Sub-Area	1.1
The Law on Meetings and Demonstrations recognizes the right of citizens to organize an assembly and demonstration without having to obtain any prior authorization. However, the places and duration allowed for meetings and demonstrations are restrictive while the Law provides the administration and security forces with wide discretionary powers. The restrictions and limitations are further intensified via secondary legislation.	Area	1
	Sub-Area	1.2

RECOMMENDATIONS

The legal framework should be revised and include definition of civil society with variety forms of association including foundations, associations as well as platforms, initiatives, social enterprises and grant-making foundations.	Area	1
	Sub-Area	1.1
The legal framework regulating auditing of CSOs should be revised and the limits of public interference in internal affairs of CSOs should be clarified. The rules of auditing and the limits of authority of the public auditors should be clearly defined in the legislation. Conditions that require penalties must be clearly defined under the Penal Code, and punitive provisions in the Laws of Foundations and Associations must be removed.	Area	1
	Sub-Area	1.1
The Law and regulations for Demonstrations and Meetings should be annulled completely and a new law should be drafted that would allow peaceful assemblies and demonstrations to be held in a framework in line with the European Convention on Human Rights.	Area	1
	Sub-Area	1.2

Sub-Area 1.1.: Freedom of Association

Recent changes in the legislation regarding associations and foundations within the scope of the European Union accession process during 2004 and 2008 have improved the enabling environment of civil society immensely¹⁰. Laws regarding freedom of association are compatible with EU standards.¹¹ Yet, problems continue to exist in primary legislation and most importantly due to restrictive interpretation of the existing secondary legislation.

The fact that definition of civil society and civil society organizations are absent in the related legislation and policy documents causes major problems and confusions in practice. In Turkey, the legal framework only recognizes associations and foundations as legal entities of CSOs. Other organizational forms such as platforms, initiatives, social enterprises and grant-making foundations are not recognized as legal entities. These forms of organizations are an important part of civil society environment in Turkey. Although they can register as associations or foundations in many instances these legal entities do not meet the priorities (governance, management etc.) and needs of these organizations. For instance, some of the existing platforms and initiatives stress that existing legal entities' are insufficient because the registration processes are too bureaucratic and they create hierarchical obligations. Since having a legal entity is compulsory for many of the grant applications, the above mentioned forms of organization are unable to apply for grant programmes which in the long run threaten their sustainability.

CSOs as such are either registered as associations or foundations in Turkey, having separate public agencies as regulators: the Department of Associations within the Ministry of Interior and the General Directorate of Foundations under the Prime Ministry respectively.

According to Article 101 of Turkish Civil Code, a foundation is defined as "a legal personality established by natural persons or legal entities by way of allocating their assets and rights to a specific and permanent purpose". Associations are founded by at least seven citizens with legal personalities who join their knowledge or activities for a specific and common non-economic goal (Turkish Civil Code, Article 56, Law on Associations Article 2).

For registration of associations, seven citizens and/or residents from other nationalities should apply to the provincial office of the Department of Associations with a statute. As soon as they start official procedure, according to regulations, it is assumed that the association is already set up and recognized by law. The Department has up to 60 days to review the application. If the administration decides there are missing documents or the application of association violates the existing rules and regulation, the association is given 30 days to rectify.

Registration of foundations is much more complicated than associations. For establishment of a foundation, there should be assets (all types of immovable and movable property, including cash, securities and bonds, and rights that have an economic value) to be allocated for the specified purpose of the foundation. Council of Foundations, highest decision making body of the The General Directorate of Foundations determines the minimum asset value applicable on the establishment of a foundation on annual basis (for the year 2014 app. 17.000 Euros). Foundations are founded by a charter which is verified by a notary and court. This charter contains information on the title, purpose, assets and rights to attain its goals with organs and applicable administrative procedures. The foundation is granted legal personality when there is approval of the court and registered by The General Directorate of Foundations.

Foreign organizations/representative offices are subject to permission to operate and opening up a branch in Turkey. According to data provided by General Directorate of Foundations and Department of Associations, only 119 foreign organizations (17 foundations and 102

¹⁰ Article 34 of the constitution was amended to bring slight improvements in the rule of law and strengthening of institutions. The Economic and Social Council was set up in 2001, enabling the consultations of economic and social actors. In this period of time, there have been developments regarding the enforcement of human rights, namely the establishment of various bodies to monitor the implementation of legislation. The Human Rights Consultation Board was established as a venue allowing the exchange of views between the government and CSOs. With regard to freedom of association and peaceful assembly, the amendment of article 33 of the constitution eased the restriction on forming associations, and the abolishment of difficulties regarding CSOs forming international linkages was expected accordingly.

Three rounds of extensive reform packages were passed during 2002 to meet the political conditions of the acquis. The first legislative package addressed the freedom of speech, whereas the second, passed in April 2002, addressed freedom of association and assembly, freedom of press and freedom of speech. The third legislative package, passed 3rd August 2002, abolished the death penalty and lifted restrictions on the individual cultural rights of minorities (Tocci 2005).

¹¹ The Law on Associations (No 5253) was amended in 2004.

The Law of the Relations of Associations and Foundations with Public Institutions (No 5072) was amended in 2004.

The Law on Foundations (No 5737) was amended in 2008.

associations) were allowed to operate in Turkey.¹² Of this 102 organizations; 16 permitted to open a branch, 69 are permitted to open a representative office, 4 are permitted to directly operate, 3 are permitted to cooperate and 10 are permitted to set up or become a member of a federation. Some of these organizations reported that the application process is burdensome, in some cases political and takes a long time. Furthermore, post-application follow-up procedures are weak. According to TUSEV's Civil Society Monitoring Report 2012, registration application of an international human rights organization in Turkey was rejected by Ministry of Interior without clear legal basis. This organization brought this case to Court on the basis of related clauses of Universal Declaration of Human Rights, UN Convention on Civil and Political Rights, European Convention of Human Rights and violation of right to freedom associations of foreigners. The Court rejected the case in 2011 and decided that Ministry of Interior acted in accordance with its discretionary power and the public benefit.

Legally, Department of Associations (DoA) and General Directorate of Foundations (DGoF) have the authority to audit associations and foundations given by the legislation. However, the limits of interferences of auditors are not clearly defined in the legislation. Inconsistencies are observed in the frequency, duration and scope of audit practices. Furthermore, penalties continue to pose a challenge before the freedom of association of CSOs. TUSEV Civil Society Monitoring Report 2011 illustrates unequal practices occurred in auditing of LGBT organizations. Their frequent auditing and unstandardized implementation of the law pose challenge to their freedom of associations. DoA and DGoF must provide pre-guidance in order to prevent associations and foundations from being fined. Conditions that require penalties must be clearly defined under the Penal Code, and punitive provisions in the Laws of Foundations and Associations must be removed.

Another practice that poses an obstacle before freedom of association is violation of rights of human rights defenders and the CSOs they are affiliated with. According to Transformation Index BTI 2014 Turkey report, CSOs that oppose state's policies often face

legal and financial obstacles. The 2013 EU Progress Report states that examples of restrictive interpretation of legislation vis-à-vis associations and harassment of their leaders still exist. Same report cites the example of closure case of ten CSOs in the city of Van with the accusation of helping terrorist organizations and engaging in terrorist propaganda. Aforementioned the case is rejected by the Court due to lack of evidence.

Sub-area 1.2.: Related-freedoms

The Article 34 of the Constitution recognizes the right of citizens to organize an assembly and demonstration without having to obtain any prior authorization. In accordance to this clause, rights of assembly and demonstrations may be restricted with wide range of reasons such as "preservation of national security", "public order" and "prevention of crime", "protection of public moral" and "public health".¹³ These restrictive measures are in line with the 11th clause of European Convention on Human Rights (Ayata & Karan, 2013).

Although the above mentioned clause of the Constitution complies with the international standards, The Law on Demonstrations and Meetings (no. 2911) restricts the freedom of assembly. According to this law, the assemblies are subject to prior notification to the civilian authority 48 hours in advance of the meeting. The meetings and demonstrations should be planned by a committee consisting of seven people with a lead person. There are restrictions with regard to place, route and time of the meetings and demonstrations. Civilian authority is granted the authority to cancel or postpone of meetings and demonstrations if necessary. Officers also have the right to record the meetings and demonstrations.

The Draft Law on Basic Rights and Extension of Liberties also known as the "Democratization Package" was accepted by the Turkish Grand National Assembly in March, 2014. Related to civil society, Democratization Package included amendments on the Law on Meetings and Demonstrations. According to the draft Law, the places and routes of demonstrations and meetings will be designated by the highest state authority (head of

¹² February 2014 data gathered from DoA and DGoF www.dernekler.gov.tr and www.vgm.gov.tr

¹³ Please see the clauses from <http://www.tbmm.gov.tr/develop/owa/anayasa.uc?p1=34> Access date: February 12, 2014.

provincial district), with consultation to political parties that are represented in the National Assembly, and unions and chambers with the highest member numbers. The duration of the meetings and demonstrations are also extended one hour compared to the existing law. In this case if the meetings and demonstrations are held in open-air, they have to end by sunset and if they are held in close spaces the ending time will be 24:00. The new law also transfers authority and position of the government commissioner to an organizing committee. The organizing committee will have the responsibility to dissolve the meeting if the gathering deviates from its purpose and becomes unlawful. If the committee fails to dissolve it, the highest authority of the district will hold the right to decide. Furthermore, law enforcers will have the right to record the meetings and demonstrations. These recordings can only be used for determining the suspects and criminal evidence.¹⁴ The changes foreseen in the Law are considered minor and do not fulfill the needs defined by the international norms and standards.

There have been alleged violations of human rights in the context of Gezi protests in May and June across Turkey and in several occasions of demonstrations on issues including students' rights, the environment, the activities of the Higher Education Board (YÖK) and trade union rights. There are instances of excessive use of force by the police against demonstrators was reported.¹⁵ To illustrate, in Gezi protests, 6 people died, 8.163 people were injured and 11.000 people were exposed to tear gas. 3.600 people were put under custody and 133 were arrested.¹⁶

As described in the Matrix methodology, freedom of expression is a prerequisite for freedom of assembly. Several examples exist where the freedom of expression of human rights activists were violated (Amnesty International Annual Report on Turkey 2013). In many instances, the broad interpretation of legal texts such as the Anti-Terror Law, the Misdemeanor Law and the Law on Meetings

and Demonstrations lead to such violations. There are instances of criminal investigations against members of civil society organizations due to their critical views. Journalists, human rights activists, academicians and artists have been prosecuted and put on trial due to their opposing views challenging the government's policies and practices (TUSEV, Civil Society Monitoring Report 2012). As a recent example, in the context of Gezi protests, over 3600 demonstrators were taken into police custody including members of Taksim Solidarity Platform.

The Constitution guarantees freedom and privacy of communication for all, but likewise contains restrictive clauses. For instance, publications endangering the integrity or security of the state, violation of the general morality and the principle of family protection, revelation of state secrets or publications with the intention to encourage rebellion or other offenses are prohibited.¹⁷ In practice, there were instances that The Supreme Board of Radio and Television (RTÜK) applied penalties on television and radio stations and fined them on the basis of 'broadcasting superstitious beliefs', 'denigrating morals and national values' and 'damaging the family', 'broadcasting obscenity' and 'praising terrorism' (TESEV, 2012b).¹⁸ RTÜK issued and fined several TV networks for broadcasting coverage of Gezi Park Protests, on the basis of "encouraging people to violence" and "violating broadcasting principles".¹⁹ The vague use of such terms in the law needs further clarifications to overcome arbitrary applications of the law.

According to Freedom House ratings, internet freedom is "partly free" in Turkey (Freedom House, Freedom on the Net 2012 & Freedom on the Net 2013 Reports).²⁰ Censorship by the state has increased steadily after the government adopted the Law No. 5651 titled, "Regulation of Publications on the Internet and Suppression of Crimes Committed by Means of Such Publication," in 2007, which regulates the publications on the internet and suppression

¹⁴ Please see the law accepted in The Commission on The Constitution of GNA. Access date: February 14, 2014. <http://www2.tbmm.gov.tr/d24/1/1-0869.pdf>

¹⁵ Council of Europe, Country Report prepared by Commissioner for Human Rights of the Council of Europe. <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2395759&SecMode=1&DocId=2079692&Usage=2> Access date: January 17, 2014.

¹⁶ Data compiled by the report of Ombudsman on Gezi Park Protests This report quotes data of Republican People's Party's report on human rights violations in Gezi Park Protests, survey of Turkish Medical Association and report of Human Rights Foundation. Access date: January 17, 2014. <http://www.kamudenetligi.gov.tr/contents/files/2013-90.pdf>

¹⁷ The Constitution of The Republic of Turkey, Article 26 and Article 31. Access date: November 26, 2013. <http://www.byegm.gov.tr/content.aspx?s=tcotrot>

¹⁸ Broadcasting Law (no. 6112), Art. 8

¹⁹ Bianet, "RTÜK Fines TV Networks on Gezi Resistance Coverage," June 12, 2013, <http://www.bianet.org/english/freedom-of-expression/147517-rtuk-fines-tv-networks-on-gezi-resistance-coverage>.

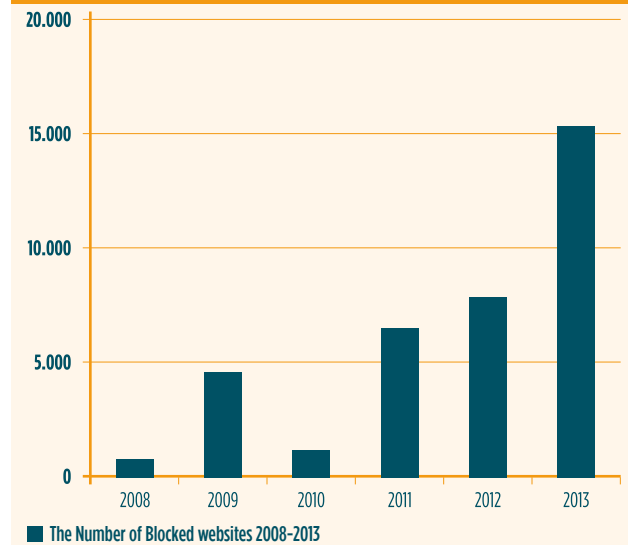
²⁰ In accordance to methodology of this study, in 2012, Turkey's scores as follows: Obstacles to Internet Access (0-25) is 12 points, Limits on Content (0-35) is 17 points, Violations of User Rights (0-40) is 17 points. In total Turkey got 46 points out of 100 (0=most free, 100=least free).

of crimes by means of such publication. Recently, in 2011 the Information Technologies and Communication Board (BTK) put forward mandatory filtering system to protect citizens from harmful content but stepped back after series of opposing street demonstrations in May 2011. BTK had to modify its policy proposal in August 2011; the modified version of this internet filtering system came into force. Yet, this filtering system is optional instead of compulsory for the internet users (Freedom House, Freedom on the Net 2012 Report). Recently, in January 2014 amendments were made to internet regulation Law no. 5651 and extended the authority of Telecommunications Communication Authorities (TIB) to ban websites and remove web contents if there are instances of violation of privacy. This Law does not ensure in depth- investigation of the cases and therefore pave way to arbitrary decisions of the government authorities. According to this Law, web hosting providers will have the responsibility to remove if content is harmful to personal rights and private life of citizens.²¹ Furthermore, web hosting providers will have responsibility to keep the data of the users and the websites they visited for two consecutive years. Informatics Association of Turkey declared amendments made to Law no. 5651 conflicts with EU law and will harm ‘freedom of expression’, ‘basic human rights’ and ‘privacy of persons’.²² This bill came into force after President Abdullah Gül approved it on 18th of February 2014.

The government routinely blocks advanced web content and applications and prohibits access to websites with opposing views. According to data of Engelliweb.com, over 40.000 websites are blocked as of February 2014. It is also reported that the reasoning of court decisions to block websites and relevant rulings are not easily accessible. Therefore such nontransparent procedures bring further challenges for those who appeal against conviction (Freedom House, Freedom on the Net 2012 Report). As an recent example, on 20 March, 2014, Twitter was banned throughout Turkey and a week later on March 27, YouTube was also banned. Twitter was blocked after public

criticism of this website by Prime Minister Erdoğan for not complying with the decisions of the courts in Turkey. Twitter was blocked on March 21 in the run-up to local elections that was held on 30 March 2014, to stem a stream of leaked wiretapped recordings of senior officials that had appeared on the website. TİB stated that access to Twitter was restricted due to complaints of citizens and court decision on the clause of violation of privacy. Access to YouTube was blocked on March 27 by TIB without a court decision. Foreign Minister Ahmet Davutoğlu stated that “The Twitter ban is related to privacy, while YouTube ban was related to the national security. TIB, on the other hand, stated that the ban was due to “the crimes committed against Atatürk”.²³ TIB lifted the ban on Twitter, after the constitutional court ruled the block breached freedom of expression on April 3. Just a day after access to Twitter was unblocked; a local court lifted a ban on the popular video-sharing website YouTube on April 4.²⁴ The Internet regulation needs to be reviewed and reformed in line with European standards in order to provide freedom of expression.

Table 3: The number of Blocked websites 2008-2013



Source: Engelliweb.com , 2014

²¹ For the content of the regulation please see: <http://www.hurriyetdailynews.com/new-media-laws-increasing-internet-censorship-in-turkey.aspx?pageID=449&nID=61212&NewsCatID=396>

²² Press Release of Informatics Association of Turkey can be reached at http://www.tbd.org.tr/usr_img/ana_sayfa/haberler/Turkiye_Bilisim_Dernegi_5651_Basin_Aciklamasi.pdf Access date: February 12, 2014.

²³ Bianet, "Youtube Ban: Contradictory Statements From FM and TIB," April 2, 2014, http://www.bianet.org/english/politics/154667-contradictory-statements-from-fm-and-tib?bia_source=rss

²⁴ Hurriyet Daily news, "Turkish court lifts YouTube ban," April 4, 2014, <http://www.hurriyetdailynews.com/turkish-court-lifts-youtube-ban.aspx?pageID=517&nID=64544&NewsCatID=339>

Despite discouraging practices, media participation in meetings and demonstrations is not restricted by law. It is stated that during the Gezi Park protests, some journalists and social media users were subjected to verbal abuse, detention, physical violence or other threats by the police (Amnesty International, 2013). The report provided by Human Right Commissioner of Council of Europe quotes data of Reporters Without Borders indicated that more than 50 national and international press workers had been subjected to police violence in Gezi Park Protests.²⁵

In the context of Gezi Park protests, in June 2013, there were instances of restrictions on broadcasting the demonstrations. Social media was widely criticized by state officials and blamed for escalating the tension and threatening the social order. 48 citizens were put under custody for posting Twitter messages about the Gezi Park protests but released later (The report of Ombudsman on Gezi Park Protests, 2013).

Turkey's media is being highly criticized for losing their impartiality. These media outlets were being highly criticized when some TV channels or newspapers remained mute against Gezi Park protests or broadcasted or reported in a biased way. In 2013, respected mainstream journalists and commentators who criticized the government or Prime Minister were fired from their jobs (Human Rights Watch 2014).²⁶ According to special report of Freedom House, at least 59 journalists were fired or forced to resign due to coverage of Gezi Park Protests.²⁷

Committee to Defend Journalists (CPJ) identified 211 journalists jailed for their work worldwide and CPJ highlighted more than half of all journalists imprisoned are in Turkey, Iran, and China. As of December 2013, there are 40 imprisoned journalists in Turkey. These journalists are charged with organizing or participating in terror related or anti-government activities.²⁸ According to Press Freedom Index 2014 published by Reporters Without Borders, Turkey ranks 154th out of 180 countries. The report presents the increasing pressure on freedom of press in Turkey.²⁹

AREA 2: FRAMEWORK FOR CSO FINANCIAL VIABILITY AND SUSTAINABILITY

TOP FINDINGS

Tax exemption and public benefit statuses are granted to very limited number of CSOs by Council of Ministers. This is a highly bureaucratic, political and non-transparent process and the privileges provided with the status are very limited. Furthermore, The Law on Collection of Aid with heavy limitations, bureaucratic rules and procedures creates obstacles for financial viability of CSOs.	Area	2
	Sub-Area	2.1
There is neither a government strategy for nor relevant legal or operational framework laying out Public Sector-CSO relations. There is no specific state institution to coordinate, monitor and facilitate public funding. Therefore, public funding is ad-hoc, inconsistent and scattered. Major criticisms on the transparency and accountability of the funds allocated by the public bodies exist.	Area	2
	Sub-Area	2.2

RECOMMENDATIONS

There should be a comprehensive re-examination of tax laws for supporting financial sustainability of civil society organizations. Turkey should adopt tax exemption practices that are compatible with EU countries. The Law on Collection of Aid should be amended in a way to exclude associations and foundations for prior permission to collect aid.	Area	2
	Sub-Area	2.1
A principle document setting forth the process of public funding for CSOs and the framework of the civil society-public sector cooperation should be prepared in a participatory manner.	Area	2
	Sub-Area	2.2

²⁵ Commissioner for Human Rights of the Council of Europe. Report following Nils Muižnieks' visit to Turkey. CommDH(2013)24. Access date: January 27, 2014. <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2395759&SecMode=1&DocId=2079692&Usage=2>

²⁶ Human Rights Watch 2014 Turkey Chapter. Access date: January 24, 2014. <http://www.hrw.org/world-report/2014/country-chapters/turkey>

²⁷ Freedom House special report: Democracy in Crisis: Corruption, Media, and Power in Turkey. Access date: February 17, 2014. <http://freedomhouse.org/sites/default/files/Turkey%20Report%20-%202014.pdf>

²⁸ Committee to Protect Journalists. Second worst year on record for jailed journalists. Access date: January 24, 2014. <http://cpj.org/reports/2013/12/second-worst-year-on-record-for-jailed-journalists.php>

²⁹ Reporters without Borders. World Press Freedom Index 2014. Access date: February 14, 2014. <http://rsf.org/index2014/en-index2014.php>

Sub-Area 2.1.: Tax/Fiscal Treatment For Csos and Their Donors

In general, tax legislation and tax environment does not provide a supportive environment for the financial sustainability of CSOs and bring certain limitations. There are some tax exemptions defined for CSOs. Foundations and associations in Turkey are exempt from the Corporate (profit) Taxes. Grants and donations received by the CSOs are also tax exempt. However, the tax exemptions for CSOs and donations are quite limited.

Foundations and associations are not exempt from VAT, Consumption, Property, Communication, Stamp, and Motor Vehicle Taxes and Notary fees. Also all kinds of passive investments are subject to income tax. Economic activities of CSOs are only possible if and when they found a separate economic entity. When they do so, there is no tax exemption for the economic activities carried out by CSOs. In terms of taxation, all economic entities of CSOs are treated as for profit businesses.

In addition to above mentioned rules, several tax deductions are applied to foundations with tax exemption status and associations with public benefit status.

The law in Turkey does provide a public benefit status for CSOs, however the tax exemption and public benefit statutes are granted to a very limited number of CSOs. Based on Article 27 of the Associations Law, the Council of Ministers has the authority to grant this status to eligible CSOs. However, the selection process is highly bureaucratic and political at times. In order to assure accountability, this process should be guided by an autonomous, transparent and easily accessible institution. Furthermore, the selection procedures and clearly defined criteria should be set.

According to the data compiled in December 2013, there are 254 tax-exempt foundations out of 4.734 foundations in Turkey. Comparing to 2012 (249 foundations), there is increase in their numbers.³⁰ The ratio of the number of tax-exempt foundations to the total number remained to similar (5%) to previous years. The 403 associations with public benefit status

constitute only the 0.04% of the total number of 97.844 active associations.³¹

Contrary to very bureaucratic and long selection process, the privileges provided with the statuses are very limited. The EU Progress Report 2013 underlined that these statuses in Turkey needs to be revised to facilitate the development of philanthropy and financial sustainability of the CSOs. Legal entities and legal persons receive a 5% tax deduction from their annual income only when they donate to tax-exempt foundations and associations with public benefit status. No tax deduction for donations made by individuals is available who are on payroll.³² This condition is a significant factor that limits the amount of donations for CSOs, excluding the majority of society from using exemptions. The tax-exemptions to individuals, who work on a payroll, making donations to public benefit organizations, should be granted.

Turkey has scored 3 out of 5 in overall Philanthropic Freedom Score ranking measured by Hudson Institute. The domestic tax regulation received 2.3 points out of 5 and Turkey was placed among countries with medium to low incentives. The report highlights that tax incentives for donors exist however receiving these deductions is quite difficult and the CSOs that can receive tax deductible donations are very limited in number.³³

In Turkey CSOs can receive in-kind and cash donations from abroad without extra fees, costs and these donations are tax-free. The only condition is that, the related public institutions should be notified when CSOs receive any amount of cash from abroad.³⁴

The law does not provide tax benefits for economic activities of CSOs. Associations and foundations are obliged to start economic enterprises to be able to engage in income-generating activities. The commercial

³⁰ Revenue Administration. List of Foundations with Tax exemptions. Access Date: November 20, 2013. <http://www.gib.gov.tr/index.php?id=406>

³¹ Directorate General of Foundations (DGoF). The New Foundation Statistics. Access Date: November 20, 2013. <http://www.vgm.gov.tr/db/dosyalar/webicerik205.pdf>
Department of Associations. Association Statistics. Access Date: November 20, 2013
<http://derbis.dernekler.gov.tr/SSL/istatistik/KamuYarari.aspx>

³² The reason why tax deduction does not apply them is that; income tax is not levied upon individuals who work on payroll in Turkey. Employers are responsible of consolidating and paying of taxes of their employees.

³³ Hudson Institute (2013). Philanthropic Freedom: A Pilot Study. Access date: January 30, 2014. <http://www.hudson.org/files/documents/FinalOnlineVersionPhilanthropicFreedomAPilotStudy3.pdf>

³⁴ *ibid.*

enterprises of associations and foundations are treated as business corporations and the Corporate Tax is levied upon profits of CSOs. This brings heavy burden on CSOs that undertake economic activities to create social benefit (TUSEV, Civil Society Monitoring Report 2012).

The donation collection and income generating activities of associations and foundations generated outside of their center are regulated under the Law on Collection of Aid. It is upon permission when associations and foundations want to collect donations on open public spaces (e.g. activities on the street, public campaigning etc.). This law does not apply, when individuals or corporations donate to CSOs voluntarily. They do not have to ask for official permit when they put their bank account number for donations on their website. However, other online forms of collection of donations are regulated. As an example, associations cannot start up a SMS donation system without permission.

The collection of donations is regulated with highly bureaucratic rules and procedures. This brings repressive environment for donation collection and income generating activities of CSOs (TUSEV, Civil Society Monitoring Report 2012). Based on the data provided by Department of Associations, the number of organizations that are able to collect donations without prior permission remain limited to only 20, which is strikingly a low number. According to the Turkey's 2007-2013 Programme for Alignment with the EU Acquis, the revision of the Collection of Aids Law was planned.

The Department of Associations is in the phase of drafting new law on Fundraising (Collection of Aid) and the Ministry of the Interior has launched consultations with civil society actors in the preparation of the Law. The Law detail on the content of this initiative is not yet available.³⁵ However, it is expected that draft law will be submitted to the parliament soon. As a general comment, the draft law brings important changes to the limitations before the associations' and foundations' fundraising activities.

Sub-area 2.2.: State Support

There is no holistic approach or legislation with respect to regulation of state supports granted to CSOs, with

exception of distribution of EU funds by The Central Finance and Contracts Unit (CFCU). The funds that will be allocated to CSOs are not planned in the state budget; the Ministries may set aside a budget if authorized by the Law. The funds of Ministries are distributed to CSOs with project partnership mechanisms rather than through grant allocation. The budget for such funding schemes is determined at the discretion of Ministries and may vary from year to year. There is no general information on the percentage of the total budget allocated to CSOs in the general budget; yet it is known that the budget remains insufficient and not proportional to the size and density of civil society in Turkey. To illustrate, Ministry of Interior only allocates 3.3 million € to associations.³⁶ This budget is considered small in comparison to 98.945 associations active in Turkey.

The funding allocated to CSOs is not predictable and the public funding cycle does not ensure involvement of CSOs at any stage. The commissions formed under the Ministries have the discretion of distribution of public funding to CSOs. There is no common practice for Ministry funds other than EU funding. General principles regarding distribution of public funds, financial accountability, monitoring and evaluation are regulated under the Law No. 5018 on Public Finance Management and Control. There were instances where Ministries have issued directives and regulations based on the decision of Council of Ministers on the regulation of funding of associations and foundations from public administrations' budgets. These ministries have also published application guidelines, announced application criteria and publicized the amount of support provided in the last years and the names of the projects that they have supported. For instance, Department of Associations under Ministry of Interior issues criteria for funding associations. In 2013, the priority areas to be funded were determined according to results of survey conducted on their websites. There is also an application guideline that informs on the application criteria. Ministry of Development has a funding scheme entitled Social Support Program (SODES) that has been operated since 2008 and supported 1503 projects of CSOs through allocation of 4,364 million € to

³⁵ The International Center for Non-Profit Law. Access date: November 20, 2013. <http://www.icnl.org/research/monitor/turkey.html>

³⁶ The amount of budget can be found in the Project Application Guideline of Department of Associations. Date of access: 30 January, 2014. http://www.dernekler.gov.tr/media/templates/dernekler/images/folder/Proje_Basvuru_Rehberi.pdf

this date. There are Monitoring and Evaluation units under certain Ministries, but there is no data available on the methods they follow or any results of their monitoring on the impact of public funds. As an example, there has been extensive study conducted for the evaluation of SODES and produced intensive report on the output and impact of the programme.

The Law of the Relations of Associations and Foundations with Public Institutions (No 5072) does not include clauses to encourage state authorities to support CSOs via in-kind contributions. Despite aforementioned Law, there are examples of cooperation between CSOs and public institutions based on protocols, especially at the local level. There is no data available with respect to favoritism or discrimination of state authorities against CSOs based on their loyalties or political affiliation. Nevertheless, there are examples supporting the view that there are cases of institutional discrimination.

A national strategy with respect to public funding that regulates public funding mechanisms based on predetermined, concrete standards should be adopted in order to enhance accountability and transparency of the public funding cycle. The Law of the Relations of Associations and Foundations with Public Institutions (No 5072) should be revised and the monetary and in-kind support to the CSOs by the public institutions should be expanded through defined transparent mechanisms. The information on the projects supported with public funding should be transparent.

In Turkey, funds from Lotteries are not allocated to CSOs. According to 2013 budgetary plan of Ministry of Finance, annual public contribution from lotteries will be allocated to support Olympics Game Committee, Turkey Promotion Fund, Social Services and Society for the Protection of Children, Higher Education Loans and Dorms Directorate.

Sub-Area 2.3.: Human Resources

In general, state policies and the legal environment does not provide special provisions to provide an enabling environment by facilitating employment, volunteering and other engagements with CSOs.

CSOs are subject to the Labor Law and there are no special provisions with respect to CSO employees. There is also no special employment policy of the state with

respect to CSOs. The Department of Associations and the General Directorate of Foundations have recently started to keep statistical data on the CSOs under several items but it is not known whether this information is incorporated to the national statistics system (TUSEV, 2006).

Based on the survey conducted by TUSEV for CIVICUS Civil Society Index (CSI) Project 2011 Country Report, 60% of the respondents consider the human resources of the organization to be adequate. In the scope of the same research, contrary to the survey results National Advisory Group expressed the human resources as a problematic area. According to available data on paid staff of CSOs, over half of the positions are of an administrative or financial nature, 15% is in the areas of expertise and only 8.5% is professional managers. The percentage of foundations with paid staff is much higher than the percentage of associations.

The data depicts that the number of members of CSOs has increased. According to this data, members of associations were above 4.5 million in 2004 and by 2011 this number reached above 8.5 million.³⁷ Based on the data of Directorate of Foundations, members of foundations are 1.1 million by 2012 and numbers of volunteers exceed 1 million.³⁸

The Consultation Committee of the 2011 CIVICUS Civil Society Index (CSI) Project highlighted that, lack of human resources capacity is one of the major challenges faced by CSOs in Turkey. Based on the survey data of the same research, 57% of CSOs do not have paid-staff, whereas 41% of CSOs employ 6- 20 volunteers. 85% of CSO that employ paid staff and 71% of CSOs that have volunteers assess their human resources capacity as insufficient³⁹.

There is no specific regulation with respect to facilitating volunteering in the national legislation. The contractual relationships on the volunteering and protections are not yet defined and regulated. It is known that in 2012, an

³⁷ Association Statistics.Department of Associations. Access Date: November 15,2013.<http://www.dernekler.gov.tr/tr/Anasayfa/Linkler/dernekler-grafik-tablo.aspx>

³⁸ The New Foundation Statistics.Directorate General of Foundations (DGoF). Access Date: November 15, 2013. <http://www.vgm.gov.tr/db/dosyalar/webicerik205.pdf>

³⁹ TUSEV. 2011. *CIVICUS Civil Society Index (CSI) Project Country Report for Turkey II: Civil Society in Turkey: At a Turning Point*.Access date: November 25, 2013. http://www.tusev.org.tr/urfiles/files/step_eng_web.pdf

association with public benefit status and that works with volunteers have been subject to a significant monetary fine. The Ministry of Labor and Social Security fined the organizations for employing “uninsured employees”. Despite lack of an enabling legal environment, there are initiatives to promote volunteerism in Turkey. With the efforts of UN Volunteers Program, a National Volunteering Committee was set up in April 2013 with the participation of CSOs and public institutions. The Committee will act as a strategic advisory board for the recognition and empowerment of volunteering. In the public policy realm, apart from this recent initiative to promote volunteerism in Turkey, there is no reconciliation over the actions to be taken in this field. Recent discussions on legal aspect of volunteerism also include the possible restrictions that may occur due to having a national and legally binding definition of volunteering or adopting a volunteering law.

Subjects related to civil society are not covered systematically in the official curriculum at different levels of the educational system. The Ministry of Education has

initiatives to promote social responsibility in secondary education institutions; however there is no holistic approach. Despite the lack of a holistic approach, The Ministry of Education is conducting pilot studies in the formal education regarding the adaptation of subjects relating civil society to the formal curriculum within the scope of Democratic Citizenship and Human Rights Education.

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

AREA 3: GOVERNMENT-CSO RELATIONSHIP

TOP FINDINGS

There is neither a government strategy for nor relevant legal or operational framework laying out Public Sector-CSO relations. To this end, CSO participation in the decision making processes are not ensured.	Area	3
	Sub-Area	3.1
Practice for CSO involvement in service delivery is not developed. The existing legislation does not involve specific clauses related to service provision of CSOs.	Area	3
	Sub-Area	3.3

RECOMMENDATIONS

A principle document setting forth the framework of the civil society-public sector cooperation should be prepared in a participatory manner.	Area	3
	Sub-Area	3.1
Specific provisions with respect to service agreements of CSOs should be included in the legislation. These provisions should recognize CSOs as service providers and specify the defined procedures for contracting services which allow for transparent selection of CSO to provide services.	Area	3
	Sub-Area	3.3

Sub-Area 3.1.: Framework and Practices For Cooperation

There is no binding overarching policy or legal framework in Turkey governing civil society and government relations. Accordingly, a strategic approach laying down clear goals, measures, responsibilities, action plans and accordingly available total funding is also lacking.

Although there is no general strategy document, there is a reference to communication and cooperation with respect to shared goals between the public sector and the civil society in the Strategy Plans prepared by the Ministries and various organizations in accordance with the Law No 5018 on Public Finance Management and Control.

All public institutions including Ministries are required to draft strategic plans. These plans are not specifically drafted for civil society development or support but for planning all operations. According to the Regulation on Procedures and Principles of Strategic Planning in Public Administration (2006), clause 5, the institution makes sure that the participation of CSOs is ensured and their contributions are received. However, no clear indication regarding the selection process, criteria, or methods and means of integrating received contributions is available in the regulation. Furthermore, no consistent mechanism for monitoring and reporting the participation of CSOs and/or their contributions has been defined. Accordingly, it is not possible to measure the extent of CSOs' participation or to what extent their contributions were integrated in the plans.

With regards to the content of strategic plans, several Ministries such as the Ministry for Youth and Sports, Ministry for Family and Social Policy, Ministry for Science, Industry and Technology, Ministry for Health defined CSOs as a stakeholder and laid down relevant activities and goals in their strategic plans covering 2013-2017. A few Ministries such as the Ministry of Youth and Sports, and the Ministry for Family and Social Policy, going one step further, have identified civil society as not only a beneficiary but also as partners in service provision.⁴⁰ However, although the public institutions are held

responsible to publish progress reports of the strategic plans, due to the fact that no concrete and transparent monitoring and evaluation mechanism is available, it is not possible yet to assess the level of implementation of the actions and policies foreseen in the plans regarding civil society.

One other important policy document is the 10th National Development Plan of Turkey, drafted by the Ministry of Development in 2012-2013 with consultations held with CSOs. The Plan mentions the need for legal and institutional reforms related with civil society; for a holistic policy for civil society that will also lay down the framework of public sector and CSOs relations including public funding; for increased capacity of CSOs. The Plan states several goals regarding development of civil society, specifically at local level. Some of the goals defined are (1) increasing human, administrative and technological capacities of CSOs at local level, (2) increasing participation to civil society (getting organized), (3) increasing the participation and contribution of civil society in local level policy processes. The drafting of action plans of each section covered in the Plan is still continuing as of February 2014, including identification of indicators, monitoring measures and responsible institutions.

Another important problem in assessing and monitoring the cooperation between the public sector and the CSOs is that there is no systematic, comprehensive and holistic data collection in this field by national institutions. Some data is published to a limited extent such as the number of associations and foundations, number of members, their geographic and thematic distribution and basic technological capacities, number of CSOs with public benefit/tax exempt status. Although many other important information such as annual budgets, activities, partnerships, penalties and fees have also been collected by relevant institutions, they are not made available for public.

With regards to institutions, there is no specific institution responsible to facilitate and monitor relations between the public sector and CSOs, and except a few examples, there are no relevant units within public institutions to maintain, sustain and foster the relations. In that matter, draft legislation is awaited to come to the Parliament, which aims to establish several new bodies such as a Civil Society Council and a Civil Society Board as consultative bodies

⁴⁰ Please see, Ministry of Youth and Sports Strategy Plan. <http://dergi.gsb.gov.tr/2013-2017-GSB-STRATEJIK-PLAN/> Ministry of Family and Social Policy. http://sgb.aile.gov.tr/upload/Node/20076/files/stratejik_plan_2013_2017.pdf

regarding civil society related matters in general. However, severe criticisms to the draft have been brought by various CSOs such as these bodies are designed to operate under the Ministry of Internal Affairs, extensive consultation was not conducted in preparation and drafting the Law, CSOs are not meant to be represented at equal numbers.

Except a few Ministries such as the Ministry for EU Affairs and Ministry for Youth and Sports, the majority of the Ministries do not have contact points for CSOs. The “Civil Society, Communication and Cultural Affairs Directorate” of the Ministry for EU Affairs operates with the aim to facilitate civil society participation in EU accession process, collect their input and opinions and coordinate relations among civil society, private sector, local administrations and universities. By 2013, Directorate organized 5 dialogue meetings with CSOs to conduct consultations related to different thematic areas in EU accession process. The Ministry for EU Affairs has initiated the formation of institutionalized mechanisms to consult CSOs on EU accession process in regular basis, via the “EU Advisory and Steering Committees” set up under the EU offices of Local Governorships in 81 provinces.⁴¹ More recently, in 2013, the Ministry for Youth and Sports has set up a Department of Civil Society Organisations under the Directorate of Youth Services (DoCSO). Another public institution that has contact person for civil society, is the Ombudsperson’s Institution that was established in 2012 with the mandate to be an independent and efficient complaint mechanism regarding the delivery of public services and analyse, research and make recommendations about the conformity of all kinds of actions, acts, attitudes and behaviours of the administration with law and fairness.⁴² The institution has appointed a CSO communication officer to ensure outreach to CSOs in a pro-active manner and to facilitate relations with CSOs.

Due to the absence of policy and legal frameworks, there is no holistic approach with regards to participation of CSOs in policy and decision making processes. Thus, participation usually occurs in an ad-hoc and inconsistent manner mostly based on personal relations and initiatives

rather than on institutional duties and responsibilities. There are several pieces of legislation, which lay down different aspects of civil society-public sector relations, the most important ones being the Regulation on the Procedures and Principles of Legislation Preparation and the Law on Municipalities.

According to the Regulation on the Procedures and Principles of Legislation Preparation (2006), the Ministries may consult CSOs on draft laws, but it does not make this consultation mandatory. Furthermore, according to the seventh clause of the regulation, professional organizations with public institution status and CSOs should provide their comments on the draft laws within thirty days. If they do not provide their comments in limited period of time, they are considered to have issued an affirmative opinion on the draft law. Last, but not least, following the consultation stage, the drafts are sent to the Prime Ministry, and are prone to be amended at that stage with no further steps available for CSOs’ to provide further comments. Public institutions should be held responsible to conduct consultations on draft legislation and on policy decisions. The process should be transparent and accountable.

Each municipality in Turkey are obliged to establish City Councils, which allow for CSO participation. According to the Law on Municipalities, city councils should also include representatives from CSOs. Therefore, at local level, maintaining CSO participation in these councils are held mandatory for municipalities. In addition, the municipalities are held responsible to support (also financially) the activities of the City Councils. Last, but not least, the Law makes it mandatory for Municipalities to place the opinions formed in the councils on the agenda of the elected Municipal council. However, problems in implementation are observed. The number of municipalities that established these councils is still limited and CSOs complain that participation are not maintained and sustained in a transparent and accountable manner.⁴³

It has been voiced by many CSOs within the years that a holistic strategy and a legal framework to govern the relations between CSOs and public institutions should be drafted and adapted by the state. Such a document should

⁴¹ Keeping Up the momentum: Improving Civil Society Cooperation with Public Institutions in the Western Balkans and Turkey. ECNL. Access date: January 24, 2014. http://tacso.org/doc/doc_kmomentum_tr.pdf

⁴² Website of Grand National Assembly of Turkey, http://global.tbmm.gov.tr/index.php/EN/ya/haber_de-tay/79 Access date: February 12, 2014.

⁴³ Civil Society Public Sector Cooperation. Local Consultation Meeting Outcomes Report. <http://www.siviltoplum-kamu.org/tr> Access date: February 13, 2014.

be widely consulted; its content should be agreed by both the civil society and the public sector; should be based on principles of transparency, accountability and equality.

One recent project towards that direction is the “Strengthening Civil Society Development and Civil Society-Public Sector Dialogue in Turkey Project” funded by the EU and the Republic of Turkey and been implemented by a consortium led by Civil Society Development Center (STGM), Third Sector Foundation of Turkey (TUSEV), YADA Foundation (YADA) since June 2012. This project has an objective to ensure to have strong democratic institutions and civil society. Within this context TUSEV has been implementing activities aiming to improve the legal environment which CSOs operate in and strengthen civil society and public sector cooperation. One of the concrete and important expected outputs of the project is expected to be the drafting of a Code of Conduct for CSO-Public Sector relations. Within the context of the project, TUSEV has initiated 11 local consultation meetings conducted with 150 participants from 118 different NGOs from 13 cities in Turkey. CSO reps. expressed their positive or negative experiences regarding the public sector and civil society cooperation and discussed principles required to improve such cooperation in Turkey.⁴⁴ In these consultation processes, CSOs mostly refer to the inadequacy of legal framework regulating state-civil society cooperation, the lack of transparency and accountability of the public sector, low levels of awareness and knowledge of public officials on the role of civil society and the existing laws and rights, non-egalitarian and discriminatory approach of the public sector towards CSOs, and lack of opportunities for CSOs in developing financial and human resources.⁴⁵

Sub-Area 3.2.: Involvement In Policy- and Decision-Making Process

Relevant laws and regulations such as The Regulation on the Procedures and Principles of Legislation Preparation, The Law on Municipalities, The Regulation on Procedures and Principles of Strategic Planning do not define

objective mechanisms, procedures and criteria with respect to the selection processes of the CSOs that are to be involved in policy processes (e.g. consultation, dialogue). Thereby, the process is not transparent and no accountability regarding the selection process could be sought for. The selection of CSOs should be based on transparent, objective and legitimate criteria to be identified as a part of a set of standards.

In the absence of standards, guidelines and frameworks, dialogue between CSOs and public institutions are maintained and sustained via personal relations between civil servants and CSO representatives. Hence, the knowledge level of the civil servants on civil society, means, ways, and methods of involvement of CSOs in policy processes becomes crucially important. Unfortunately CSOs complain that the level of knowledge and awareness of civil servants on civil society and participation topics are very low.⁴⁶ Public institutions do not prepare, provide or conduct comprehensive and systematic training programs on these topics. In addition, due to the fact that CSOs’ involvement in policy processes are not defined within the responsibilities and work plans of public institutions, when and if a positive relation between CSOs and the public sector occurs, it is dependent on the approach and voluntary dedication of the civil servants concerned. Thereby, since the dialogue is not institutionalized, the relations are either halted or start from scratch when those civil servants are appointed to another position.

Some participation practices that occur at different levels of participation (information provision, consultation, dialogue and partnership) are consultations held by several Ministries on law and regulation drafts, on preparation of development plans or strategic plans, on EU accession process; consultations held by some Parliamentary Commissions on laws; joint committees held for monitoring implementation of laws and regulations; councils at local level to propose policies and programmes for Municipalities. In a majority of these examples, CSOs are not natural and equal parties in decision-making, their engagement stays generally at advisory level and their participation is maintained via invitations from the relevant public body.

⁴⁴ For more information; Project website: <http://www.siviltoplum-kamu.org/tr> and Project Fiche: http://ec.europa.eu/enlargement/pdf/turkey/ipa/2011/tr20110135.07_strengthening_civil_society_development.pdf

⁴⁵ Civil Society Public Sector Cooperation. Local Consultation Meeting Outcomes Report. <http://www.siviltoplum-kamu.org/tr> Access date: February 13, 2014.

⁴⁶ Ibid, p. 7

The by-laws of the Grand National Assembly of Turkey (TBMM) do not lay down a participation or consultation procedure. Parliamentary committees are not obliged to consult to civil society in law or policy making processes. Thereby, as in all other levels of decision-making in Turkey, the initiative to involve CSOs in Parliamentary commissions lies with the chairperson of those committees. There have been such good examples of consultation at this level, specifically during the constitutional reform process. The Constitution Reconciliation Committee at the TBMM, constituted in October 2011, has conducted a wide-scope consultation, which also involved CSOs. According to a report⁴⁷ on the activities of the Committee, approximately 64.000 opinions were received online while 440 of these opinions belong to CSOs. In addition, the Committee had met with 79 organizations comprised of associations, foundations and platforms. However, The Commission did not publicize or analyze the contributions of the civil society either during the process of consultation or after the process was finalized. Therefore, it is hard to assess to what extent the input of civil society had an impact on constitution-making and the ongoing effort of drafting the articles. The Committee dissolved itself in 2013, and the reform process seems to be halted, with no announcements regarding if and when the process will continue. Another good example at Parliamentary level has been the consultation conducted by the Women and Men Equal Opportunities Committee (KEFEK), within the context of the constitutional reform process. KEFEK invited various CSOs working on gender equality for hearing sessions and published a report covering all opinions provided by the participants. The report also covers a part providing information regarding the decision of the Committee members, exemplifying a best practice of transparent information sharing following a consultation.⁴⁸

Some examples of consultation at government level have also been witnessed. The consultation led (1) by the Ministry for Family and Social Policy on the Law

on Protection of Women and Family Members from Violence, the Regulation on Monitoring and Inspection of Accessibility and the Disability Support Programme; (2) by Ministry for Internal Affairs on the Foreigners and International Protection Law and the Law on Collection of Aid; (3) by the Ministry for Agriculture and Village Affairs on Law on Protection of Land and Terrain Usage; (4) by the Ministry for Forests and Water Affairs on the (Risk) Management Plans are cited by CSOs as examples of consultation.⁴⁹ Even in these consultation examples, CSOs claim that the processes have been led as one-sided and neither they nor the general public were informed in the following stages. Generally, CSOs, when and if consulted, are engaged only at the last stage of law-making, by being able to provide their opinions on the draft law already drafted, usually required to do so within short periods of time.

There are rare examples of CSOs involved in standing advisory committees under Ministries (e.g. Ministry of National Education) but generally, such committees do not involve CSOs. Even in cases they do, their roles are only advisory. CSOs state that important reports (e.g. Human Rights Commission Reports, Prison Commissions Reports) are prepared with no consultation with CSOs.⁵⁰

At local level, although still not systematic, there are more cases of consultation and dialogue with CSOs. Land Protection Commissions, disability centres of governorships, city councils and thematic committees under these councils are cited by CSOs as relatively good examples. Last but not least, Local Equality Action Plans implemented in several cities in Turkey, initiated by the UNDP and Ministry for Internal Affairs and supported by the Sabancı Foundation, present effective institutional mechanisms in planning, implementing and monitoring prioritized actions towards gender equality. These Plans are monitored via a coordination committee consisting of representatives of public institutions, municipalities and CSOs. The City Councils, although important critique has been made by CSOs, regarding the selection of CSOs to take part and the council decisions to be

⁴⁷ Making of a New Constitution in Turkey Monitoring Report. Turkish Economic and Social Studies Foundation. Access Date: November 17, 2013. <http://www.tesev.org.tr/Upload/Publication/75d47483-0752-4ff8-81ae36d7ed72c175/ENGanayasaizleme2WEB.pdf>

⁴⁸ Istanbul Local Consultation Meeting Report, 1 November 2012, TUSEV, <http://www.siviltoplum-kamu.org/usfiles/files/yayinlar/istanbul-1-Kasim-2012-Yerel-istisare-Toplantisi.pdf>

⁴⁹ Good examples mentioned are compiled from nine reports drafted by TUSEV summarizing the 11 local consultation meetings conducted within the Strengthening Civil Society Development and Civil Society-Public Sector Dialogue in Turkey Project. Reports are accessible at www.siviltoplum-kamu.org.

⁵⁰ Relations between CSOs and the Public Sector: Results of Consultation and an Evaluation Report, TUSEV, December 2013, www.siviltoplum-kamu.org, Access date: February 13, 2014

effectively integrated in policy processes, are generally positive examples of CSO participation. Some specific city councils are highlighted by CSOs such as Nilufer, Canakkale, Diyarbakir, Batman and Alanya municipalities.⁵¹

Another issue hinders involvement of civil society participation in policy making is the lack of transparency in accessing information. Based on the Regulation on the Procedures and Principles of Legislation Preparation, policy drafts can be publicized by the ministry through printed or visual media to inform public and ask for their feedback only if the draft concerns the general public. There is an increase in the number of published drafts, yet not all drafts are being published. Accordingly, the publication of the draft laws remains at the discretion of the Ministries. Public institutions and authorities must share up-to-date, as detailed information and documents on their websites. All draft legislations and policy documents prepared by the public institutions must be accessible by all, required mechanisms for the CSOs to provide their opinions should be developed and a sufficient time to respond should be provided.

Regarding access to information, the Right to Information Law lay down some limitations to access to information. The most important problems in the existing legislation is that it gives the public institutions the right not to disclose information if the information requested (1) necessitates additional research and work, (2) is accepted as a “state secret”, (3) would challenge the “national security” or “economic benefits of the country” or (4) is related with the internal operations of the public institution having no public concern dimension. The concepts such as state secret, national security or economic benefits of the country are not defined in the legal framework and hence public institutions are given interpretation authority and discretionary power. In addition to these limitations, discrepancies are observed in the implementation of the Law. In the scope of 2012 Civil Society Monitoring project, access to information applications were submitted to twenty Ministries to understand public sector and CSO relations. Four Ministries out of twenty have not responded to

these inquiries at all. Four Ministries out of sixteen have not provided detailed answer due to the fact that additional research would be needed. Three of the ministries stated they have not formed any relations with CSOs. Amendments to the Law is necessary, specifically regarding limitations and sanctioning to make it binding for state institutions to collect, publish, and disclose necessary information systematically and consistently.

In this regard, it is important to note that in scope of Open Government Partnership Initiative⁵², government of Turkey has committed to publicize all draft legislations on a web platform to enable wide scale consultation. Other web platforms are also among the commitments of the government to increase transparency, accountability and participation.⁵³ However, in the plan proposed by the Government of Turkey, no specific deadline was presented for the actions. Since 2011, no progress has been announced nor visible regarding the web portals committed. In addition, although it is one of the requirements of the Open Government Partnership, no consultation or participation has been sought for in drafting, implementing or monitoring the action plans.

Sub-Area 3.3.: Collaboration in Social Provision

The relevant laws and regulations of Turkish legislation treat CSOs as equal to other legal entities and do not restrict the provision of services by CSOs in various areas in cooperation with the public sector. Yet, the legislation does not include special provisions with respect to service provision by CSOs. Although, CSOs are able to obtain contracts in competition with other providers and engage in provision of various services (e.g., education, environment, research, and training); since there is no practice of promoting the competition the examples of service provision by the civil society remain very limited. There should be special provisions with respect to service agreements of CSOs in the relevant texts.

⁵¹ Good examples mentioned are compiled from nine reports drafted by TUSEV summarizing the 11 local consultation meetings conducted within the Strengthening Civil Society Development and Civil Society-Public Sector Dialogue in Turkey Project. Reports are accessible at www.siviltoplum-kamu.org.

⁵² Open Government Initiative was set up in 2011 and governments of 62 participating countries set up action plans with participation of civil society to undertake reforms to make governments more accountable, transparent, open and responsive to citizens.

⁵³ The action plan of Turkey includes setting up websites including transparency.gov.tr, spending.gov.tr, regulation.gov.tr and electronic public procurement platform. <http://www.opengovpartnership.org/country/turkey>

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

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

There is no regulation specifying the defined procedures for contracting services which allow for transparent selection of CSO to provide services. The procedures with respect to services are regulated under the legislation covers CSOs as well. There is no holistic approach with regard to selection criteria. Yet, in some of the cases price is the lead criterion for selection of service providers but also there are instances that service providers are selected in accordance to their technical capacities. A broad policy document should be drafted with respect to public funding which explicitly define the conditions of selection.

The monitoring and evaluation procedures of service provision are defined in the relevant legislation. This legislation does not include special provisions with respect to CSOs. There is no sufficient data on the quality of monitoring process since the results are not shared with the public. Monitoring and evaluation conditions with respect to service provision should be explicitly defined and shared with the relevant parties ahead of the tendering process.

FINDINGS AND RECOMMENDATIONS (TABULAR)

Area 1: Basic Legal Guarantees of Freedoms			
Sub-area 1.1: Freedom of association			
Principle 1: Freedom of association is guaranteed and exercised freely by everybody			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
All individuals and legal entities can freely establish, join and participate in informal and/or registered organizations offline and online	<p>Legislation:</p> <ol style="list-style-type: none"> 1. There is a legal framework according to which any person can establish associations, foundations and other types of non-profit, non-governmental entities (e.g. non-profit company) for any purpose. 2. The legal framework allows both individual and legal persons to exercise this right without discrimination (age, nationality, legal capacity, gender etc.). 3. Registration is not mandatory, and in cases when organizations decide to register, the registration rules are clearly prescribed and allow for easy, timely and inexpensive registration and appeal process. 4. The law allows for networking among organizations in the countries and abroad without prior notification. 	<p>Legislation:</p> <ul style="list-style-type: none"> • There is a legal framework for establishing associations and foundations. There is no legal framework for establishing other types of organizations such as non-profit companies. • Individuals and legal persons with legal capacity have the right to establish an association without having to obtain any prior approval. However, there are certain restrictions in special laws applicable to the members of the Turkish Armed Forces and police force and the officers in public institutions and organizations who have civil servant status. The law defines the freedom of children under the age of 18 to establish an association pursuant to certain special regulations. There are restrictions applicable to people who are not Turkish citizens. • Registration and application conditions are set out in the laws. Registration is required to operate as a CSO. • The legal framework allows for freedom of international operation for associations and foundations. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The barriers to establishing civil entities in a form other than a legal person (association/foundation) should be lifted and other legal person forms such as platforms, initiatives and social enterprises should be recognized. • Online registration for CSOs should be enabled.
	<p>Practice:</p> <ol style="list-style-type: none"> 1. Every individual or legal entity in practice can form associations, foundations or other non-profit, non-governmental organizations offline or online. 2. Individuals and legal entities are not sanctioned for not-registering their organizations. 3. Registration is truly accessible within the legally prescribed deadlines; authorities decide on cases in a non-subjective and apolitical manner. 4. Individuals and CSOs can form and participate in networks and coalitions, within and outside their home countries. 	<p>Practice:</p> <ul style="list-style-type: none"> • Laws do not allow establishing CSOs online. • Registration is required for operating as a CSO. Operating without a registration is sanctioned. • The registration process and the timeline for registration of associations and foundations are regulated by Law on Associations and Law on Foundations. The timeline for establishing a foundation varies depending on the work load of the courts. • There are no barriers on CSOs' international communication and cooperation; however, regional disparities exist with respect to the frequency of such activities. Foreign foundations/associations are required to get permission for their operations and cooperation in Turkey. 	

Area 1: Basic Legal Guarantees of Freedoms			
Sub-area 1.1: Freedom of association			
Principle 1: Freedom of association is guaranteed and exercised freely by everybody			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
CSOs operate freely without unwarranted state interference in their internal governance and activities	<p>Legislation:</p> <ol style="list-style-type: none"> 1. The legal framework provides guarantees against state interference in internal matters of associations, foundations and other types of non-profit entities. 2. The state provides protection from interference by third parties. 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. 4. Sanctions for breaching legal requirements should be based on applicable legislation and follow the principle of proportionality. 5. 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. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Law on Foundations and Associations provide for audit of associations and foundations to determine whether their activities are in line with the purposes set out in their bylaws. • There is no special provision in this respect. • There is no holistic approach or implementation. Although the applicable legislation gives the authority to prepare special accounting regulations for associations and foundations to the relevant administrative bodies, there is no such special regulation in practice. • Sanctions for breaching legal requirements are regulated under the applicable legislation. • There are specific provisions in the laws with respect to liquidation and dissolution procedures that regulate automatic dissolution, temporary suspension of activities and termination of associations and foundations. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Explicit provisions prohibiting public administration from interfering with the internal matters of associations and foundations should be introduced to the legislation. • The deficiencies in the legislation with respect to the definitions concerning audit and sanctions should be addressed. In order to ensure that the audit is undertaken under equal conditions for all CSOs, the frequency, duration and the scope of the authority granted to the auditors should be explicitly regulated under the applicable legislation. • Special accounting standards should be prepared for CSOs.
	<p>Practice:</p> <ol style="list-style-type: none"> 1. There are no cases of state interference in internal matters of associations, foundations and other types of non-profit entities. 2. There are no practices of invasive oversight which impose burdensome reporting requirements. 3. Sanctions are applied in rare/extreme cases; they are proportional and are subject to a judicial review. 	<p>Practice:</p> <ul style="list-style-type: none"> • There are examples of state interference in internal matters of associations/foundations in practice. • With respect to audit of CSOs that do rights-based activities, there is a problem of unequal treatment of organizations, as the frequency, duration and the scope of audits differ from organization to organization. • With respect to audit and sanctions, regional disparities, disproportionate administrative and judicial practices are observed. Due to lack of defined terms in the applicable legislation certain CSOs are facing sanctions. 	

Area 1: Basic Legal Guarantees of Freedoms			
Sub-area 1.1: Freedom of association			
Principle 1: Freedom of association is guaranteed and exercised freely by everybody			
STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1. Legislation allows CSOs to engage in economic activities. 2. CSOs are allowed to receive foreign funding. 3. CSO are allowed to receive funding from individuals, corporations and other sources. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Relevant provisions of the Turkish Commercial Code and the Foundations Law regulates the economic activities of the CSOs. • Associations and foundations may accept cash and in kind donations from persons, institutions and organizations abroad subject to notification requirements. • Associations and foundations may accept donations and assistance from corporations, individuals and other sources in order to realize the purposes set out in their bylaws/charters. 	<p>Legislation:</p>
	<p>Practice:</p> <ol style="list-style-type: none"> 1. Legislation on CSOs engaging in economic activities is implemented and is not burdensome for CSOs. 2. There are no restrictions (e.g. administrative or financial burden, preapprovals, or channeling such funds via specific bodies) on CSOs to receive foreign funding. 3. Receipt of funding from individuals, corporations and other sources is easy, effective and without any unnecessary cost or administrative burden. 	<p>Practice:</p> <ul style="list-style-type: none"> • Associations and foundations must establish a commercial enterprise in order to carry out revenue generating activities. • Use of foreign funds is not subject to approval; however, must be notified to the relevant authorities. • There is no legal barrier on accepting grants/donations from individuals, corporations and other sources. The legislative framework should be revised to facilitate corporate and individual philanthropy. 	

Area 1: Basic Legal Guarantees of Freedoms			
Sub-area 1.2: Related Freedoms			
Principle 2: Freedoms of assembly and expression are guaranteed to everybody			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
CSO representatives, individually or through their organizations, enjoy freedom of peaceful assembly	<p>Legislation:</p> <ol style="list-style-type: none"> 1. The legal framework is based on international standards and provides the right for freedom of assembly for all without any discrimination. 2. The laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies. 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. 4. Any restriction of the right based on law and prescribed by regulatory authority can be appealed by organizers. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Pursuant to the Constitution, everyone has the right to organize meetings and demonstrations without having to obtain any prior authorization. • Under the applicable legislation meetings and demonstrations must be notified to the relevant civilian authority 48 hours in advance. Right of assembly and demonstration may be restricted by law for national security, public order, and prevention of crime, protection of public moral, public health and the rights and freedoms of others along with restrictions that may apply with respect to a designated site, route and square. • Prior notification is required under all circumstances. • The right of the CSOs to appeal to the prohibitions introduced by the public authority is not regulated in the applicable legislation. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Law on Demonstrations and Meetings should be annulled. A new law which lifts the restrictions on time and space authorization should be made.
	<p>Practice:</p> <ol style="list-style-type: none"> 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. 2. Restrictions are justified with explanations of the reason for each restriction, which is promptly communicated in writing to the organizer to guarantee the possibility of appeal. 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. 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. 5. No excessive use of force is exercised by law enforcement bodies, including preemptive detentions of organizers and participants. 6. Media should have as much access to the assembly as possible. 	<p>Practice:</p> <ul style="list-style-type: none"> • As set out in the 2013 EU Progress Report “Some civil society activities are regulated by restrictive primary and secondary legislation, e.g. limiting the right to publish press statements and requiring advance notification of demonstrations, which are often confined to a limited number of designated sites and dates.” • Article 18 of the Law provides that the postponement and prohibition of an assembly must be notified to the Assembly Organization Committee at least 24 hours in advance. • Spontaneous, unplanned and counter-assemblies are subject to authorization. The Law sets out sanctions applicable to those who prevent the assembly or demonstration and disrupt the peace and quiet. • The instances where the CSOs may exercise their freedom of assembly without prior notification is limited. • There are instances of excessive use of force by the police, including beating, during peaceful demonstrations. According to the 2013 EU Progress Report, “Many court cases were launched against human rights defenders and civil society representatives.” • Media is allowed to attend the assemblies; however, there is no regulation encouraging such attendance. It has been reported that during the Gezi Park protests the journalists were subjected to insults, preventions and even physical violence and the pictures that they took were destroyed. 	<p>Practice:</p> <ul style="list-style-type: none"> • The actual problems in connection with organizing meetings and demonstrations arise in practice. The Law should be annulled and a new law restricting the arbitrary discretion of the administration should be made to provide freedom of assembly.

Area 1: Basic Legal Guarantees of Freedoms			
Sub-area 1.2: Related Freedoms			
Principle 2: Freedoms of assembly and expression are guaranteed to everybody			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
CSO representatives, individually or through their organizations enjoy freedom of expression	<p>Legislation:</p> <ol style="list-style-type: none"> 1. The legal framework provides freedom of expression for all. 2. Restrictions, such as limitation of hate speech, imposed by legislation are clearly prescribed and in line with international law and standards. 3. Libel is a misdemeanor rather than part of the penal code. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Constitution provides for freedom of thought and opinion for all. • Everyone is equal before the law without discrimination based on language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such grounds. The principle of justice and equality before the law is protected under various provisions of the Turkish Criminal Code, genocide is prohibited, discrimination, incitement of the public to hatred and enmity or defamation is considered a crime. • Defamation is generally regulated under the Law on Misdemeanors. There are certain defamation offenses that are within the scope of the Criminal Code. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Legal rules to ensure freedom of expression must be explicitly regulated in the applicable legislation and the limit of interference must be regulated. • A special regulation must be adopted with respect to hate crimes.
	<p>Practice:</p> <ol style="list-style-type: none"> 1. CSO representatives, especially those from human rights and watchdog organizations, enjoy the right to freedom of expression on matters they support and they are critical of. 2. There are no cases of encroachment of the right to freedom of expression for all. 3. There are no cases where individuals, including CSO representatives, would be persecuted for critical speech in public or private. 4. There is no sanction for critical speech, in public or private, under the penal code. 	<p>Practice:</p> <ul style="list-style-type: none"> • Meetings and demonstrations where opinions that criticize the government's policies and practices are among various activities of rights-based organizations. Groups that criticize the status quo are marginalized either verbally or through physical intervention. • Instances where the freedom of expression of human rights activists was violated identified (Amnesty International Annual Report on Turkey 2013). According to Gezi Park Protests report prepared by Amnesty International "...The smashing of Gezi Park protest movement has involved a string of human rights violations include: the wholesale denial of the right to peaceful assembly and violations of the rights to life, liberty and the freedom from torture and other ill-treatment." • There are criminal investigations against civil society due to their non-violent opposing views, critical statements directed at state policies and especially opposing views concerning Kurdish rights and policies, restricting the civil society's freedom of expression. • Instances where journalists, human rights activists, academicians and artists have been prosecuted and put on trial due to their opposing views have been identified. 	<p>Practice:</p>

Area 1: Basic Legal Guarantees of Freedoms			
Sub-area 1.2: Related Freedoms			
Principle 2: Freedoms of assembly and expression are guaranteed to everybody			
STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
Civil society representatives, individually and through their organizations, have the rights to safely receive and impart information through any media	<p>Legislation:</p> <ol style="list-style-type: none"> 1. The legal framework provides the possibility to communicate via and access any source of information, including the Internet and ICT; if there are legal restrictions they are exceptional, limited and based on international human rights law. 2. The legal framework prohibits unjustified monitoring of communication channels, including Internet and ICT, or collecting users' information by the authorities. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Constitution guarantees freedom and privacy of communication for all. However, there are regulations granting public institutions the authority to restrict such right to an extent that would be below the international standards. • Pursuant to the relevant law, unless there is a duly issued judicial decision based on one or more of the following; national security, public order, prevention of crime, protection of public health, public moral or rights and freedoms of others, the communication cannot be prevented or its privacy cannot be violated. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Regulations granting excessive powers to the government in connection with restriction of the right to use the internet should be limited in order to provide freedom of expression. • The definitions of the vague phrases (public health, public moral etc.) used in the law should be clarified.
	<p>Practice:</p> <ol style="list-style-type: none"> 1. There are no cases in practice where restrictions are imposed on accessing any source of information, including the Internet or ICT. 2. The internet is widely accessible and affordable. 3. There is no practice or cases of unjustified monitoring by the authorities of communication channels, including the Internet or ICT, or of collecting users' information. 4. There are no cases of police harassment of members of social networking groups. 	<p>Practice:</p> <ul style="list-style-type: none"> • Internet censorship by the government is common and has increased in the last couple of years. The Law on Regulation of the Publications Made on the Internet and Fight against the Crimes Committed via such Publications (The Law on the Internet) had a significant negative impact on political freedom of expression. Preventing access to the web-sites with opposing views and certain web-sites that had a public benefit blocked the way to reaching alternative views. • Based on the data from 2013, 48.9% of the total population accessed the internet in the last three months. Although the use of internet has increased considerably in the last years, the regional disparities remain. Furthermore, despite decrease in the prices and increase in the bandwidth, due to lack of technological literacy especially among the elderly population, the use of internet remains limited. • The Law on the Internet does not define content crimes well. This in turn is leading to arbitrary practice. • There are no reported illegal threats and pressures to suppress online activists and bloggers based on the data from the first quarters of 2011 and 2012. However, there are practices such as obstructing access to certain CSOs' and social networks' web-sites. "On several occasions, high-level officials criticized the social media as a threat to society. 48 citizens were put in police custody for posting Twitter messages about the Gezi Park protests but released later. (The report of Ombudsman on Gezi Park Protests, 2013). 	<p>Practice:</p> <ul style="list-style-type: none"> • The Law on the Internet needs to be revised in line with European standards.

Area 2: Framework for CSO Financial Viability and Sustainability			
Sub-area 2.1: Tax/fiscal treatment for CSOs and their donors			
Principle 3: Principle: CSOs and donors enjoy favourable tax treatment			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
Tax benefits are available on various income sources of CSOs	<p>Legislation:</p> <ol style="list-style-type: none"> The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs. The law provides tax benefits for economic activities of CSOs. The law provides tax benefits for passive investments of CSOs. The law allows the establishment of and provides tax benefits for endowments. 	<p>Legislation:</p> <ul style="list-style-type: none"> Grants and donations received by the CSOs are tax-exempt. There is no special advantage for economic activities. The commercial enterprises of associations and foundations are treated as business corporations. There is no tax benefit for the income the foundations obtain from securities. Foundations and associations may obtain rent from their real estate, dividend from contribution shares and share certificates, interest over bonds and Turkish Lira and foreign currency investments. Pursuant to the Income Tax Law all of the foregoing revenues are subject to withholding tax to be paid by the payer of the relevant revenue item. The legislation allows the establishment of endowments. CSOs are exempt from Inheritance and Transfer and Corporate Taxes in connection with donations made to their endowments. 	<p>Legislation:</p> <ul style="list-style-type: none"> The scope of tax exemptions should be expanded. Certain exceptions should be defined with respect to the economic activities of CSOs. Taxes applicable to CSOs' passive investments should be removed. The Law on Collection of Aids should be revised so that the existing barriers on collecting donations by foundations and associations are removed. CSOs should freely conduct economic activities without having to set up separate economic entities.
	<p>Practice:</p> <ol style="list-style-type: none"> There is no direct or indirect (hidden) tax on grants reported. Tax benefits for economic activities of CSOs are effective and support the operation of CSOs. Passive investments are utilized by CSOs and no sanctions are applied in doing so. Endowments are established without major procedural difficulties and operated freely, without administrative burden or high financial cost. 	<p>Practice:</p> <ul style="list-style-type: none"> Donations and grants are tax-exempt. Associations' and foundations' donation collection outside of their center and income generating activities are regulated under the Law on Collection of Aids. The aforementioned law subject donation collection to heavy bureaucratic rules and does not promote CSOs financial sustainability. There is no tax exception for economic activities. It is free to make passive investments; however, there are different tax treatments applicable. Establishing an endowment is mandatory for foundations. There is no administrative difficulty in their establishment or operation. The minimum endowment amount for foundations is 16.200 €. 	<p>Practice:</p>

Area 2: Framework for CSO Financial Viability and Sustainability			
Sub-area 2.1: Tax/fiscal treatment for CSOs and their donors			
Principle 3: Principle: CSOs and donors enjoy favourable tax treatment			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
Incentives are provided for individual and corporate giving	<p>Legislation:</p> <ol style="list-style-type: none"> 1. The law provides tax deductions for individual and corporate donations to CSOs. 2. There are clear requirements/conditions for receiving deductible donations and these include a wide range of publicly beneficial activities. 3. State policies regarding corporate social responsibility consider the needs of CSOs and include them in their programs. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Individuals and legal persons receive a 5% tax deduction only when they donate to tax-exempt foundations and associations with public benefit status. There is no tax deduction applicable to individuals who are permanent employees. • The conditions required to be met for a tax deduction are regulated in the legislation. • The state lacks a holistic corporate social responsibility policy or strategy that protects the CSOs' needs. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Tax incentives applicable to donations of institutions and individuals should be increased and such donations should be encouraged. • Regulations ensuring that the donations made by permanent employees are deducted from tax should be introduced. • The scope of organizations that can benefit from tax exemption should be expanded. • Corporate social responsibility policies should be promoted and certain tax exceptions should be introduced.
	<p>Practice:</p> <ol style="list-style-type: none"> 1. There is a functional procedure in place to claim tax deductions for individual and corporate donations. 2. CSOs are partners to the state in promoting CSR. 3. CSOs working in the main areas of public interest, including human rights and watchdog organizations, effectively enjoy tax deductible donations. 	<p>Practice:</p> <ul style="list-style-type: none"> • Tax deduction applicable to individual and corporate donations is limited with having a special status, tax-exempt status (for foundations) and public interest status (for associations), granted by the Council of Ministers. • There is no specific regulation or incentive mechanism with respect to CSR. • Only organizations that have tax-exempt or public interest status may benefit from donations subject to tax deduction. Based on data from the 2012, the rate of foundations with tax-exempt status is 5% and the rate of associations with public interest status is 0.04%. 	<p>Practice:</p>

Area 2: Framework for CSO Financial Viability and Sustainability			
Sub-area 2.2: State support			
Principle 4: State support to CSOs is provided in a transparent way and spent in an accountable manner			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants	<p>Legislation:</p> <ol style="list-style-type: none"> 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. 2. There is a national-level mechanism for distribution of public funds to CSOs. 3. Public funds for CSOs are clearly planned within the state budget. 4. There are clear procedures for CSO participation in all phases of the public funding cycle. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Central Finance and Contracts Unit (CFCU) ensures that the EU administrative procedures pertaining to the grants, works, supplies and procurement of services adhered to in the context of EU funded programs in Turkey. There is no holistic legislation with respect to other state supports. • There is a national unit (CFCU) for EU funds. Other funds are individually distributed through relevant public institutions and ministries. • There is no special state budget for funding CSOs. The Ministries may set aside a budget if authorized by the Law. Lottery proceeds are not allocated to CSOs in Turkey. • There is no special regulation with respect to CSOs' involvement in the distribution of public funds. 	<p>Legislation:</p> <ul style="list-style-type: none"> • A national strategy with respect to public funding and fund distribution should be developed and the applicable legislation should be revised accordingly. • Funds that will be distributed to CSOs should be announced annually. • Fund distribution process should be transparent and open to CSOs' involvement at every stage.
	<p>Practice:</p> <ol style="list-style-type: none"> 1. Available public funding responds to the needs of the CSO sector. 2. There are government bodies with a clear mandate for distribution and/or monitoring of the distribution of state funding. 3. Funding is predictable, not cut drastically from one year to another; and the amount in the budget for CSOs is easy to identify. 4. CSO participation in the public funding cycle is transparent and meaningful. 	<p>Practice:</p> <ul style="list-style-type: none"> • There is no regular and continuous public funding to support the infrastructure and activities of CSOs. There are low-budget funding transferred to CSOs by the Ministries, but such resources remain insufficient. Public funds are allocated to CSOs through Ministries and project partnership mechanisms, and grant allocation or service contracts are used only rarely. • The Ministries distributing the funds are also responsible for monitoring such funds. General budget audit is carried out by the Ministry of Finance. • As the public funds are not distributed in a transparent manner, it is not possible to foresee the funds allocated to CSOs. The determination of the funding amount is at the discretion of the Ministries and may vary from year to year. • Public funds are not distributed in a transparent manner. There are no defined rules setting out CSO involvement. 	<p>Practice:</p>

Area 2: Framework for CSO Financial Viability and Sustainability			
Sub-area 2.2: State support			
Principle 4: State support to CSOs is provided in a transparent way and spent in an accountable manner			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
Public funding is distributed in a prescribed and transparent manner	<p>Legislation:</p> <ol style="list-style-type: none"> 1. The procedure for distribution of public funds is transparent and legally binding. 2. The criteria for selection are clear and published in advance. 3. There are clear procedures addressing issues of conflict of interest in decision-making. 	<p>Legislation:</p> <ul style="list-style-type: none"> • A regulation published based on a Council of Ministers decision regulates the conditions with respect to funding of associations and foundations from public administrations' budgets, conditions for evaluation of funding requests, the use of such funding, principles of monitoring and auditing, administrations' authority to issue regulations and disclosure of funding to public. Relevant ministries have issued directives and regulations in connection with allocation of funding to associations and similar organizations from their budgets, based on the aforementioned regulation. Such ministries have also prepared application guidelines and published the amount of support provided in the last years and the names of the projects that they have supported. Distribution of public funds is left to the discretion of the commissions formed under the relevant Ministries. Commission decisions do not disclose the projects that apply for funding in their entirety or the reasons for selecting the chosen project. • Selection criteria are announced by the Ministries in advance. • There are regulations with respect to disputes arising from selection criteria. However, such procedures vary depending on the relevant Ministry. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Procedure for distribution of public funds should be based on transparent criteria. • CSOs shall have the right to object to disputes that may arise during the selection process.
	<p>Practice:</p> <ol style="list-style-type: none"> 1. Information relating to the procedures for funding and information on funded projects is publicly available. 2. State bodies follow the procedure and apply it in a harmonized way. 3. The application requirements are not too burdensome for CSOs. 4. Decisions on tenders are considered fair and conflict of interest situations are declared in advance. 	<p>Practice:</p> <ul style="list-style-type: none"> • As there are no transparent mechanisms regulating the application for and the process of allocation of public funds and aids to CSOs, most of the time, the Ministries do not set out the total budget, selection criteria and selection conditions for funds and aids allocated to CSOs. There is no common practice for Ministry funds other than EU funding. Furthermore, even when the total budget is announced by the Ministries, detailed information with respect to the allocation of the funding is not shared with public. • Lack of common understanding and practice is observed in connection with provision of financial aid to CSOs by the Ministries. • Application to public funding does not create an additional cost for CSOs. Bureaucratic conditions vary between different funds. • There is no information with respect to the fairness of the tenders. 	<p>Practice:</p>

Area 2: Framework for CSO Financial Viability and Sustainability			
Sub-area 2.2: State support			
Principle 4: State support to CSOs is provided in a transparent way and spent in an accountable manner			
STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
There is a clear system of accountability, monitoring and evaluation of public funding	<p>Legislation:</p> <ol style="list-style-type: none"> 1. The procedure for distribution of public funds prescribes clear measures for accountability, monitoring and evaluation. 2. There are prescribed sanctions for CSOs that misuse funds which are proportional to the violation of procedure. 	<p>Legislation:</p> <ul style="list-style-type: none"> • General principles regarding distribution of public funds, financial accountability, monitoring and evaluation are regulated under the Law No 5018 on Public Finance Management and Control. • The aforementioned law also regulates the sanctions applicable to violation of the procedure. 	<p>Legislation:</p> <ul style="list-style-type: none"> • National rules regarding distribution of public funds must be determined.
	<p>Practice:</p> <ol style="list-style-type: none"> 1. Monitoring is carried out continuously and in accordance with predetermined and objective indicators. 2. Regular evaluation on effects/impact of public funds is carried out by state bodies and is publicly available. 	<p>Practice:</p> <ul style="list-style-type: none"> • There is no data regarding the way the monitoring is carried out. Although there are special Monitoring and Evaluation Units under certain Ministries, the methods adopted and the consequences are not known. • There is no data as to whether the public organizations carry out regular evaluation on effects/impact of public funds. 	<p>Practice:</p>

Area 2: Framework for CSO Financial Viability and Sustainability			
Sub-area 2.2: State support			
Principle 4: State support to CSOs is provided in a transparent way and spent in an accountable manner			
STANDARD 4	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
Non-financial support is available from the state	<p>Legislation:</p> <ol style="list-style-type: none"> 1. Legislation allows state authorities to allocate non-financial support, such as state property, renting space without financial compensation (time bound), free training, consultations and other resources, to CSOs. 2. The non-financial support is provided under clearly prescribed processes, based on objective criteria and does not privilege any group. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Other than pre-determined fund mechanisms, no subsidy, grant or any other resource may be transferred to associations and foundations from the budgets of public institutions and organizations. • There are no well-defined practices. There is no data with respect to favoritism. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Law of the Relations of Associations and Foundations with Public Institutions (No 5072) should be amended and the public's cash and in kind support to the CSOs should be expanded and extended through defined transparent mechanisms.
	<p>Practice:</p> <ol style="list-style-type: none"> 1. CSOs use non-financial state support. 2. CSOs are treated in an equal or more supportive manner compared to other actors when providing state non-financial resources. 3. There are no cases of state authorities granting non-financial support only to CSOs which do not criticize its work; or of cases of depriving critical CSOs of support or otherwise discriminating based on loyalty, political affiliation or other unlawful terms. 	<p>Practice:</p> <ul style="list-style-type: none"> • While the framework Law No. 5072 prohibits public support, there are examples of cooperation between CSOs and certain public institutions based on protocols. Different practices with respect to cooperation between CSOs and local authorities exist. • There is no data on equal treatment. • There is no data on this. Also, there are examples supporting the view that there is discrimination. 	<p>Practice:</p>

Area 2: Framework for CSO Financial Viability and Sustainability			
Sub-area 2.3: Human resources			
Principle 5: State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
CSOs are treated in an equal manner to other employers	Legislation: 1. CSOs are treated in an equal manner to other employers by law and policies.	Legislation: <ul style="list-style-type: none"> CSOs are subject to the Labor Law as is the case in other sectors. There are no special provisions with respect to CSO employees. 	Legislation: <ul style="list-style-type: none"> The statistics with respect to CSOs should be consolidated on a national system.
	Practice: 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.	Practice: <ul style="list-style-type: none"> There is no special employment policy of the state with respect to CSOs. Although there are statistics kept by Department of Associations and the General Directorate of Foundations, it is not known whether such information is entered into the national statistics system. 	Practice:

Area 2: Framework for CSO Financial Viability and Sustainability			
Sub-area 2.3: Human resources			
Principle 5: State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
There are enabling volunteering policies and laws	Legislation: 1. Legislation stimulates volunteering and incorporates best regulatory practices, while at the same time allowing for spontaneous volunteering practices. 2. There are incentives and state supported programs for the development and promotion of volunteering. 3. There are clearly defined contractual relationships and protections covering organized volunteering.	Legislation: <ul style="list-style-type: none"> There is no special legislation and regulation with respect to volunteering. The Ministry of Education promotes classes regarding social responsibility in secondary education institutions. Works regarding volunteering are carried out in community centers. Universities are offering classes on social responsibility. However, there is no holistic state policy. There is no special legislation regulating the relationship between CSOs and the volunteers. It is known that certain CSOs have developed their own volunteering policies. 	Legislation: <ul style="list-style-type: none"> A national definition and strategy should be developed with respect to volunteering. Volunteering policies should be developed within the framework of the abovementioned national definition and strategy.
	Practice: 1. Incentives and programs are transparent and easily available to CSOs and the policy, strategic document or law is being fully implemented, monitored and evaluated periodically in a participatory manner. 2. Administrative procedures for organizers of volunteer activities or volunteers are not complicated and are without any unnecessary costs. 3. Volunteering can take place in any form; there are no cases of complaints of restrictions on volunteering.	Practice: <ul style="list-style-type: none"> There is no specific legislation or a policy document on this issue. There is no specific regulation. It is known that a CSO that works with volunteers has been subject to a significant monetary fine because their volunteers are treated as uninsured workers. 	Practice:

Area 2: Framework for CSO Financial Viability and Sustainability			
Sub-area 2.3: Human resources			
Principle 5: State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs			
STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
The educational system promotes civic engagement	<p>Legislation:</p> <ol style="list-style-type: none"> 1. Non-formal education is promoted through policy/strategy/laws. 2. Civil society-related subjects are included in the official curriculum at all levels of the educational system. 	<p>Legislation:</p> <ul style="list-style-type: none"> • There is no specific regulation. • Topics concerning civil society are not included in the education system in a prevalent and systematic manner. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Subjects relating to civil society should be included in the curriculum and strategy and documents should be prepared with respect to promoting civic engagement through education.
	<p>Practice:</p> <ol style="list-style-type: none"> 1. The educational system includes possibilities for civic engagement in CSOs. 2. Provision of non-formal education by CSOs is recognized. 	<p>Practice:</p> <ul style="list-style-type: none"> • There is no holistic practice. However, there are pilot studies in formal education regarding the adaptation of subjects relating civil society to the formal curriculum within the scope of Democratic Citizenship and Human Rights Education. • Although there is limited number of examples where the CSOs carry out formal education; examples of supporting the formal and non-formal education through instructor trainings and capacity development works are observed. 	<p>Practice:</p>

Area 3: Government – CSO Relationship			
Sub-area 3.1: Framework and practices for cooperation			
Principle 6: There is a strategic approach to furthering state–CSO cooperation and CSO development			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
The State recognize, through policies and strategies, the importance of the development of and cooperation with the sector	<p>Legislation:</p> <ol style="list-style-type: none"> 1. There are strategic documents dealing with the state-CSO relationship and CSDev. 2. The strategic document includes goals and measures as well as funding available and clear allocation of responsibilities (action plans including indicators). 3. The strategic document embraces measures that have been developed in consultation with and/or recommended by CSOs. 	<p>Legislation:</p> <ul style="list-style-type: none"> • There is no general strategy. However, the Regulation on the Procedures and Principles of Legislation Preparation includes provisions that regulate getting the civil society's opinion with respect to a draft prepared by the relevant ministry and the public institutions and organizations before such draft is submitted to the Prime Ministry. Also, the strategy documents of the relevant ministries include provisions such as identifying CSOs operating in the field of activity of the relevant ministry and being open to cooperation as stakeholders. • Although there is no general strategy document, there is a reference to communication and cooperation with respect to shared goals between the public sector and the civil society in the Strategy Plans prepared by the ministries and various organizations in accordance with the Law No 5018 on Public Finance Management and Control. • Although there is no general binding document, certain public institutions consult CSOs when preparing strategic plans. 	<p>Legislation:</p> <ul style="list-style-type: none"> • A principle document setting forth the framework of the civil society-public cooperation should be prepared in a participatory manner. • The strategy document to be prepared should set out mechanisms that meet participatory, transparent and egalitarian criteria that would allow CSOs to provide their opinions.
	<p>Practice:</p> <ol style="list-style-type: none"> 1. CSOs from different areas of interest regularly participate in all phases of the strategic document development, implementation and evaluation. 2. There are examples demonstrating that cooperation between state and CSOs and CSDev is improved and implemented according to or beyond the measures envisaged in the strategic document. 3. The implementation of the strategic document is monitored, evaluated and revised periodically. 4. State policies for cooperation between state and CSOs and CSDev are based on reliable data collected by the national statistics taking into consideration the diversity of the sector. 	<p>Practice:</p> <ul style="list-style-type: none"> • There is no general CSO participation. CSOs are able to get involved in the process by invitation from the relevant public institutions. • Since there is no strategic paper, it is hard to measure the level of cooperation between state and CSOs. • There is no monitoring and evaluation process of the paper since there is no strategic document. In practice different state institutions have monitoring and evaluation procedures which are not transparent. • Department of Associations and the General Directorate of Foundations keep the official statistical data with respect to civil society. However, those data are not taken into account in connection with development of Public-CSO cooperation and are not transferred to national statistics system. 	<p>Practice:</p>

Area 3: Government – CSO Relationship			
Sub-area 3.1: Framework and practices for cooperation			
Principle 6: There is a strategic approach to furthering state-CSO cooperation and CSO development			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1. There is a national level institution or mechanism with a mandate to facilitate cooperation with CSOs (e.g., Unit/Office for cooperation; contact points in ministries; council). 2. There are binding provisions on the involvement of CSOs in the decisions taken by the competent institution or mechanism(s). 	<p>Legislation:</p> <ul style="list-style-type: none"> • There is no national level institution or mechanism. Counseling services are carried out by the Department of Associations and the General Directorate of Foundations. • There is no binding provision. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Relationship with civil society is not an area that the public sector considers strategic. Public institutions that would directly manage the relationship with civil society should be formed.
	<p>Practice:</p> <ol style="list-style-type: none"> 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. 2. CSOs are regularly consulted and involved in processes and decision-making by the competent institution or mechanism(s). 	<p>Practice:</p> <ul style="list-style-type: none"> • There is no special mechanism with respect to Public-CSO relationship within the Department of Associations and the General Directorate of Foundations, which are mainly regulatory and supervisory bodies. • There is no holistic practice as there are no egalitarian, sustainable and accessible mechanisms. 	<p>Practice:</p>

Area 3: Government –CSO Relationship			
Sub-area 3.2: Involvement in policy-and decision-making processes			
Principle 7: CSOs are effectively included in the policy and decision-making process			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner	<p>Legislation:</p> <ol style="list-style-type: none"> 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 fulfill. 2. State policies provide for educational programs/ training for civil servants on CSO involvement in the work of public institutions. 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. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Rules with respect to CSO involvement in decision-making are set out in the Regulation on the Procedures and Principles of Legislation Preparation. As consulting CSOs is not mandatory under the Regulation, involvement of CSOs takes place through invitation and is usually limited with objecting to or approving the decisions. • There is no holistic approach and no regular policies for educational programs/policies. • Individually, there are certain people carrying out cooperation with civil society in certain units of the relevant ministries. Having said that, an expert from the Public Supervisory Institution (Ombudsman) attends to cooperation and coordination with civil society organizations and other requests. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The legislation defining CSO involvement in decision making is not binding on the public. Provisions ensuring civil society participation should be added to the legislation.
	<p>Practice:</p> <ol style="list-style-type: none"> 1. Public institutions routinely invite all interested CSOs to comment on policy/legal initiatives at an early stage. 2. CSOs are provided with adequate information on the content of the draft documents and details of the consultation with sufficient time to respond. 3. Written feedback on the results of consultations is made publicly available by public institutions including reasons why some recommendations were not included. 4. The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/training. 5. Most of the units/officers coordinating and monitoring public consultations are functional and have sufficient capacity. 	<p>Practice:</p> <ul style="list-style-type: none"> • Public-CSO relationships are not continuous and are left to the discretion of the public institutions' decision makers. There are no specific, egalitarian, continuous and accessible mechanisms that regulate CSO involvement in policy making. • The Regulation on the Procedures and Principles of Legislation Preparation states that Professional organizations with public institution status and CSOs should provide their comments on the drafts within thirty days. Otherwise, they are considered to have issued an affirmative opinion. • There is no objective mechanism that sets out the feedback, negotiation and cooperation methods regarding the consultation process. • Various trainings have been provided to civil servants during the preparation process of the strategy documents of the relevant ministries and public institutions. The scope and number of such trainings are unknown. • There is no data to allow for measurement on this point. 	<p>Practice:</p>

Area 3: Government –CSO Relationship			
Sub-area 3.2: Involvement in policy-and decision-making processes			
Principle 7: CSOs are effectively included in the policy and decision-making process			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
All draft policies and laws are easily accessible to the public in a timely manner	<p>Legislation:</p> <ol style="list-style-type: none"> Existing legislation obliges public institutions to make all draft and adopted laws and policies public, and exceptions are clearly defined and in line with international norms and best practices. Clear mechanisms and procedures for access to public information/documents exist. There are clearly prescribed sanctions for civil servants/units for breaching the legal requirements on access to public information. 	<p>Legislation:</p> <ul style="list-style-type: none"> The Regulation on the Procedures and Principles of Legislation Preparation includes provisions setting forth that, in the event that it concerns the general public, drafts may be brought to the general public attention by the relevant ministry through the internet, press or broadcasting in order to inform or take the feedback into account during the opinion evaluation process. Publication of the legislation prepared is at the related public institution's discretion. Under the penal provisions of the Right to Information Law there are sanctions applicable to civil servants and other public officials in the event that they are negligent, at fault or willful in the implementation of the law. 	<p>Legislation:</p> <ul style="list-style-type: none"> All draft legislation and policy documents prepared by the public institutions must be accessible by all, required mechanisms for the CSOs to provide their opinions should be developed and a sufficient time to respond should be provided. The legislation should be more binding in order to be able to solve the problems faced during the implementation of the Right to Information Law.
	<p>Practice:</p> <ol style="list-style-type: none"> Public institutions actively publish draft and adopted laws and policies, unless they are subject to legally prescribed exceptions. Public institutions answer the majority of requests for access to public information within the deadline prescribed by law, in a clear format, provide written explanations on the reasons for refusal, and highlight the right to appeal and the procedure for appealing. Cases of violations of the law are sanctioned. 	<p>Practice:</p> <ul style="list-style-type: none"> Although there is an increase in the number of published drafts, not all drafts are being published. Problems regarding applications made in accordance with the Right to Information Law continue to arise in practice. Common problems that arise often include differences in application procedures; instances where no response is provided within the time period prescribed under the law and questions left unanswered or insufficiently answered on the grounds that additional research is required to respond. Although there are certain initiatives to that effect, there is no data on whether any such sanctions are applied. 	<p>Practice:</p>

Area 3: Government –CSO Relationship			
Sub-area 3.2: Involvement in policy-and decision-making processes			
Principle 7: CSOs are effectively included in the policy and decision-making process			
STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes	<p>Legislation:</p> <ol style="list-style-type: none"> Existing legislation requires public institutions to invite CSO representatives on to different decision-making and/or advisory bodies created by public institutions. There are clear guidelines on how to ensure appropriate representation from civil society, based on transparent and predetermined criteria. 	<p>Legislation:</p> <ul style="list-style-type: none"> CSOs involvement in decision-making process is not required by the existing legislation. There are no defined criteria in the legislation. 	<p>Legislation:</p> <ul style="list-style-type: none"> Provisions with respect to CSOs involvement in the decision-making process should be added to the legislation.
	<p>Practice:</p> <ol style="list-style-type: none"> Decision-making and advisory bodies on issues and policies relevant for civil society generally include CSO representatives. CSO representatives in these bodies are enabled to freely present and defend their positions, without being sanctioned. CSO representatives are selected through selection processes which are considered fair and transparent. 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>Practice:</p> <ul style="list-style-type: none"> Practice varies between public institutions and ministries. Although there is no supportive data, there are examples that support the view on existence of unfavorable examples. There are no objective mechanisms and procedures with respect to the selection processes of the CSOs and their representatives that get involved. Some CSOs mention that depending on the relevant institution, personal relationships may have an impact on the selection process. Although there is no supportive mechanism it is known that there are CSOs that use alternative ways of advocacy. 	<p>Practice:</p>

Area 3: Government –CSO Relationship			
Sub-area 3.3: Collaboration in service provision			
Principle 8: The environment is supportive for CSO involvement in service provision			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>CSOs are engaged in different services and compete for state contracts on an equal basis to other providers</p>	<p>Legislation:</p> <ol style="list-style-type: none"> Existing legislation allows CSOs to provide services in various areas, such as education, healthcare, social services. CSOs have no barriers to providing services that are not defined by law (“additional” services). Existing legislation does not add additional burdensome requirements on CSOs that do not exist for other service providers. 	<p>Legislation:</p> <ul style="list-style-type: none"> Relevant laws and regulations allow CSOs to provide services in various areas in cooperation with the public sector. Provisions in the relevant regulations are binding with respect to the additional services to be provided by CSOs as well. The relevant legislation and regulations do not discriminate between CSOs and other legal entities. 	<p>Legislation:</p> <ul style="list-style-type: none"> There is no special provision in the legislation with respect to service provision by CSOs. CSOs should be identified as participants and special provisions with respect to service agreements of CSOs should be included in the relevant texts.
	<p>Practice:</p> <ol style="list-style-type: none"> CSOs are able to obtain contracts in competition with other providers and are engaged in various services (e.g., education, health, research, and training). CSOs are included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation). When prior registration/licensing is required, the procedure for obtaining it is not overly burdensome. 	<p>Practice:</p> <ul style="list-style-type: none"> Although there are no barriers on CSO competition, as there is no practice of promoting such competition either, examples of service provision by the civil society are limited. Although there are certain examples in practice, there is no general regulation with respect to CSOs involvement to such processes. There is no data 	<p>Practice:</p>

Area 3: Government –CSO Relationship			
Sub-area 3.3: Collaboration in service provision			
Principle 8: The environment is supportive for CSO involvement in service provision			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
The state has committed to funding services and the funding is predictable and available over a longer-term period	Legislation: <ol style="list-style-type: none"> 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. 	Legislation: <ul style="list-style-type: none"> • There is no holistic funding strategy. • There is no legal barrier. • There is no special regulation and a holistic approach. CSOs can sign long- term contract depending on the conditions of the service contract. 	Legislation: <ul style="list-style-type: none"> • A broad policy document should be prepared with respect to public funding and the conditions should be explicitly defined.
	Practice: <ol style="list-style-type: none"> 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 quality of services. 	Practice: <ul style="list-style-type: none"> • Although there are CSOs that provide services, they are very few. • There is no data and probably no holistic implementation. • There is no mass data but there are examples that CSOs face problems regarding payments. 	Practice:

Area 3: Government –CSO Relationship			
Sub-area 3.3: Collaboration in service provision			
Principle 8: The environment is supportive for CSO involvement in service provision			
STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
The state has clearly defined procedures for contracting services which allow for transparent selection of service providers, including CSOs.	Legislation: <ol style="list-style-type: none"> 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 conflicts of interests. 4. There is a right to appeal against competition results. 	Legislation: <ul style="list-style-type: none"> • The procedures with respect to services are regulated under the legislation covers CSOs as well. • There are no common selection criteria for selection of service providers. In some of the cases price is the lead criterion for selection of service providers but also there are instances that service providers are selected in accordance to their technical capacities • Provisions with respect to transparency and conflicts of interests are included in the relevant agreements. • There is a right to appeal against tender results. 	Legislation: <ul style="list-style-type: none"> • Explicit provisions with respect to CSOs, including provisions to avoid conflict of interest, should be added to tender specifications.
	Practice: <ol style="list-style-type: none"> 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. 	Practice: <ul style="list-style-type: none"> • Contracting services to CSOs is not common practice. • There is no data. • Generally, the tender processes are carried out with sufficient capacity. 	Practice:

Area 3: Government –CSO Relationship			
Sub-area 3.3: Collaboration in service provision			
Principle 8: The environment is supportive for CSO involvement in service provision			
STANDARD 4	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>There is a clear system of accountability, monitoring and evaluation of service provision</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1. There is legal possibility for monitoring both spending and the quality of service providers. 2. There are clear quality standards and monitoring procedures for services. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The relevant legislation currently in force and the provisions of the regulations provides for legal monitoring of the quality of the services provided by civil society through a protocol or tender. • Transparency, monitoring and evaluation processes are defined in the relevant legislation. There is no special provision with respect to CSOs in the legislation. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Monitoring and evaluation conditions with respect to service provision should be explicitly defined and shared with the relevant parties ahead of the tendering process.
	<p>Practice:</p> <ol style="list-style-type: none"> 1. CSOs are not subject to excessive control. 2. Monitoring is performed on a regular basis according to pre-announced procedures and criteria. 3. Regular evaluation of quality and effects/impact of services provided is carried out and publicly available. 	<p>Practice:</p> <ul style="list-style-type: none"> • There is no data. • The working of the monitoring process is not known. • There is no data with respect to the quality of the process as the results are not shared with public. 	<p>Practice:</p>

USED RESOURCES AND USEFUL LINKS

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USEFUL LINKS

Civil Society Development Centre (STGM) Website. <http://www.stgm.org.tr/>

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

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

İstanbul Bilgi University. NGO Training and Research Center. <http://stk.bilgi.edu.tr/>

Ministry of Development, Social Support Programme Website. <http://www.sodes.gov.tr/SODES.portal>

The International Center for Non-Profit Law. <http://www.icnl.org/research/monitor/turkey.html>

Transparency International Turkey. http://www.seffaflik.org/index_tr.asp

ANNEX 1

LIST OF NATIONAL ADVISORY MEETING MEMBERS

- Alper Akyüz (Istanbul Bilgi University – NGO Training and Research Center)
- Ayşegül Ekmekçi (Third Sector Foundation of Turkey)
- Başak Tuğsavul (Community Volunteers Foundation)
- Cana Tulus (Istanbul Policy Center)
- Demet Lüküslü (Yeditepe University)
- İnanç Mısırlıoğlu (Third Sector Foundation of Turkey)
- Nafiz Güder (REC Turkey)
- Selen Lermioğlu Yılmaz (Third Sector Foundation of Turkey)
- Semanur Karaman (Third Sector Foundation of Turkey)
- Sevda Kılıçalp Iaconantonio (Third Sector Foundation of Turkey)
- Tevfik Başak Ersen (Third Sector Foundation of Turkey)
- Uğur Elhan (Genç Hayat Foundation)
- Ulaş Tol Yaşama Dair Vakıf (YADA)
- Zeynep Balcıoğlu (Third Sector Foundation of Turkey)
- Zeynep Meydanoğlu (ASHOKA)

LIST OF INTERVIEWEES

- CSO representative - Education field- 08.10.2013
- CSO representative- Social Services- 10.10.2013
- CSO representative- Environmental field – 10.10.2013
- CSO representative- Education field -23.10.2013
- Expert of Environmental CSOs -01.11.2013
- CSO representative- Environmental field- (phone interview) -05.11.2013

ANNEX 2

SUPPLEMENTARY TUSEV RESEARCH

In drafting the Monitoring Matrix on Enabling Environment for Civil Society Development; the data has been collected was supported with the available data produced through TUSEV's different projects conducted in civil society law reform programme area. These data has been collected through extensive field work during 2012-2013

Civil Society- Public Sector Cooperation Project

As part of the project, 11 Local Advisory meetings were held in different cities of Turkey. In these meeting, civil society representatives and experts shared their previous experiences on public sector-civil society dialogue as well as providing feedback on the code of conduct for civil society public dialogue and relations. In total, 150 CSO representatives from 118 different CSOs have been consulted throughout 2012 -2013. Additional information about the project is available at <http://www.tusev.org.tr/en/civil-society-law-reform/civil-society-public-cooperation-project>.

2012 Civil Society Monitoring Report Project

The report was prepared through collecting opinions from more than eighty representatives who actively work in the area of civil society via interviews, e-mails, and phone interviews. TUSEV has also applied to public institutions on the basis of right to Information Act and available data is supported with the media review which has been conducted for a 3 months period. Additional information about the project is available at <http://www.tusev.org.tr/en/research-and-publications/civil-society-monitoring-project/civil-society-monitoring-report-2012>.

2013 New Trends in Civil Society Research

The preliminary findings of this research(unpublished) on the projections regarding "the next 10 years of the civil society" in Turkey was collected through five thematic focus group meeting, desk-research and feedback of six civil society experts.

ANNEX 3

INTERVIEW GUIDE

Civic Engagement to the Educational System

- Does educational system in Turkey promote civic engagement with policies/strategies/ laws?
- Are civil society related issues covered in official curriculum?
- Could you elaborate on the opportunities of CSOs providing formal education?
- How did you design and develop your education programme?
- Could you tell how and when did you start a partnership between Ministry of Education and other formal institutions? Could you explain the specificities of this partnership?
- Do tender agreement or grant agreements define your partnership framework?
- Are there instances of your education programme applied to formal education? Can you share your experiences?
- What are the opportunities /constraints for CSOs provide formal education?
- Could you elaborate on the positive/ negative impact of CSO's providing formal education?

CSO involvement in service provision

- In which fields does your institution involve in service provision?
- Which law/regulations does apply in your service provision?
- What are the preconditions for being eligible to bidding in tender?
- Are there clearly defined procedures for contracting services which allow for transparent selection of service providers including CSOs?
- Does legal framework allow fair competition with businesses in bidding to tenders?
- Are CSOs included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation)?

- Do you sign long-term contracts for the provision of services?
- Do you receive sufficient funding to cover the basic costs of the services including proportionate institutional (overhead) costs?
- Are there delays in payments?
- Is there opportunities to use funding in a flexible way with the aim of providing the best quality of services?
- Are there clear guidelines to ensure transparency (e.g. Access to guidelines) ? How do you follow call for tenders?
- Based on your experiences, what is the lead criterion in selection of service providers? (Price, quality of service, experience of service provider, financial situation of competitors)?

- Is there right of avoidance to results of biddings?
- Could you assess the technical capacities of the civil servants (their knowledge on the contracting services to CSOs? Could you share our experiences?

Conclusion

- There is worldwide trend that CSOs become service providers in the areas such as social help, health and education. Could you elaborate on the situation in Turkey?
- Could you elaborate on the positive/negative impact of CSO's providing services in their field of expertise?

ANNEX 4

TURKEY PROFILE: ECONOMIC, POLITICAL AND SOCIAL INDICATORS

UN Humanitarian Development Report 2013	Score: 0.722/1 Rank: 90 (Among 187 countries)
Freedom House World Freedom Report 2014	Status: Partly Free Freedom ranking: 3,5/7 Civil liberties: 4/7 Political rights: 3/7 (1 = BEST, 7 = WORST)
Freedom House Freedom on the Net Report 2013	Status: Partly Free Score: 49 (0 = BEST, 100 = WORST) Obstacles to Access (0-25) : 12 Limits on Content (0-35): 18 Violations of User Rights (0-40): 19
Freedom House Freedom of the Press Report 2013	Status: Partly Free Score: 56 (0 = Best, 100 = Worst) Legal Environment: 21 (0 = Best, 30 = Worst) Political Environment: 24 (0 = Best, 40 = Worst) Economic Environment: 11 (0 = Best, 30 = Worst)
Reporters without Borders . World Press Freedom Index 2014	Rank: 154 (Among 180 countries)
International Transparency Organization - Corruption Perceptions Index 2013	Rank: 53 (Among 177 countries)
CAF- World Giving Index 2013	Rank:128 (Among 135 countries) Donating Money: 13% Volunteering time rate: 5% Helping a stranger rate: 34%
Hudson Institute Philanthropic Freedom Index 2013	Score: 3.1 (Best:1 Worst:5)
Social Watch Basic Capabilities Index 2011	Score: 94/100
Social Watch the 2012 gender equity index	Score: 0.45 (Best:1)
Bertelsmann Stiftung's Transformation Index (BTI) 2014	Status Index (1-10) : 7.51 Rank: 20 Political Transformation (1-10) : 7.55 Rank: 26 Economic Transformation (1-10) : 7.46 Rank: 22 Management Index (1-10) : 6.66 Rank: 14 (Among 129 countries)

2013 WORLD BANK DATA	
Capital	Ankara
Official Language	Turkish
Population, 2012	74.000 million
GDP, 2012	789.3 billion dollars
GNI per capita, Atlas method (current US\$)	\$10,830
Life expectancy at birth, total (years)	75
Poverty headcount ratio at national poverty line (% of population)	18.1%

CIVICUS CIVIL SOCIETY INDEX (CSI)	
Key data on Civil Society	
CSI Scores	Total Score: 46,5
	Citizen Participation: 31,4
	Level of Organization: 54,6
	Application of Values: 48,98
	Perception of Effect: 40,2
	Setting: 57,6
Rank: 29 (Among 33 countries)	
Interpersonal Trust	4,8%
CSO network membership	41,1%
Political activities	50,4%

TÜSEV was established by Turkey's leading civil society organizations, and has now grown to a supporting network of over 100 associations and foundations that share a vision of strengthening the legal, fiscal and operational infrastructure of the third (non-profit) sector in Turkey. TÜSEV has been contributing to improving civil society laws, generating research about the sector, and encouraging dialogue and cooperation among private, public and non-profit actors since 1993.



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