

BALKAN CIVIL SOCIETY DEVELOPMENT NETWORK



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

Monitoring Matrix on Enabling Environment for Civil Society Development -Montenegro Report-



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I. Executive Summary

1. Civil Society and Civil Society Development in Montenegro

The **legislative and institutional framework** relevant to CSOs has undergone important changes in the past few years. The Law on NGO has been adopted in July 2011 and it recognizes NGOs as non-governmental associations and foundations. By this Law, CSOs possess freedoms and legal guarantees necessary to function according to their organizational goals, without any obstructions or institutional interference. Those freedoms include freedom of expression and assembly, which are closely regulated by related laws.

Apart from the Law on NGO two regulations concerning CSO participation in decision making process have been adopted. In addition, couple of strategic documents have been adopted such as Strategy for the development of NGO 2014-2016 and Strategy for cooperation of Government of Montenegro and NGO. Regarding institutional changes there have been formed two bodies: Council for Cooperation of Government and NGO and Office for Cooperation of Government and NGO.

However, despite these legislative and institutional changes, there are still certain, systematic and patterned limitations and obstructions when it comes to freedom of speech, especially in regard to those having critical attitude towards authorities.

When it comes to *financial aspect*, it is evident that this is the area with the most urgent need for improvements. The biggest problem of CSOs is their financial instability and dependence of periodical funding sources. There are certain tax reliefs for CSOs, including those that conduct economic activity. But tax policies are not encouraging for individual or corporate giving, neither for corporative social responsibility. *State funding is being implemented by the principles which are inconsistent with the law. Financial means allocated to the CSOs from state budget have been constantly reduced. Legal preconditions for the application of the Law on NGO have not yet been met, even though the Law was adopted in 2011.*

Legal framework is not encouraging the practice running business in accordance with the principles of corporate social responsibility. It is important to make an effort in order to promote principles of CSR and corporative philanthropy and those efforts should be made by state authorities, but also by CSOs.

Regarding **human resources**, CSOs are treated as any other employers. The Law on **volunteering** has been adopted. However, it does not coincide with the volunteering in practice.

In the past period, two strategic documents have been adopted: **Strategy for the development of NGO 2014-2016** along with its Action plan as well as **Strategy for cooperation between Government of Montenegro and non-governmental organizations**. It is encouraging that



measures foreseen by the Strategy and its Action plan largely coincide with our recommendations that are presented in this report. Two decrees that legally regulate CSO participation in decision-making process have been adopted. CSOs representatives are members of working groups as part of accession negotiations with the EU. **This indicates that legal and institutional improvements have been made, but further effort is needed in order to make this more efficient in practice.** In addition, it is necessary to regulate the area of **service provision** and make this practice more common, since currently, its potentials are only being used by few organizations.

It can be noted that there has been made certain improvement when it comes to providing legal and institutional framework for CSOs functioning. ***However, more effort should be invested in making those new regulations and shapes of cooperation efficient in practice.*** *It must be widely accepted that it is not enough that legal regulation has been adopted, but it is essential to provide mechanisms that will ensure its implementation in practice as well as to define system of sanctions which will be used in case these regulations have not been respected.* The situation is similar when it comes to bodies formed aiming to strengthen cooperation of Government and CSOs- it is not sufficient for those only to be legally formed, but it is needed to provide mechanisms for their effective and independent work in practice. It is crucial that state authorities become more open towards cooperation with CSOs as well as to change unbinding nature of legal framework that defines cooperation with CSOs.

2. Key Findings

Law on NGO has been adopted in July 2011. It creates basic **legal framework** for free and undisturbed functioning of CSOs. It is in accordance with international standards. The Law prescribes that CSOs must register in order to have the legal status. Law prescribes deadlines and registration procedures. There are no sanctions in case organization does not register and one can act as civil initiative or informal group of citizens without prior registering. The Law has generally been obeyed, but some organizations, that participated in our survey, have experienced longer period of waiting for the decision on registration, than it is defined by the Law. In practice, Register of CSO, which is led by Ministry of Interior, provides basic information on CSOs available to interested public, but it does not contain contact information..

Legislation allows CSOs to be funded by foreign institutions and organizations, domestic legal and private individuals as well as corporations. Non-governmental organizations can directly engage in economic activity specified in the statute if they are registered in the Central register held by Commercial Court.

Law provides basic legal guarantees of freedom of expression, assembly and gathering of information.

The Constitution of Montenegro guarantees **freedom of peaceful assembly**, without a permit, subject to prior notification to the competent authority. Freedom of assembly may be temporarily



restricted by the decision of the competent authority for the prevention of disorder or crime, protection of health or morals or for the protection of people and property in accordance with law. Organizations from our survey, that have organized peaceful gatherings have not been faced with restrictions. Several organizations have stated that in the event of a counter protest they weren't protected by police. Several organizations organized a gathering without prior notice to state authorities.

In regard to the freedom of expression, even though there are legal preconditions for free exercise of this freedom, there are cases of systematic obstructions in this regard, especially manifested in consequences for those expressing critically towards authorities which has been case with few organizations included in our survey. There is also a number of organizations which have been subject of unannounced work inspections and police investigations due to the anonymous and unfounded accusations. These procedures would stay open for months, putting direct pressure on the organizations.

CSOs are subject of the same provisions of the Value Added Tax (currently paid at the standard rate of 19%). Organizations conducting economic activities, are tax exempt up to certain amount of profit.

When it comes to financing, it is evident that there is urgent need for improvements. Legal regulations on financing of CSOs are not being respected. According to the Law on NGO, the annual Law on Budget of Montenegro should provide funds for the projects and programs in the areas of public interest, carried out by NGOs. A distribution of funds should be carried out by the Commission composed of representatives of NGOs and state bodies, established by the Government. **However, Government failed to ensure preconditions for implementation of the Law in the field of funding of CSOs projects and programs** and the current situation of state support is the following:

The government has, in accordance with the *process of centralization of CSO financing*, abolished the possibility that the ministries distribute funds for NGO projects from their budget lines. Minority Fund, Commission for distribution of funds to NGOs established by the Parliament and the Commission for the allocation of revenue from the games on chance, which all allocate funds to CSOs, are still positioned in the budget, but *not complying with the Law on NGO*. According to the process of centralization of CSO funding, **funds should be awarded on the basis of decisions of centralized, for that purpose established Commission, which has not been formed yet. Currently, the biggest part of state funding to CSOs is being decided on by the Commission for the allocation of revenue from the games on chance. This process is also followed by the lack of meeting legal regulations, in the area of the amount of money allocated to CSOs.** In addition, this kind of fund allocation means that decisions on supported projects are also being made by that commission. It means that all members make decisions even on those projects that are not part of their field of action. Also, this kind of funds allocation makes process of monitoring and evaluation less effective. The practice has shown that on-going evaluation during the implementation of the projects funded by the Commission is



not frequent. According to the legal regulations, Commission is obliged to evaluate implemented projects based on final narrative and financial reports and based on the direct visit in the premises of the organizations for those projects that are awarded by 30 000 euros or more. However, having in mind large number of projects awarded with financial means and the capacities of the Commission, it is clear that the process of evaluation can not be in sufficient measure thorough.

The funding of CSOs at the local level is characterized by under clearly defined terms for a public announcement and the lack of clear criteria. Some local governments, due to the budget deficit, do not distribute funds to CSOs, regardless of the adopted budget decision.

Generally, there is declining trend of the amount of funds provided by state budget to CSOs in past three years. For example, in 2010, the amount allocated for NGOs from the state budget was around 4 million euros. In 2012 and 2013, this amount was nearly 2 million euros. ***It is the only budget item that has been reduced by 50% within one year.***

Regarding **volunteering policies**, new Law on volunteering has been made and it regulates volunteering on the basis of contractual relationship which is not in accordance of the practice used by CSOs and volunteers. The Law prescribes different benefits for those performing volunteer work, which is commendable. However, those benefits are available to those who volunteer based on signed contracts with the CSOs (and other entities). The situation shows that those are rare cases and that most of the volunteer actions are spontaneous and are not followed by contractual relations.

In order to improve **cooperation between Government and CSOs**, two separate governmental bodies have been created: the Office for Cooperation with NGOs and the Council for Cooperation between the Government of Montenegro and NGO. The Office for Cooperation with NGO lacks the institutional independence and does not operate as a separate government authority, but as part of General Secretariat. Council for the cooperation also does not have institutional and financial independence. However, they both provide significant contribution for creation of enabling environment for CSOs in the country, participating in drafting all public policies related to the improvement of position of CSOs. *In addition, two decrees that legally regulate CSO participation in decision-making process have been adopted, but they are not being fully respected in practice.*

In regard to **service provision**, the Law on Public Administration offers the possibility of the transfer of certain obligations of state authorities to other entities. The law does not define in detail the manner in which these obligations are assigned, but points out that it is possible to enable it with separate laws and regulations of the Government. In practice, there are several cases of cooperation between Government and CSOs in regard to service provision, but this possibility is still not used in sufficient amount. *The state did not clearly defined procedures for contracting services which allow transparent selection of service providers, including CSOs.*



No	6 key findings	Reference	
1	Law on NGOs, as well as other related legislative, create basic legal framework for free functioning of CSOs.	Area	1
		Sub-area	1.1
2	There are cases of organizations facing consequences for expressing their critical attitude towards authorities and being exposed to different kinds of pressure	Area	1
		Sub-area	1.2
3	There is non-efficient financial state support for CSOs.	Area	2
		Sub-area	2.2
4	The Law on Volunteering is not in accordance with the situation in practice.	Area	2
		Sub-area	2.3
5	Mechanisms created for improving cooperation between government and CSOs are not using their full potentials.	Area	3
		Sub-area	3.1
6	There is no CSOs participation in providing state services in sufficient level.	Area	3
		Sub-area	3.2

3. Key Policy Recommendations

Although the **legislative framework** has been improved, it is necessary to continue with constant monitoring of the implementation of regulations defining and affecting the functioning of CSOs in the country. Process of monitoring is needed in order to examine the actual applicability of legal regulations, identify possible problems and in accordance with that- to constantly improve regulations in order to create more enabling environment for CSOs.

It is necessary to terminate the situation where CSOs are facing different kinds of consequences for expressing their critical attitude toward authorities. It is not enough that there is existing legal framework for freedom of expression, but also its necessary that there are no any kind of restrictions or pressures for acting according to that frame.

In order to create more favorable environment for the functioning of CSOs, the problem of **financing** needs to be targeted as urgent as possible. This is especially concerning the state support to CSOs. Currently existing state support system which is supposed to be moving towards centralized one has shown as ineffective. Changes of the law on NGO, in area of financing, need to be done, in order to overcome the legal vacuum in this area. As decision-makers in this area, concretely Ministry of finance did not provide conditions for the implementation of centralized model of financing, nor there is political will to do so, it is needed to change the system into the one that will combine "centralized" and "decentralized" model. That way, there will be greater control over the whole process because the allocation will be done by one intersectoral commission, with the help of independent evaluators. On the other side, there is possibility that

the ministries allocate certain funds. Due to the fact that ministries are executors of the policy, they are well acquainted with various areas as well as CSO activities in their field, knowing their needs and capacities. Also, it would leave more space for cooperation during the implementation of the project as well as makes monitoring and evaluation more available, easy and concrete.

Law on the games on chance, regarding the amount of revenue from the games on chance that will be used for CSOs funding, needs to be adapted and fully respected.

Although Law on **volunteering** has been adopted there is still dissaccordance with the situation in practise. Since the volunteering is mostly done spontaneously, without any contractual relation there has to be found a way of acknowledging this kind of volunteering and giving it necessary importance. Volunteering needs to be defined in the sense of acknowledging its core value and that is voluntary contribution to the community, rather than presenting it as a complicated contractual relation defined by restrictions and obligations.

In order to improve results of the **cooperation** embodied in the work of the Office for Cooperation it is necessary to provide it with institutional and financial independence as to be able to do recruiting and employing staff. As Council for Cooperation between Government of Montenegro and non-governmental organizations has faced with expiration of its term, the ongoing process of forming Council for development of NGO needs to be provided with financial independence right from its start.

What is further needed to be improved is the practice of Government delegating the **service provision** to CSOs in certain fields. There are numerous CSOs, especially on the local level, which are specialized in service provision and have long and rich experience in the respected field. The knowledge and experience gained trough the long working period can and needs to be used in the providing services for the Montenegrin public in cooperation with Government and under its protection. The experience in concrete field and the special sensitivity for the respected target groups developed trough the previous work needs to be recognized by the state authorities and used in order to provide higher quality services for the public.

No	6 RECOMMENDATIONS	Reference	
1	Agree and adopt all relevant legislation regarding CSOs functioning.	Area	1
		Sub-area	1.1
2	Come to an end of the practice where CSOs are facing different kinds of consequences for expressing their critical attitudes towards authorities	Area	1
		Sub-area	1.2.
3	Regulate state financing of NGOs	Area	2
		Sub-area	2.2
4	Find way to agree Law on volunteering with the situation in practice.	Area	2



		Sub-area	2.3
5	Provide institutional and financial independence of Office for Cooperation and Council for Cooperation between Government of Montenegro and CSOs.	Area	3
		Sub-area	3.1
6	Regulate the role of CSOs involvement in service provision	Area	3
		Sub-area	3.2

4. About the project and the Matrix

This Monitoring Report is part of the activities of the “Balkan Civil Society Acquis-Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs” project funded by the EU and the Balkan Trust for Democracy (BTD). This Monitoring Report is the first of this kind to be published on a yearly basis for at least the 48-month duration of the project. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev) developed by BCSDN and ECNL. It is part of a series of country reports covering 8 countries in the Western Balkans and Turkey¹. A region Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area.

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 level of legal framework and practical application.

¹ Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

II. Introduction

1. About the Monitoring Report

This **Monitoring Report** aims to present the state of existing environment for the functioning of CSOs. It deals with both legislative and situation in practice. The data for this report have been collected through the detailed analysis of all relevant legal and strategic documents as well as the reports done by respectable organizations and institutions. In addition, for the needs of this report we have conducted survey among Montenegrin CSOs which gave us concrete data on the functioning of CSOs and difficulties they have met through their work. In the following part, the general state of the CSOs development will be described, including number of CSOs, fields of their action, data on funding sources. That is followed by detailed description of the methodological approach used in preparing this report, including obstacles we have met during the process.

Part III of the Report brings the core description of the CSO development environment divided into three sections. It brings all relevant details regarding legal and institutional framework for CSOs functioning, its models of financing as well as the forms of cooperation with the Government. Every section is divided into sub-areas that are consisted of key findings we came to during our analysis and recommendations we believe will help to improve general situation. Both findings and recommendations include legislative and practical review.

In the previous part, titled Executive summary, there is systematized version of Part III, concentrated only at most important findings and recommendations, giving the general view of the CSOs environment.

The last part of the report is presenting documents that have been addressed while writing the report.

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.¹

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country reports covering 8 countries in the Western Balkans and Turkey². 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 will be 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.

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

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

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

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

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

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

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

According to the Registry of NGO, as of September 2013, there are **2716 registered CSOs** in Montenegro. This number includes both associations and foundations. Out of 2716, there are 2534 associations and 182 foundations. Geographically, the largest number of non-governmental organizations has headquarters in the central region of the country. In particular, most of the

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



CSOs, 1069, is headquartered in Podgorica, while 257 CSOs have headquarters in Nikšić, followed by Bar with 150 CSOs and Bijelo Polje with 144 CSOs. The smallest number of organizations have headquarters in municipalities Plužine (10) and Šavnik (6).

There are no certain criteria that differentiate active and “passive” CSOs. However, there is a data obtained by Tax Administration stating that in 2013, 954 CSOs submitted their financial reports. *This means that this number of CSOs definitely fulfills their legal obligation and this data may serve as an indicator for determining the number of active CSOs in the country.* It is especially indicative when we take under consideration that that number in 2010 was 933.

According to the Registry of NGO, these organizations are active in different fields, but mostly in culture (487), youth issues (230), agriculture and rural development (226), CSO development (205) and social and health care (198).

Most of Montenegrin CSOs are municipally based and their actions are concentrated at local level. Limitations of their field of action are mostly caused by their financial dependence, which leads to the fact that only small number of CSOs has continuous activities. These CSOs are mostly depending on state funding support or support from the local budget which are both decreasing from year to year. Furthermore, these organizations lack strategic development approach. However, local CSOs still play important role in development of local communities and there is a need for ensuring their financial viability.

When it comes to national level, situation is somewhat better, since there is a certain number of well-established organizations, which, thanks to almost constant funding from abroad, manage to provide quality services to the public, influence public policies and have certain impact to the work of the Government. These organizations are operating in the following areas: human rights, anti-corruption, rights of disabled people, LGBT issues, civil society development, non-formal education, EU affairs, social protection, and public procurement.

Main factors which affect CSO development are political structures, donors, media, public and its perception of CSO, but also CSOs on their own in the context of their openness for cooperation.

When it comes to the **political structures**, the most relevant ones are Government, local governments and Parliament, given the fact that they mostly create institutional and legal framework for CSO activities, but also they have their share in financing of CSO projects and programs. At this part, we will only note their importance, since their role will be elaborated in detail in the specific part of this report.

Donors, domestic and foreign, have crucial influence on the CSOs. In this area it is evident that the state funding is constantly being reduced, while foreign, especially EU funds often stay unavailable for CSO because of the lack of their technical, expert and human capacities to



participate in the competition for this kind of allocations. On the other side, there is low culture of philanthropy as well as social responsibility of enterprises.

An important factor in creating enabling environment for CSO, which is in the hands of organizations themselves, is **cooperation between CSOs**. In case of Montenegro, cooperation is not frequent enough and it often cedes its place to the competition between organizations. Having a glance at the previous work of CSO, it can be noted that organizations had greater influence when in a coalition or network, than when acting individually. However, the success of several networks created in the previous period had not served as an example for other CSOs and did not result in higher level of cooperation. This, however, does not affect the very good results several ad-hoc **coalitions** have had in their concrete tasks and activities. One of those is "By Cooperation Towards a Goal" which had great success in monitoring the process of accession negotiations. The Coalition has produced three documents, and also campaigned for their adoption. The Coalition submitted Proposed amendments to the Action Plan for monitoring implementation of recommendations from the European Commission's Opinion (indicators of cooperation of the Government of Montenegro and NGOs) in January 2011. Based on these initiatives, Union of Municipalities and the Ministry of Interior have prepared models of five municipal regulations to improve the position of NGOs at the local level.

Other examples of national coalitions and networks of CSOs are Roma Coalition, Coalition for the rights of LGBT, Natura-Coalition of environmental NGOs, CSO Network for Democracy and Human Rights.

Speaking of **public perception** of CSOs and their work, it can be concluded that Montenegrin citizens generally have sympathy over CSO. With several public campaigns which became widely present in everyday life, concrete activities that included citizens (such as Pride parade organized in two Montenegrin cities and students protests led by several student NGOs which resulted in few compromises by Government and building a new student dormitory) , but as well with often demands and suggestions towards authorities, CSO managed to position themselves as true representatives of the community.

At the end of the introductory part it is important to mention that Montenegrin civil society has improved quality of its projects which chronologically coincides with the start of accession negotiation with the EU. Availability of the IPA funds significantly increased successfulness of Montenegrin CSOs and has strengthened their capacities.

4. Specific features and challenges in applying the Matrix in Montenegro

One of the obstacles encountered during preparation for this report is the lack of timely and concrete cooperation with state authorities. This comment is related to the questionnaires sent to the organs of state authorities, of which most of them stayed without concrete feedback upon the moment of writing and concluding this report. Only seven ministries answered to the questionnaire, mostly stating that they did not provide financial support to the CSO. Although the questionnaire also included non-financial support as well as other forms of cooperation with



CSO, most of the ministries did not provide data regarding these areas either. Only Ministry of Economy and Ministry of Education provided data on the forms of non-financial support to the CSOs.

5. Acknowledgements and thanks

We would like to give thanks to CSOs and state authorities which took part in the preparation of the report and by their answers and information provided increased quality and credibility of our report.

III. Methodology

1. Overview of the methodological approach

Methodology used in writing this report included two main approaches. One was detailed analysis of legal and institutional framework concerning CSO. The other one was survey conducted among non-governmental organizations and state bodies.

Some of the areas of the report are regulated by the general principles stated in the Constitution. Our target document was The Law on NGO, which defines mainframe for most of the standards covered by the report. Apart from the Law, different Law analysis made by legal experts were used in order to find possible regulations which may be subject of different interpretations and therefore require more clear and precise formulation. This methodological approach was mostly used while defining findings and recommendations in legislation area.

Apart from laws and regulations, the research included other documents relevant to the field such as Strategies, Action Plans, reports etc.

Development of civil society sector is one of the topics of the EU negotiation chapter 23 (Judicial Reform and Human Rights). CRNVO is member of the CSO coalition which follows progress in this area. This process of monitoring resulted in document called "Situation Report in the area of Judicial Reform and Human Rights (Chapter 23) in Montenegro in the period from 10 October 2012 to 1 October 2013" which served as a very important source of data when it comes to description of current situation in CSO sector along with it's flaws and improvements made during the negotiation period.

Other methodological tool used to gather empirical data is survey conducted among Montenegrin non-governmental organizations. This method is broadly explained in the next chapter and it is concerned with direct participation of CSOs.

2. Participation of the CSO community

Other methodological tool used to gather empirical data is survey conducted among Montenegrin non-governmental organizations. Survey included questions relevant to all fields covered by the report, such as process of founding and registering organizations, financing, cooperation with the Government, freedom of assembly and expression and others. Although it was not possible to get feedback from all CSOs to which questionnaires were sent, data collected from the survey were quite indicative and by a pattern, and therefore it can be expected that other organizations had similar experiences. What is also important is that

gathered information come from CSOs which act in different fields and on different levels (local, national, international), have different financial amounts at their disposal and have different target groups. Most of the answers were followed by concrete examples, therefore apart from quantitative data, there are also qualitative analysis included. Also, our survey targeted those organizations that are participating in the policy making process and that are active when it comes on commenting Governments work.

3. Lessons-learnt

One of the main positive aspects of this methodology is a two- way approach which provides data needed to analyze both legislation and its application in practice. Based on the analysis of legal and institutional framework, main problems and uncertainties when it comes to defining rules for CSO and possibilities for its development were defined. On the other side, empirical data collected from desk research made possible insight into the application of previously analyzed legislation. Therefore, recommendations were defined based on the concrete experiences and problems CSOs have dealt with in their work.

What can be defined as the lack of the methodological approach is not having information provided by state authorities as it has already been mentioned above. On the other side, this can be seen as an indicator of lower level of cooperation and clearly shows us that this is the area that needs to be improved. It was expected that, according to the process of centralization of financing of CSO (which will be elaborated in the section 2.2), most Ministries will have no actual data on the financial means allocated to CSOs, due to the lack of those. But the lack of data provided on the non-financial support and other means of cooperation with CSOs can indicate two things: either there is evident lack of that kind of cooperation, or there is lack of data and statistics regard that matter and lack of state authorities readiness to share those data, which in both cases should be changed.

IV. Findings and Recommendations

Area 1: Basic Legal Guarantees of Freedoms

Law on NGO is mostly in accordance with international standards. This Law is in accordance with Convention of Human Rights of the Council of Europe as well as with Recommendation of the Committee of Ministers to member states in regard to the legal status of NGOs which defines rules about status and action of NGOs. In addition, the Law is in accordance with Art. 15 of the UN Convention on the Rights of the Child given the fact that, unlike previous one, allows individuals age of 14 to be founders of NGOs, within the rules Law regulates in that case.

Organizations will acquire legal status only after registration in which is process under the jurisdiction of Ministry of Interior. Law does not prescribe sanctions in case organizations act without prior registering. Organizations which choose not to register may still act as informal group of citizens, initiatives or similar structures, but without having the legal status. That way, Law decriminalizes informal associations (those that operate without legal status), which is in accordance with Article 11 of the European Convention on Human Rights, which guarantees freedom for both formal and informal associations.

Online Register, available to the public, does not contain contact information, which is especially important having in mind that the Registry is the closest to the official CSO statistics that exists currently. Also, the fact gains on its importance knowing that there is a large number of small, locally oriented CSOs that do not have their own web sites where they could publish their contact information.

Organization may be established by at least 3 people, one of whom must have citizenship or domicile in Montenegro. This solution not only that is in accordance with good practice, but it is above standards prescribed by European Convention, because it allows that other founders are individuals who are not under jurisdiction of Montenegro. Person in charge to represent organization must be a permanent or temporary resident of Montenegro. As far as networking with organizations from country and abroad, Law does not impose specific rules, and CSOs use this opportunity in practice.

According to our survey conducted among Montenegrin CSOs, most of them find founding and registration process clear and not complicated. Some of the organizations, however, stated that they had problems in the registering process, since the authorities asked them for additional information which is not in accordance with given regulations. In addition, few organizations identified the problem of long period of waiting for the decision on Registration. Registration

period prescribed by Law is 10 days upon the application, but some organizations have experienced waiting up to one month.

Sub-area 1.1: Freedom of association

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

The minimum amount of prescribed penalties is in dispute, since it does not guarantee that it will follow the principle of proportionality in each of the cases especially when it concerns small associations with minimal property. In such cases, the imposition of even minimal sanctions prescribed by Law may result in termination of the organization.

According to data collected through our survey, Montenegrin government does not have tendency to interfere in internal affairs of non-governmental organizations since 97% of organizations included in our survey stated that the government did not interfere in the work of their organization. When it comes to organizations being exposed to the pressure, given answers were slightly different. Nine organizations stated that they were sometimes under pressure during their work, and that was mostly related to the critical attitude those CSOs had towards authorities. There is number of organizations which have been subject of unannounced work inspections and police investigations due to the anonymous and unfounded accusations. These procedures would stay open for months, putting direct pressure on the organizations. When it comes to sanctions, most of the organizations which were subjected to the sanctions finds them inadequate and financially disproportionate, although we must take under consideration the small number of organizations which had experience with this kind of restrictions.

When it comes to seeking and securing financial means to support its activities, Montenegrin CSOs can acquire the property from membership fees, donations, gifts, grants, bequests, interest on deposits, dividends, rents, income and economic activity in a way that is not contrary to the law. They can also directly engage in economic activities specified in the statute, if they are registered in the Company Register. There are very concrete regulations regarding CSOs' economic activities, starting from the annual income limit, which is set to 4000 Euros, to restrictions in case that limit is exceeded, to regulations about the money above the limit which is



set to be allocated to the state budget. The money earned by conducting economic activity can only be used for the purposes of achieving goals of the organization.

Participants in the survey did not have any complaints about the state rules and environment when it comes to financial support from abroad. Over 80% of organizations stated that they had no problems with obtaining funds from abroad in the context of state regulations. Also, most of the organizations funded by private sources stated that they had no administrative restrictions or difficulties while obtaining funds.

Recommendations:

- Continue with constant monitoring of the implementation of regulations defining and affecting the functioning of CSOs in the country. Process of monitoring is needed in order to examine the actual applicability of legal regulations, identify possible problems and in accordance with that- to constantly improve regulations in order to create more enabling environment for CSOs.
- Internet Registry should contain more information about organizations, for example contact information;
- Revise regulations on the amount of sanctions;
- Revise regulations regarding limitations in conducting economic activities, in order to create more favorable conditions for the practice of service provision.

Sub-area 1.2: Related-freedoms

The area which concerns the right of free assembly is mainly regulated by the Constitution and the Law on Public Assembly which **guarantees freedom of peaceful assembly**, without a permit, subject to prior notification to the competent authority. This freedom may be temporarily restricted by the decision of the competent authority for the prevention of disorder or crime, protection of health or morals or for the protection of people and property in accordance with law. *According to the results of our survey, organizations that organized peaceful gatherings have not been faced with restrictions* and several organizations organized a gathering without prior notice to the state authorities. *However, several organizations have stated that in the event of a counter protest they weren't protected by the police.* State Departments' Human Rights Report states that, according to an NGO, Police rejected 59 applications for permissions to assemble in 2012.

When it comes to freedom of assembly, it is important to mention assemblies organized by NGOs dealing with protection and promotion of LGBT rights. In July, LGBT Forum Progres organized first pride parade in Montenegro. Estimated number of participants was 80, while the estimated number of those organizing counter- assembly was 500. Around 450 policeman protected the participants. In August, Police announced that they charged 32 individuals for violating peace and order during the parade, a misdemeanor. LGBT Progres stated that the number should have been significantly higher.



Second pride parade in Montenegro, and first in the capital, Podgorica, was organized in October by NGO Queer Montenegro. Approximately 150 participants were protected by 2 000 policeman. This time 1 500 people gathered to protest against the Pride, and 60 persons were arrested.

By the Constitution, everyone has the right to freedom of expression. It can be limited only by the other persons' right to dignity, reputation and honor, and if it threatens public morality or security of Montenegro. Out of organizations included in our survey, 5 organizations stated that they have experienced restrictions in this area, and those organizations that have been expressing critical attitude towards authorities, stated that they have met consequences for doing so.

Especially organizations dealing with LGBT rights had problems concerning expressing their attitudes, or better said, with consequences which followed their public presence. Not rarely, those consequences included safety treats and both mental and physical harassment. Members of LGBT forum Progres stated that their former leader needed to seek an asylum in foreign country because state authorities failed to give him necessary protection from different threats he was exposed to due to his appearances in public and fighting for rights of LGBT people.

In Montenegro, the defamation is decriminalized. According to the analyzed material of civil society organizations, courts apply the practice of the European Court for Human Rights and the guidelines of the Supreme Court of Montenegro when defining the compensation of non-pecuniary damage in procedures related to the freedom of expression.

State Departments' Human rights report on Montenegro states that the media were covering the story of Minister of Interior ordered urgent internal inspection of the Special Investigation Unit within the criminal Police Department in order to examine the leads which were showing that the Police was illegally monitoring journalist, opposition figures and NGOs for more than two years. The investigation showed no irregularities, but the head of the Special Investigation Unit was replaced. The Report further states that although law requires ANB (Agency for National Security) to obtain court authorization for wiretaps, the authorities engaged in un-authorized wiretapping of opposition members, NGOs, international community and other groups.

Regarding CSO freedoms and possibilities to access to information, the implementation of the new Law on Free Access to Information has started, which resulted in limited improvement in this area. The Law, however is not in accordance with other relevant laws, such as Law on Classified Information. Also, the Law on the Free Access to Information started with the implementation. NGOs widely use the possibility of asking for information from authorities, using this tool. In this practice, there is often situation of not meeting legally prescribed deadlines for answering to the requests. Persons whose request were denied have the possibility of filing complaint to the Agency for Protection of Personal information. According to the State Departments' Human Rights report, from March to October the Agency received 403 complaints and accepted 295 for review. But, there are no mechanisms of complaint in case when certain information is labeled as secret. According to the State Department Human Rights Report some NGOs stated that their requests often went unanswered.



When it comes to receiving information through different media, it is evident that there are no restrictions in using various sources including internet tools. *Here it's also important to mention that there is increasing practice of publishing documents and decisions on-line by state and local authorities. However, that is still not on satisfying level because there is still bigger number of those state bodies that do not publish their annual working plans and reports on their web presentations.* In year 2012, 14 out of 30 state organs published their annual working plan and 22 out of 51 organs published their annual reports on their web presentation.

Although there are no restrictions to the use of internet, some NGOs, at it is stated in the State Department Human Rights Report, alleged that police was unlawfully collecting data from citizens phones and internet usage.

Montenegro is the only candidate country for EU membership, which has included representatives of civil society in the working groups for preparation of negotiations.

Inclusion of NGO representatives in the working group for the preparation of EU negotiations has shown as an good practice, but in order for this practice to be more effective, rules regarding informing the public about the process of work within working groups ought to be changed. Art. 13 of the Rules of Procedure of the Working Group states that the work of the working group can be made public by the Chief Negotiator, Secretary of the Negotiating Group, a member of the Negotiating Group and Head of the Working Group. This way CSOs are restricted in informing those groups that they are representing and whose interests they are advocating for about th work of the working group. Not to mention the lack of transparency which should be one of the main principles in the whole integration process.

Recommendations:

- Come to an end of the practice where CSOs are facing different kinds of consequences for expressing their critical attitudes towards authorities
- Work on further promotion of LGBT rights in order to avoid violent counter protest during Pride parade
- Modify the Rules of Procedure of working groups in order to provide space for CSO representatives to inform the public about the work of the working group;
- Harmonize the Law on Free Access to Information with the Law of Confidentiality of Information;
- Improve the level of respecting the legally prescribed deadlines in answering to the requests for free access to information



- Provide legal mechanisms of complaint in case certain information is labeled as secret and therefore not provided according to the request.

Area 2: Framework for CSO Financial Viability and Sustainability

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

The state provides certain financial support to non-governmental organizations as well as regulates tax benefits in accordance with the law.

The provisions of the new Law specify that only economic activity of the CSO is entered in the Central register held by Commercial Court, rather than the organization itself in order to avoid interpretations whether it needs to be registered as a company or established as a new legal entity or not.

CSOs do not pay income tax in case they are by the separate Law founded in order to conduct non-profit activity.

CSOs, as legal entities that are register to conduct economic activity, the tax base is reduced to the amount of 4 000 euros, provided that the profit is used to achieve objectives for which the organization was established.

Services of public interests are exempt form VAT. That includes services provided by CSOs established in a accordance with regulations governing functioning of those organizations, and provided that there is no threat that the exemption will lead to the distortion of competition

The Law on Income Tax stipulates that expenditure on health, education, sports, culture and environmental protection purposes are recognized as expenses up to 3.5% of total revenue. A similar provision is contained in the Law on Corporate Income Tax. However, this does not mean that the entities which donate money to CSO in this area, will be exempt from taxes. This kind of regulation is not encouraging enterprises and individuals to donate money to CSOs.

There are no tax benefits for those enterprises which perform corporate social responsibility, neither for those that donate money in the area of public interest.

The culture of giving and **corporate social responsibility is not being encouraged**, despite the amendment of the Law on Corporate Income Tax Law. *The provision of legal and natural persons-taxpayers in the area of human rights are not recognized as an expense, although human rights are recognized as a fundamental constitutional value.* There are no concrete data regarding CSR when it comes to the specific amounts donated to CSOs by companies. There have been, however, couple of researches and studies which mere mostly concerned with general opinions on CSR and companies readiness to cooperate with CSO. Those researches indicate that the most common form of cooperation between enterprises and CSOs is



sponsorship or donations in money or goods. **But they all indisputably show that the culture of CSR and corporate philanthropy is on very low level.**

Recommendations:

- Introduce tax benefits for those that donate money for the purposes of achieving goals of public interest, including donations to CSOs.
- **Expand narrowly defined range of activities of public interest** and make changes to the Law on Profit Tax, to extend the range of activities of public interest, to fully use the potential for the development of philanthropy in Montenegro.
- **Promote culture of corporate giving and corporate social responsibility.** Develop the Analysis of the legal framework for the promotion of a culture of giving of enterprises (corporate philanthropy), and the development and changes to existing regulations in line with the analysis. In addition, changes have to be made in the tax laws in terms of concept of public interest activities agreed with the appropriate provisions of the CSOs in order to fully realize the potential for the development of philanthropy in Montenegro.

Sub-area 2.2: State support

This is probably the part of the report that will be analyzed in most details, since in this area lays the core problem of the Montenegrin CSOs. Not only that CSOs are not sufficiently financially supported from the state, but the state has shown constant practice in failing to provide to CSOs what is envisaged to them by the Law. In addition, state did not harmonize all relevant law regulations in regard to CSO financing.

According to the Law on NGOs, the annual Law on Budget of Montenegro should provide funds for the projects and programs in the areas of public interest, carried out by NGOs. A distribution of funds should be carried out by the Commission composed of representatives of NGOs and state bodies, established by the Government. **However, Government failed to ensure preconditions for implementation of the Law in the field of funding of CSO projects and programs.**

Unlike previous one, the new Law prescribes possibility of financial support of not only projects, but also programs of CSOs in the sense of financing of long-terms plans and development of the organization.

The Law specifically defines the rules of state budgeting and the existence of national bodies that allocate funds. The key failure, which also impedes the cooperation between the Government and CSOs at a general level is the inconsistent application of the Law on non-governmental organizations in the area of financial support from the state to CSO projects. Even nearly two years after the adoption of the Law, all bylaws have not been enacted which shall specify the new process of financing of CSO projects from the state budget established by the Law on NGO.



In this way, the funds from the budget for project funding to CSOs continue to be allocated according to existing models, which lack transparency, compliance with regulations and procedures, monitoring and evaluation of projects, which is just why the changes to the process were announced.

According to its practice **towards centralization of CSOs funding from state budget**, the government didn't leave the possibility that the ministries distribute funds for CSO projects from their budget lines. Minority Fund³ and the Commission for the allocation of revenue from the games on chance are still positioned in the budget, but not complying with the Law on NGO. The process of centralization was supposed to lead to the creation of one special Commission which would decide and allocate all funds to CSOs. The Commission has not yet been formed and other two bodies are available for the CSOs to apply for grants.

	2010	2011	2012	2013
Total allocations for NGOs planned by budget	4,721,991	3,078,028	2,338,164	1,546,886
Current budget of Montenegro	649,752,299	631,608,828	605,567,483	599,870,760
%	0.73	0.49	0.39	0.26

During the 2012, state bodies, from their budget lines, allocated around 175,000.00 euros, mainly based on the application of CSOs as well as assistance to organizations, and after assessing the feasibility of projects and programs for which assistance is requested. In the first six months of 2013, this amount was **52.349.000** euros. There are no written criteria for these kind of allocations and they are being performed in non-transparent matter. **This amount significantly decreased in past three years. For example, the amount allocated from state bodies to NGOs in 2011 was 1,2 million €, and in 2010 1,8 million €. This decrease is in accordance with the process of centralization of CSO financing.**

³ Minority Fund is funded by the state and it provides funds for organizations and other forms of association of national minorities. Budget of the Fund is decided at at least 0.15% of the total budget assets. Funds are allocated in accordance with the participation of minorities in the population structure of Montenegro.

The Commission for the allocation of revenue from the games on chance

*The Commission for the allocation of revenue from the games on chance is providing funds for projects of CSOs in 6 areas: 1) social welfare and humanitarian activities; 2) meeting the needs of persons with disabilities; 3) the development of sport; 4) culture and technical culture; 5) non-institutional education 6) contribution to the fight against drugs and all forms of addiction. **This is how the biggest part of state financial support to CSOs is being allocated.** This Commission is composed of 15 members, out of whom 7 are CSO representatives, and 7 are coming from relevant ministries. The president of the Commission is representative of the Ministry of Labor and Social Welfare. Funds are distributed according to clear criteria available to the public. Commission made all granted project available on their web site integrally. In 2012, Commission engaged audit company to conduct financial audit to certain number of project supported from this fund. Results of the audit have shown that the largest number of funds were spent according to rules. But, there have been examples of not spending funds according to the contract. The punishment for these organizations (2 CSOs, 1 media and 1 public institution) is that those cannot apply for the same fund in next four years.*

The fund of revenue from the games of chance represents the only ensured fund for CSO projects. This makes CSOs, especially those locally-oriented, very much depending of this fund and this fact affect the work of many NGOs that are not dealing with issues relevant for the 6 areas. For example, significant number of NGOs in Montenegro are dealing with environmental protection that is not covered by this fund. The same is with human rights, civil society development, volunteering etc.

The legal basis for distribution of funds of revenue from the games of chance is set in the Law on Games of Chance. According to this Law, Government should provide 60% of the total revenues to the fund that is at a disposal of the Commission for the allocation of revenue from the games on chance. Furthermore, the Law envisages that not less than 75% out of this 60% should be distributed to CSO projects in the above-mentioned 6 areas. The rest of 25% is allocated to public institutions. ***From year to year, Government is not providing 60% of the real revenues from the games of chance to this fund, showing the amount of the revenues much lower than it really is.*** With a simple check in the Law of the Final budget account, it is clear that, at least in past three years, revenues were much higher than planned in the budget. **Because of this, in 2012, instead of allocating 4.184.843 € to this fund, the total amount was 2.508.507. which is 1.676.336 € less than it should have been allocated according to the Law. The similar situation was in 2011, where the difference was also above million euros- 1.298.451.78.**

It is important to mention that, not only that the centralization process has not been fully implemented, according to the Law, but there are serious flaws of this kind of system. And it's successfulness is doubted even if it would be implemented to it's fullest extent. According to the process of centralization of CSOs funding, funds are awarded on the basis of decisions of centralized, specially formed body which lacks concrete knowledge and understanding for the needs of specific fields. Just to serve as a reminder, before the process of centralization, Ministries were those who were allocating funds to CSOs, from their



budget lines, based on the decisions of the expert commissions formed for that purpose, composed of people working in the relevant field. **In addition, this kind of centralized allocation of funds makes process of monitoring and evaluation less effective.** The practice has shown that on-going evaluation during the implementation of the projects funded by the Commission is not frequent. According to the legal regulations, Commission is obliged to evaluate implemented projects based on final narrative and financial reports and based on the direct visit in the premises of the organizations for those projects that are awarded by 30 000 euros or more. However, having in mind large number of projects awarded with financial means and the capacities of the Commission, it is clear that the process of evaluation can not be in sufficient measure thorough.

Financing of NGOs from the part of the revenues from games of chance:

2011: 1.747.012,43 euros

2012: 1.768.259,20 euros

Parliamentary Commission

This Commission is consisted of Parliament members and political parties representatives. In practice it allocates from 500 to 3500 euros per project. **Work of this Commission has been characterized by not meeting deadlines defined by the law, allocating less funds that it has been planned and lack of transparency and clear criteria when it comes to choosing projects which are to be funded.** This Commission does not sign contracts with the organizations which have been awarded with the funds and therefore there is no monitoring on the use of funds. **The Commission has not allocated funds for the year of 2012 and 2013 due to it's voluntary self-disbanding and the amount planned by the Law on budget was around 560 000 euros.**

Since the Law on NGO entered into force, the funds belonging to Parliament Commission haven't been distributed even though its mandate was extended until the election of "central" commission under this Law (Article 44, paragraph 2 of the Act). Parliamentary Commission concluded that its existence is no longer necessary since the new, central commission is going to be formed and it ended its term. Since then, we have paradox situation where every year which is characterized by allocating financial means to the "Commission for allocation of funds to NGO" in the annual Law on Budget of Montenegro. It is not specified whether that is Parliamentary commission or the new, centralized one. But the bottom line is that the means are planned for allocation to the commission that it does not exist, first one has ended its term, and second one has not yet been formed. The amount of undistributed money, which was planned by the budget is: for year 2011- 200 000 euros, 2012- 200 000 euros, 2013- 160 000 euros. In the Law on Budget of Montenegro for 2014, that amount is 90 000 euros.



Minority Fund through its call for project proposals allocated 500 000 euros until September 2013. However, Minority Fund does not necessarily allocate money to CSO, but also to other entities as well as individuals.

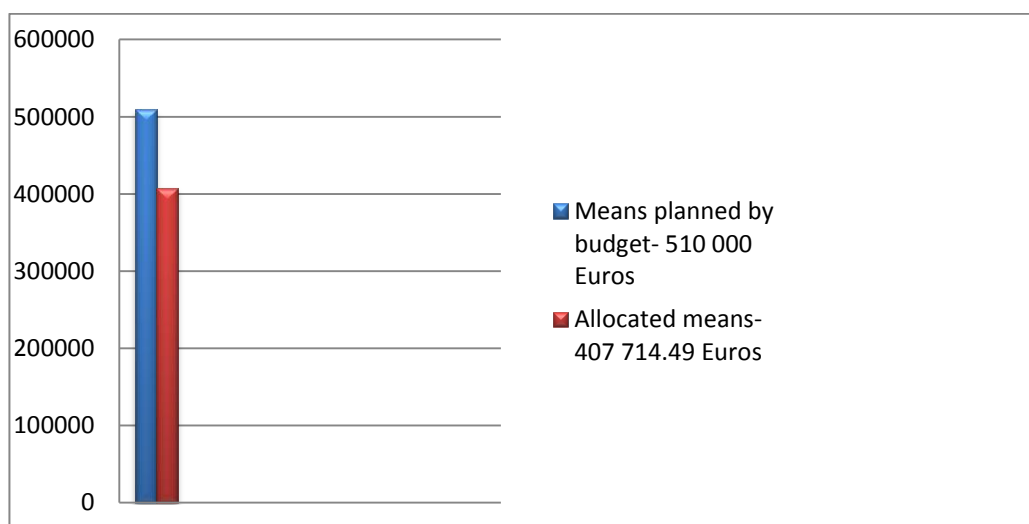
Funding from local governments

The legal basis for the allocation of funds to NGOs by local governments is contained in Article 116 of the Law on Local Self-Government, which stipulates that cooperation between local governments and CSOs, including financing of CSO projects, is defined under conditions and procedures prescribed by the general act of the municipality.

Some local governments, due to the budget deficit, do not distribute funds to NGOs, regardless of the adopted budget decision / decisions on amendments to the budget decision, but that the amount of funds distributed to the largest number of local governments is lower than the budget planned amount. The money is also being awarded to CSO organizations by the other legal basis, such as the independent decision of the Mayor. This practice is sometimes being abused since there are no regulations that require explicit explanation for this kind of allocation.

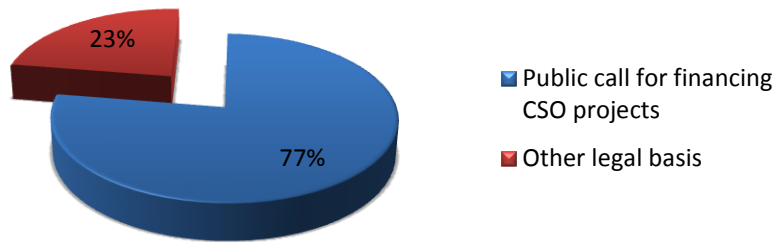
The funding of CSOs at the local level is characterized by a high degree of discretion due to the lack of clear criteria, and the fact that the funds are not only awarded to NGOs, but also to other civil society actors.

In the year 2013 the amount planned to be distributed by local authorities to CSOs was 510 000 euros, while the actual amount allocated by the December 1st 2013 was 407 714, 49 euros.



As it is above mentioned there are two ways of allocating funds from budgets of local municipalities. First one is according to the publically published competition, according to which, in the year 2013 has been allocated 313 909, 85 euros. Based on other legal basis, the amount of 93 804 euros has been awarded to CSOs.

Funds allocated by:



The total amount allocated to NGO projects is higher compared to 2012., when it stood at 199 179.42, but is still far from the amount that was allocated to CSOs by 2010 when amounts ranged from 800 000 to € 900 000. All this suggests that government policy towards CSOs in the context of funding by government at the national level is being directly transferred to local governments. This policy means a continuous decrease in funding for CSOs, which will undoubtedly lead to the closure of a large number of organizations.

Procedures for monitoring of project implementation and reporting have not been developed, or are not sufficiently developed, and monitoring is mostly limited to review of reports submitted, requesting additional clarification regarding individual segments of the report. Non-governmental organizations (47 % of them) said they did not receive any monitoring by the competent authority regard public finances, and 34% percent of the organization said the monitoring was exerted.

But, the Commission for the Allocation of Funds from Games of Chance stated that some NGOs that received Funds did not use them in legally prescribed manner and in accordance with their project needs. During last year, for NGOs were obliged to give back the money obtained from the Fund, due to the improper spending. That amounted in approximately 10 000 euros.

As far as the **non-financial support to CSOs** is concerned, the law allows state authorities to grant non-financial support to CSOs, such as state assets, the renting of space without financial compensation (to a certain limit), free training, consultation and other resources. Report on cooperation between ministries / state authorities and NGOs in 2012, shows that, at the level of individual examples, there have been cases that the ministry has given way to the use of their space-boardroom for the meetings. **In addition to this, there is no greater example of non-material support.**

Recommendations:

When it comes to recommendations, our main ones relate to the amount and the mode of financing of CSOs from the stated budget.

As decision-makers in this area, concretely, Ministry of finance did not provide conditions for the implementation of centralized model of financing, nor there is political will to do so, it is needed to change the system into the one that will combine ``centralized`` and ``decentralized`` model. That way, there will be greater control over the whole process because the allocation will be done by one inter-sectoral commission, with the help of independent evaluators. On the other side, there is possibility that the ministries allocate certain funds. Due to the fact that ministries are executors of the policy, they are well acquainted with various areas as well as CSO activities in their field, which means that they are familiar with the situation and needs in that relevant need, with the concrete and expert knowledge on the topic.

When it comes to the amount of means allocated to CSOs it is essential that The Law on games of Chance is being respected in this area and that all the money prescribed to the CSOs by this Law, actually goes to the budget of the Commission for the allocation of revenue from the games on chance. State practice of allocating lesser funds for CSOs that it is actually provided by the Law needs to be put to an end.

- Adopt all laws for undisturbed implementation of the Law on NGOs, particularly in the area of finance;
- Harmonize the Minority Fund, and the Commission for the allocation of revenues from games of chance with the Law on NGO;
- Establish a model which is combination of "centralized" and "decentralized"
- Involve external evaluators in the process of evaluation of CSO projects and programs;
- Increase the transparency of the allocation of public funds;
- Increase the transparency on the reporting and supervision of the projects for which the funds are allocated;
- Provide effective system of evaluation of projects funded from public funds;
- Increase transparency and efficiency of the work of local commissions for distribution of funds from local budgets (make all supported projects available integrally, create monitoring plans for monitoring of supported project, conduct audit of the projects);
- Provide mechanisms for effective control of funds allocated from local budgets, but based on the on other legal basis, apart from the public call for proposals, such as the decision of the Mayer. This process, especially wide used in some municipalities, needs higher level of



transparency. One of the possible solutions would be to set the maximum amount of money that can be allocated this way without the written explanations and all amounts above that would need specific clarification of the criteria based on which the money has been awarded;

- Define a transparent process and criteria for using the space and property (decommissioned office furniture and equipment written-off vehicles, etc.) owned by the state that are not in use, by CSOs. This would significantly help CSOs in financial sense, especially to those without constant funding.

Sub-area 2.3: Human resources

Laws and regulations and internal procedures of public authorities, are not specifically covered by the issue of statistics and records relating to non-governmental organizations. **The lack of official statistics on employees and volunteers**, income (donations from domestic and foreign sources, economic activities, membership fees, etc.) for the offices, technical facilities still remains a problem. This deficiency has the effect shortness of planning and consideration of future directions of CSO development as well as the support provided by state agencies and local governments should provide to CSOs.

The Law treats CSOs equally as other employers. National and local programs regarding employment are available to CSOs as to state bodies and private enterprises. *There are no statistics done by Institute for Employment regarding employees in CSOs.* Since CSOs are treated as any other employees, they are also obliged to enter into a contract of work on indefinite period with employees who have been working in the organization more than 2 years. Also, there is provision that, in case of termination of employment without the consent of the employee, the employers, in this case CSO needs to pay him off 6 gross earnings. Having in mind that CSOs are funded according to the projects, with no constant sources of income, these provisions may be a possible treat to the work of CSOs.

The Law on Volunteering defines a number of institutes and issues relevant to the volunteerism: the definition of volunteers, their rights and obligations, the definition of the organizers of volunteer work, rights and obligations, the definition of user voluntary services, mandatory elements of the volunteering, international volunteering, development and monitoring of volunteerism, etc.

Law on volunteering treats volunteering as a special form of labor-law relations, rather than voluntary, private citizens' initiative. The law prohibits employees and minors under 15 years of age to volunteer even in cases where the action is organized by school or other academic institutions and it is the function of the education of children. It is necessary to start making a new law that will fully correspond to the nature of volunteerism as a voluntary citizens' initiative. **Existing Law defines contractual relationships and protections covering organized volunteering. However, practice shows that this has not been fully accepted by volunteers**



or CSOs and that the most common form of volunteering is spontaneous and not followed by a contract or any kind of contractual relation. The Law prescribes different benefits for those performing volunteer work, which is commendable. *However, those benefits are available to those who volunteer based on signed contracts with the CSOs (and other entities).* The situation shows that those are rare cases and that most of the volunteer actions are spontaneous and are not followed by contractual relations. The law bureaucratizes and complicates the process of volunteering, rather than promoting like one of the key ways of contributing to the community.

The Action plan for chapter 23 has foreseen creation of the new Law on volunteering “with the aim of creating enabling environment for civil activism and sustainability of CSOs”. This activity is planned for year 2014.

Educational system did not fully incorporate CSOs potentials in non-formal education and promotion of volunteerism. The Ministry of Education has adopted Guidelines on criteria and procedure for approving the programs and projects of NGOs. *There are occasional programs of non-formal education conducted by different CSOs in Montenegrin schools, but those programs are only periodical and depending on concrete projects of CSOs and their limited funding and duration.*

Recommendations:

- *Provide necessary **statistics** of employees and volunteers in civil sector.*
- *Find way for the Law on volunteering and volunteering in practice be more in **accordance**.* Volunteers who dedicate their time and efforts to different activities that contribute to the public good need to be adequately rewarded for that, same as those who do the same and define it by a contract, especially having in mind that the second practice is far less frequent;
- The government, through the ministry in cooperation with other state authorities, based on the existing regulations in this area should consult with CSOs and through the creation of an enabling environment should facilitate their involvement in the official system of education.. *Providing of constant **programs of non-formal education in Montenegrin schools**, as part of the cooperation between the Ministry of Education and relevant CSOs would be a serious asset to the educational system;*
- It is necessary that the authorities continually communicate and collaborate with CSOs dealing with non-formal education, especially in the area of civic education, human and minority rights, civil society development, and other areas relevant to the development of individuals and society as a whole.

Area 3: Government – CSO Relationship

Sub-area 3.1: Framework and practices for cooperation

In an effort to further improve cooperation with NGOs, the Government has in 2009 adopted the, "*Strategy for Cooperation between the Government of Montenegro and NGOs*" with the implementation of the Action Plan for the period 2009-2011. **Implementation of the Strategy for Cooperation of the Government of Montenegro and non-governmental organizations and the implementation of its Action Plan for the period 2009 to 2011 resulted in a significantly higher level of cooperation in both directions**, and the raise of awareness of the need for cooperation and different, but complementary, roles of government and CSOs have in a pluralistic democratic society. In July 2012, the Government, at the proposal of the Council for Cooperation between the Government and NGOs, adopted the Report on the Implementation of the Action Plan for the Strategy on Cooperation between the Government of Montenegro and NGOs for the period 2009 - 2011 and concluded that it was necessary to prepare a new strategic document (Strategy and Action Plan for the period 2013-2015) that would treat the development of non-governmental organizations in Montenegro.

On this occasion, it was noted that the **Action Plan was**, despite a significant delay in the implementation and displacement limits, **largely realized**:

- Completed 20 of 29 measures, which includes **68, 97%** of the planned activities,
- Partially completed 7 measures, or **24.14%** of the planned activities,
- Two measures were not implemented, or **6, 90%** of the planned activities.

One of two unrealized commitments is very important, it was related to the culture of giving, incentive and corporate social responsibility through amending the tax on legal entities, while the second concerned the establishment of a "line" databases in the organs, in conjunction with the central database in the Office , noting that the respective authorities keep records of CSOs active in the field of their work.

Partially implemented measures were related to the introduction of cooperation with NGOs in the job description for public officials as part of the systematization, increasing the number of employees in the Office and defining its jurisdiction, the establishment of a central database of NGOs in the Office, the inclusion of NGOs in translating AQ's , and the accessibility of the state administration premises to persons with disabilities.

However, the most important is that the "core" activities – measures which aim to improve the legislative and institutional framework were implemented (adopted Law on NGOs, completed analysis of regulation and financing models, set up an e-register of CSOs, adopted Regulation on the procedure for cooperation between the bodies of state administration and NGOs, adopted decision on forming of the Council for cooperation of the Government and NGOs, etc.).

Strategy for Development of NGO for the time period of 2014-2016 and the Action Plan for the same period has been adopted in December 2013. This strategic document has embraced

measures that have been developed in consultations with CSOs. Which is important to mention in regard to the process of creation of the Strategy is that 8 % of organizations that participated in our survey have participated in all the phases of the document preparation and 37% have been informed about it, but didn't participate. *However, it can be stated that there were no formal obstacles for CSOs to be involved in process of creating the document.*

It is encouraging that there are similar perceptions of problematic situations by Government and by the civil sector. That can be concluded by the list of actions foreseen by Action plan for the development of the Strategy. It is somewhat satisfying that our recommendations largely coincide with the measures planned by Action plan. Government recognized the need of strengthening capacities of Council and the Office, clarifying the role of contact persons as well as establishing efficient framework for the financing of CSOs from the state budget. Measures foreseen for achieving planned results are concrete, imply inclusion of CSO representatives and are planned for the period of 2014-2016, with the note that measures aimed at strengthening financial sustainability of CSOs are planned to be carried out through 2014.

In order to strengthen cooperation and partnership with CSOs, the Government has formed two separate bodies in 2011: the Office for Cooperation with NGOs and the Council for Cooperation between the Government of Montenegro and NGOs. The Office, which has been involved in the development of almost all regulations and documents relating to CSOs, and which coordinated the development of the Strategy for Cooperation of the Government of Montenegro and NGOs, is faced with problems that are primarily related to the "modest" jurisdiction, as a result of its dependent position- The Office is organizational segment of the General Secretariat. On the other hand, there are high expectations from the Office for Cooperation between Government and NGOs, which exceeds its current jurisdiction, personnel and financial capacities. The Office does not have a sufficient number of employees and no separate budget, which significantly affects the quality and pace of its work, especially given the additional burden and new responsibilities of the Office in connection with the performance of technical and administrative tasks for the Council for Cooperation with NGOs.

Council for Cooperation between the Government of Montenegro and non-governmental organization was established by the Government of Montenegro in January 2011, and it consists of the President and 24 members (12 representatives of state bodies and 12 CSOs, which were selected on the basis of public calls and proposals of CSOs). President of the Council is the representative of the Government, and the Deputy Chairman is CSO representative. The Council is tasked to monitor the implementation of the Strategy for Cooperation between the Government of Montenegro and NGOs and the Action Plan for its implementation, providing opinions on legislation and other documents related to the work and activities of CSOs, develop recommendations for improving the cooperation between the Government and CSOs and to encourage dialogue between the two sectors. Council has to, at least once a year inform the government about its work and the issues of importance for the cooperation of government agencies and CSOs. *Just as The Office, Council also lacks more financial and technical capacities as well as higher independence in its work.*



The Council is coming to the end of its term and there is an ongoing process of forming new body- Council for development of NGO. Since that body has not yet been formed, it is crucial that incorporate its future higher level of independence, financial and technical capacities into its Decision on forming.

Contact persons in the ministries and other state administration bodies are designed as a specific mechanism of horizontal cooperation with CSOs. This mechanism was necessary in order to create institutional preconditions for horizontal (decentralized) cooperation between the Government and CSOs. However, this practice has not been fulfilled in its full range. First of all, in most of the state bodies persons appointed to be contact persons for CSO have only been added with this new function to their existing work. Therefore, being contact person is only their secondary engagement. In addition, many state bodies did not publish names of CSO contact persons on their web presentations as it was previously planned. There are often replacements of contact persons in some state bodies, on which CSOs are not being timely informed.

Recommendations:

- **Strengthen the position, power and authority of the Office for cooperation between Government and NGOs** in order to optimally respond to its increased needs. In this regard, it is needed to increase the number of staff in the Office; provide special funds for the work of the office (and the Council) to provide technical support for the operation of the office, especially for keeping a central database of NGOs (e.g. MENGO) strengthen the visual identity of the Office (redesign of the website, providing specific site and adapt it for use by persons with disabilities). In addition to these measures, it is necessary to consider and define the role of the Office in the IPA programming and management of individual programs within the IPA, to ensure their optimal allocation;
- **Strengthen the capacities of the new Council in comparison to the former Council for Cooperation between Government and NGO.** Widen the range of it's competencies and provide the institutional and financial independence of the Council. This can partially be achieved trough trainings and exchange of experience with similar structures in the region and the EU. In addition, it is necessary to provide separate financial means for the activities of the Council that will be used for implementation of its activities such as meeting and researches. This way, Council could also have impact in the practical sense, not only serve as advisory body that is mainly connected with legislation.
- Strengthen the capacities of contact persons for CSO in the bodies of state authorities. Provide them with effective training, based on the regional good practices. It is necessary that these officials are not only the ones appointed for the purpose of CSOs addressing to them when they need to contact with the Ministry, but they need to be the ones that will be working on constant improvements of the cooperation between that body and the CSOs, including common projects, statistics of CSO active in the given field, initiatives for cooperation etc.

Sub-area 3.2: Inclusion in policy- and decision-making

In 2012, the Government adopted two key documents for strengthening cooperation with civil society and their participation in policy and decision-making process.

Decree on the procedure and manner of developing cooperation between public administration bodies and NGOs represents the first legal regulation defining main principles and objectives of this cooperation. This Decree regulates rules regarding election of representatives of CSOs as members of working groups and other bodies formed by state authorities. This regulation, for the first time, standardized process of consulting CSOs by state authorities. Another important thing that was legally regulated by this document was appointing officials for cooperation with CSOs within organs of state administration, which is one of the prerequisite for effective cooperation. This document is a novelty in Montenegrin legislation, because it is for the first time trying to standardize all forms of cooperation between state authorities and CSOs, which are foreseen by Article 80 Law on State Administration.

Centre for Development of NGOs is monitoring the process of implementation of this regulation, from the date it entered into force. From the moment of its implementation, number of CSO representatives participating in working groups formed by state bodies increased, although there is still space for further improvement. **Only 6 out of 30 state bodies announced call for CSO representatives to participate in working groups formed by state authorities.** On the other side, process of broader consultation with CSOs is still on a low level, as well as informing CSOs. The Decree prescribed obligation of State authorities to publish annual working plans and reports on their web pages. This article was obeyed by only 14 state organs in the case of annual working plans and 22 regarding annual reports. Here, it also must be stated that some state authorities had a remark concerning the fact that despite the public call for participation in the working groups, they didn't get feedback from interested CSOs.

Other regulation relevant for cooperation between Government and CSO sector is **Decree on the procedure and manner of conducting public debate in preparing laws.** This regulation also for the first time sets clear rules for conducting public debates. Its significant contribution is definition of public debate that considers not only consultation with public on drafts of the law, but also in its early, preparation phase.

According to the results of the research conducted by Centre for Development of NGOs (CRNVO), state bodies are still not familiar with this new concept of public discussion, so there are rare cases of consulting interested parties in the early phase of law preparation. *Traditionally, state bodies make public discussion when the law is already drafted, which decrease the influence of public on its final shape.* Only 3 out of 16 ministries published on-line list of laws on whose content public debate will be held. When it comes to later stage, that is on-going discussions on concrete laws, the results are slightly better. Number of six ministries published calls for participation in consultations while preparing draft of the concrete laws and eight ministries published call for participation in public discussion on the draft of the Law.

Reccomendations:

- **Improve capacities** of civil servants to implement Decree on procedure for achieving cooperation between state bodies and CSOs and Decree on procedure for conducting public discussion;
- Publish regular reports on the public discussions held, with the regard of CSOs participation.

Sub-area 3.3: Collaboration in service provision

This practice of CSO providing services in the frame of cooperation with Government is still not significantly developed in Montenegro. One of the forms of this kind of cooperation that is more frequent than the others is CSOs providing experts in different fields in the occasions of trainings organized by state authorities. In the survey we conducted only seven organizations answered confirmatively to the question if they have been engaged in providing services as part of the cooperation with Government. However, it must be stated that those are not examples of identically contractual based cooperation. Instead, those are ad-hoc examples of more or less firm cooperation and it can't be certainly said how many of them are actually examples of service provision in this context. Couple of answers were related to members of CSOs providing trainings and educations for members of state authorities. Also, several organizations which act as service providers had remark that their activities are not in sufficient level recognized by the Government.

State Departments' Human Rights Report states that some local NGOs which are engaged in combating domestic violence mostly relied to the help of international donors. These NGOs often stated that female victims of domestic violence had complaints in regard to government-run social welfare centers. This clearly indicates that there is needed higher cooperation between government and NGOs that provide services for these kind of target groups.

Recommendations:

- Raise awareness of the Government regarding CSOs capacities in providing services for different target groups. There is great potential lying in this field in the sense of improving cooperation between Government and CSOs. Concrete knowledge and experience CSOs have in certain fields should be more used by the Government that sometimes lacks that special level of sensibility needed for working with concrete groups and on certain issues. In this sense, combining knowledge and experience of CSOs and legitimacy and credibility as well as jurisdiction of the Government, results achieved in different fields can be far more better;

V. Findings and Recommendations (Table)

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1.: Freedom of association

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

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS
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MONTENEGRO



<p>1. All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online</p>	<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"> • Law on NGOs guarantees basic freedoms and rights to CSOs and it is in accordance with international standards • Organizations acquire legal personality only after registration • There are no sanctions prescribed in case of failure to register • The Association may be established by at least 3 people, one of whom must have residence, domicile or head office in Montenegro • Law on NGOs allows networking with organizations in Montenegro and abroad 	<p>Legislation:</p> <ul style="list-style-type: none"> • Ensure constant monitoring of the implementation of the existing legislation in order to identify problems in the implementation and possible needs for changes in the legislation (Law on NGOs, the Decree on the procedure and manner of developing cooperation between public administration bodies and NGOs and Decree on the procedure and manner of conducting public debate in preparing laws
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	<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 non-subjective and apolitical manner. 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"> • Over 90% of organizations referred to the questionnaire said that they didn't have problems registering the organizations • Few organizations have met with difficulties and additional procedures when registering and with naming their representatives • As the main flaw of the Registering process organizations named long (one month comparing to 10 days which are prescribed by the Law) waiting for the decision. • NGO Registry does not contain contact information 	<p>Practice:</p> <ul style="list-style-type: none"> • Ensure equal principles for all when it comes to founding and registering organizations. • Reduce time of waiting during the registration process • Provide more information within Registry, such as contact information
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Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1.: Freedom of association

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

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS
<p>2. CSOs operate freely without unwarranted state interference in their internal governance</p>	<p>Legislation:</p> <ul style="list-style-type: none"> • The legal framework provides guarantees against state interference in internal matters of associations, foundations and other types of 	<p>Legislation:</p> <ul style="list-style-type: none"> • State control over the work of CSOs is regulated by the Inspection Law • A fine ranging from EUR 500 to EUR 800 shall 	<p>Legislation:</p> <ul style="list-style-type: none"> • Revise regulations on the amount of sanctions and



<p>and activities</p>	<p>non-profit entities.</p> <ul style="list-style-type: none"> • The state provides protection from interference by third parties. • 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. • Sanctions for breaching legal requirements should be based on applicable legislation and follow the principle of proportionality. • The restrictions and the rules for dissolution and termination meet the standards of international law and are based on objective criteria which restrict arbitrary decision making. 	<p>be imposed on a non-governmental organization if it does not report the body in charge about the changes in data which are to be entered in the register within 30 days.</p> <ul style="list-style-type: none"> • The same punishment is also envisaged in the event of failure to publish financial statements within 10 days of adoption. • A fine ranging from EUR 500 to EUR 4,000 shall be imposed on non-governmental organizations if, during the calendar year proceed to conduct economic activity after crossing the allowed threshold of 4,000 or 20% of total annual revenue 	<p>on cases when they are being imposed</p>
	<p>Practice:</p> <ul style="list-style-type: none"> ○ There are no cases of state interference in internal matters of associations, foundations and other types of non-profit entities. ○ There are no practices of invasive oversight which impose burdensome reporting requirements. ○ 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"> • Over 97% of organizations stated that the government did not interfere in their internal affairs • 25% of organizations stated that they were sometimes under pressure during their work • 5 organizations had a case of unannounced inspections of state bodies • Organizations are generally not exposed to sanctions, but most of those that are, consider them disproportionate. • About 42% of organizations have been subjected to pressure because of their critical attitude towards authority 	<p>Practice:</p> <ul style="list-style-type: none"> • Provide an effective guarantees against CSOs being exposed to any kind of pressure. Provide them with the possibility of expressing their critical attitude without facing any consequences.

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1.: Freedom of association

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

STANDARDS /BENCHMARKS	INDICATORS	FINDINGS	RECOMMENDATIONS
<p>3. 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"> • Legislation allows CSOs to be funded by foreign institutions and organization, domestic legal and private individuals as well as corporations. • Non-governmental organizations can directly engage in economic activity specified in the statute if they are registered in the Company Register. • If the income from economic activities in the current year exceeds 4, 000 or 20 % of the annual income, a non-governmental organization cannot directly engage in economic activity later that year. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Consider revising threshold for economic activities, in the purpose of establishing more effective framework for service provision



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	<p>Practice:</p> <ul style="list-style-type: none"> • Legislation on CSOs engaging in economic activities is implemented and is not burdensome for CSOs. • There are no restrictions (e.g. administrative or financial burden, pre-approvals, or channeling such funds via specific bodies) on CSOs to receive foreign funding. • 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"> • Over 80% of organizations reported that they did not have the problems associated with obtaining funds from abroad • Most of the organizations funded by private sources stated that they had no administrative restrictions and difficulties 	<p>Practice:</p> <ul style="list-style-type: none"> • Promote CSOs funding from individuals and corporations
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Sub-area 1.2.: Related freedoms

Freedom of assembly and expression are guaranteed to everybody

Standard	Indicators	Findings	Recommendation
<p>CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly</p>	<p>Legislation:</p> <ul style="list-style-type: none"> • The legal framework is based on international standards and provides the right for freedom of assembly for all without any discrimination. • The laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies. • The exercise of the right is not subject to prior authorization by the authorities, but at the most to a prior notification 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Constitution of Montenegro guarantees freedom of peaceful assembly, without a permit, subject to prior notification to the competent authority. • Freedom of assembly may be temporarily restricted by the decision of the competent authority for the prevention of disorder or crime, protection of health or morals or for the protection of people and property in accordance with law. 	<p>Legislation :</p> <ul style="list-style-type: none"> • Monitoring of the implementation of the legislation in this field in order to identify possible problems and examine the actual applicability of the regulations



	<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 explanation 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 pre-emptive detentions of organizers and participants. <p>Media should have as much access to the assembly as possible.</p>	<p>Practice:</p> <ul style="list-style-type: none"> • Organizations that have organized peaceful gatherings have not been faced with restrictions • 4 organizations have stated that in the event of a counter protest weren't protected by police • 3 organizations organized a gathering without prior notice state authorities • Public gatherings organized in order to promote rights of LGBT population, were followed by counter-protests of significant size and there was large number of policeman engaged in protecting the participants. 	<p>Practice:</p> <ul style="list-style-type: none"> • Work on further promotion of LGBT rights, in order to provide organizing Pride parades without high risk as it has been the case in the past
<p>CSO representatives, individually or through their organizations enjoy freedom of expression</p>	<p>Legislation:</p> <ul style="list-style-type: none"> • The legal framework provides freedom of expression for all. • Restrictions, such as limitation of hate speech, imposed by legislation are clearly prescribed and in line with international law and standards. • Libel is a misdemeanor rather than part of the penal code. 	<p>Legislation:</p> <ul style="list-style-type: none"> • By The Constitution of Montenegro everyone has the right to freedom of expression by speech, writing, painting, or otherwise. • The right to freedom of expression can be limited only by the other persons' right to dignity, reputation and honor, and if it threatens public morality or security of Montenegro. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Identify problems in the legislation that are providing space for practical restrictions in this area and systematic consequences for those with the critical attitude towards the authorities



	<p>Practice:</p> <ul style="list-style-type: none"> • CSO representatives, especially those from human rights and watch dog organizations enjoy the right to freedom of expression on matters they support and they are critical of. • There are no cases of encroachment of the right to freedom of expression for all. • There are no cases where individuals, including CSO representatives would be persecuted for critical speech, in public or private. • There is no sanction for critical speech, in public or private, under the penal code. 	<ul style="list-style-type: none"> • Defamation was decriminalized <p>Practice:</p> <ul style="list-style-type: none"> • 5 organizations had an objection to a restriction of freedom of expression • Mostly LGBT activists had problems in regard to publicly expressing their opinion and representing interests of the population 	<p>Practice:</p> <ul style="list-style-type: none"> • Ensure efficient protection for LGBT activists in the country • Provide an effective system where CSO representatives will meet no consequences for expressing their critical attitudes
<p>Civil society representatives, individually and through their organizations, have the rights to safely receive and impart information through any media</p>	<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, these 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 Law on Free Access to Information has been adopted • There are no available legal mechanisms for complaints in case certain information is labeled as secret and therefore, not provided according to the request. • Rules of the working group for the preparation of negotiations restrict CSO members to inform the public about the work of the working group. • There are no legislated restrictions in the use of different communication and information tools. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Introduce the practice of complaints in case information is labeled as secret • Modify the Rules of Procedure of working groups for the preparation of negotiation in order to provide space for CSO representatives to inform the public about the work of the working groups

	<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. <p>There are no cases of police harassment of members of social network groups.</p>	<p>Practice:</p> <ul style="list-style-type: none"> • The implementation of the new Law on Free Access to Information has started and it is widely used by CSOs • However, legal deadlines prescribed by the Law are not being fully respected. • The internet and other tools used for collecting information are accessible and there are no restrictions in practice regarding this. 	<p>Practice:</p> <ul style="list-style-type: none"> • Improve the practice of answering to the requests for free access to information in the sense of meeting legally prescribed deadlines
Area 2: Framework for CSOs' Financial Viability and Sustainability			
Sub-area 2.1: Tax/fiscal treatment for CSOs and their donors			
Principle: CSOs and donors enjoy favorable tax treatment			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS

<p>1. Tax benefits are available on various income sources of CSOs</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs. 2) The law provides tax benefits for economic activities of CSOs. 3) The law provides tax benefits for passive investments of CSOs. 4) The law allows the establishment of and provides tax benefits for endowments. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The state provides tax benefits for non-governmental organizations, in accordance with the law. • CSOs do not pay income tax in case they are by the separate Law founded in order to conduct non-profit activity • CSOs, as legal entities that are register to conduct economic activity, the tax base is reduced to the amount of 4 000 euros, provided that the profit is used to achieve objectives for which was established • Services of public interests are exempt form VAT. That includes services provided by CSOs established in a accordance with regulations governing functioning of those organizations, and provided that there is no threat that the exemption will lead to the distortion of competition • The Law on Income Tax stipulates that expenditure on health, education, sports, culture and environmental protection purposes are recognized as expenses up to 3.5% of total revenue. A similar provision is contained in the Law on Corporate Income Tax. • The Law is not encouraging companies and individuals to donate money to CSOs 	<p>Legislation:</p> <ul style="list-style-type: none"> • Improve the legal framework for tax relief for the economical CSOs activities • Change the Law on Income tax in order to spread the areas of public interests (i.e.: human rights, anti-corruption activities, anti-discrimination activities etc.) • Change the Law on Income tax in order to create legal benefits for those enterprises and individuals that donate money to CSOs
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	<p>Practice:</p> <ol style="list-style-type: none"> 1) There is no direct or indirect (hidden) tax on grants reported. 2) Tax benefits for economic activities of CSOs are effective and support the operation of CSOs. 3) Passive investments are utilized by CSOs and no sanctions are applied in doing so. 4) Endowments are established without major procedural difficulties and operate freely, without administrative burden nor high financial cost.. 	<p>Practice:</p> <ul style="list-style-type: none"> • The legislation in this area is being implemented 	<p>Practice:</p> <ul style="list-style-type: none"> • Monitor the process of implementation of the legislation in order to identify possible areas for improvements •Examine the regional and EU examples of good practice and the possibility of applying similar ones in Montenegro
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Area 2: Framework for CSOs' Financial Viability and Sustainability

Sub Area 2.1: Tax/fiscal treatment for CSOs and their donors

Principle: CSOs and donors enjoy favorable tax treatment

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS
<p>2. Incentives are provided for individual and corporate giving.</p>	<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"> • The Law does not provided tax deductions for individual and corporate donations to CSO • The legislation is not encouraging enough for the CSR 	<p>Legislation:</p> <ul style="list-style-type: none"> • Provide legal tax deductions for individual and corporate donations to CSOs in order to promote this practice • Development of the Analysis of the legal framework for the promotion of a culture of giving enterprises (corporate philanthropy), and the

			development and changes to existing regulations in line with the analysis; • Changes in the tax laws in terms of concept of public interest activities agreed with the appropriate provisions of the NGOs in order to fully realize the potential for the development of philanthropy in Montenegro
	<p>Practice:</p> <p>1) There is a functional procedure in place to claim tax deductions for individual and corporate donations.</p> <p>2) CSOs are partners to the state in promoting CSR.</p> <p>3) CSOs working in the main areas of public interest, including human rights and watchdog organizations, effectively enjoy tax deductible donations.</p>	<p>Practice:</p> <ul style="list-style-type: none"> • The culture of giving and corporate social responsibility is not being encouraged, despite the amendment of the Law on Corporate Income Tax • The provisions of legal and natural persons-taxpayers in the area of human rights are not recognized as an expense, although human rights are recognized as a fundamental constitutional value. 	<p>Practice:</p> <ul style="list-style-type: none"> • Expand narrowly defined range of activities of public interest, for example, giving of legal and physical persons-tax payers in the field of human rights • Promote CSR
Area 2			
Sub-area 2.2.: State support			
Principle: State support to CSOs is provided in a transparent way and spent in an accountable manner			
STANDARDS /BENCHMARKS	INDICATORS	FINDINGS	RECOMMENDATIONS



<p>Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants</p>	<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>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 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Law on NGOs envisages that Government provides funding support to CSOs programs and projects from the state budget. • The Law prescribes centralized state funding to CSOs • There are no legal preconditions created for the successful implementation of centralized funding. • According to the Law on NGOs distribution of state funds is carried out by the Commission established by the Government. • That Commission has not yet been formed, and the biggest state funds for CSOs is allocated based on the decisions of the Commission for the allocation of revenue from the Games on chance • The Commission allocates funds on the basis of a public call for proposals • Amount of funds allocated through the Commission is set by the Law on Games on Chance that is not in complete accordance with other legislation and it is not fully obeyed. <p>Practice:</p> <ul style="list-style-type: none"> • State funds have not been allocated in accordance with the Law • There is a declining trend of state support to 	<p>Legislation:</p> <ul style="list-style-type: none"> • Adopt all laws that are necessary for undisturbed implementation of the Law on NGOs, particularly in the area of finance • Establish stronger links between public policies that are the government's priority in a given period and the programs and projects of NGOs that are funded from the same budget • Harmonize the Law on the games on chance with other relevant legislation. • Consider introducing a financing system that would be a combination of centralized and decentralized <p>Practice:</p> <ul style="list-style-type: none"> • Harmonize the Minority Fund and the Commission for the allocation of
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	<p>distribution of state funding.</p> <p>3) Funding is predictable, not cut drastically from one year to another; and the amount in the budget for CSOs is easy to identify.</p> <p>4) CSO participation in the public funding cycle is transparent and meaningful.</p>	<p>CSO projects in past three years (in comparison to 2010, funds are reduced for 50%)</p> <ul style="list-style-type: none"> • Minority Fund, Commission for distribution of funds to NGOs within Parliament and Commission for the Commission for allocation of the part of the revenues from games of chance are still positioned in the budget, but not complying with the Law on NGOs. 	<p>revenues from games of chance with the Law on NGO</p> <ul style="list-style-type: none"> • Increase public funding support • Reconsider the practice where one, centralized Commission decides on the projects that are to be supported, and consider introducing expert commissions at the level of ministries.
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<p>2. Public funding is distributed in a prescribed and transparent manner</p>	<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>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>Legislation:</p> <ul style="list-style-type: none"> • According to the Law on NGO, the Commission should allocate funds on the basis of a public competition to be published on the website of the Government and in daily newspapers • According to the Law on NGO, special by-law will determine criteria for appointing members of commission, including measures against conflict of interest • According to the Law on NGO, special by-law will determine criteria for distribution of funds and those will be available to public • According to the Law on NGO, the decision on the allocation of funds shall be published on the website of the Government and in all newspapers that are printed and distributed in Montenegro. • Decree on Determining Beneficiaries and Criteria for Distribution of Revenues from Games of chance envisages clear criteria for distribution of fund, monitoring rules, transparency measures <p>Practice:</p> <ul style="list-style-type: none"> • Criteria for distribution of funds by Commission for the allocation of revenues from games of chance are available to public • Commission for the allocation of revenues from games of chance made all supported projects integrally available online • CSOs may put a complaint on the decision of this Commission according to the procedures set by Law on Administrative procedure 	<p>Legislation:</p> <ul style="list-style-type: none"> • Adopt all laws that are necessary for undisturbed implementation of the Law on NGO, particularly in the area of financing • Create the draft act which will regulate the composition, criteria for the selection and nomination procedure for the members of the Commission for the allocation of funds to non-governmental organizations, as well as a proposal for the Regulation on detailed criteria for evaluating projects and programs of NGOs in the process of allocation of budget funds • Adopt these acts <p>Practice:</p> <ul style="list-style-type: none"> • Criteria for distribution should involve external evaluators in the process of evaluation of CSO projects and programs • Increase the transparency of the allocation of public funds
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<p>3. There is a clear system of accountability, monitoring and evaluation of public funding</p>	<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>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 of effects/impact of public funds is carried out by state bodies and is publicly available. 	<p>Legislation:</p> <ul style="list-style-type: none"> • According to the Law on NGO, The Commission shall submit to an advisory body, once a year, a report on the implementation of projects and programs funded. • According to the Law on NGO, control of the appropriate use of funds allocated to NGOs should be undertaken by external auditors engaged by the advisory body. <p>Practice:</p> <ul style="list-style-type: none"> • Procedures for monitoring of project implementation from the Commission for allocation of revenues from games of chance and reporting have not been developed, or are not sufficiently developed, • Commission for the allocation of revenues from games of chance engaged audit company for the audit of a certain projects supported in 2012 	<p>Legislation:</p> <ul style="list-style-type: none"> • Adopt all laws that are necessary for undisturbed implementation of the Law on NGOs, particularly in the area of finance, including the monitoring and evaluation mechanisms <p>Practice:</p> <ul style="list-style-type: none"> • Strengthen controls and procedures for monitoring the implementation of projects and the proper use of funds by the external auditors

		<ul style="list-style-type: none"> • 48.7% of non-governmental organizations said they did not receive any monitoring for the public finances, by the competent authority, • 34% percent of the organization said the monitoring was exerted. • There were couple of cases of sanctions to CSOs for in-consistent use of public funds 	
<p>4. Non-financial support is available from the state</p>	<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>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 as 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 	<p>Legislation:</p> <ul style="list-style-type: none"> • The law allows state authorities to grant CSOs non-financial support, such as state assets, the renting of space without financial compensation (to a certain limit), free training, consultation and other resources <p>Practice:</p> <ul style="list-style-type: none"> • Report on cooperation between ministries / state authorities and NGOs in the 2012th year, shows that, in practice, there have been cases where the ministries have given way to the use of their space-boardroom for the meetings 	<p>Legislation:</p> <ul style="list-style-type: none"> • Define criteria and procedures for allocation of non-financial support to CSOs <p>Practice:</p> <ul style="list-style-type: none"> • Establish mechanisms for using states' decommissioned furniture, vehicles etc. by CSOs.

	its work; or of cases of depriving critical CSOs of support; or otherwise discriminating based on loyalty, political affiliation or other unlawful terms.		
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Area 2

Sub-area 2.3: Human resources

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

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS
<p>1. CSOs are treated in an equal manner to other employers.</p>	<p>Legislation: 1) CSOs are treated in an equal manner to other employers by law and policies.</p> <p>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.</p>	<p>Legislation:</p> <ul style="list-style-type: none"> • The Labor law treat CSOs in an equal manner to other employers • There is no statistics in regard to employees and volunteers in civil sector <p>Practice:</p> <ul style="list-style-type: none"> • There is lack of official statistical data on employers and volunteers in civil sector, as well as on CSOs incomes. This lacking data make the process of long-term planning of CSO development more complicated. • In 2012, Government started the 	<p>Legislation:</p> <ul style="list-style-type: none"> • Define rules for creation of official statistics in regard to number of employees in civil sector <p>Practice:</p> <ul style="list-style-type: none"> • Gather and systematize statistical data on employees in civil sector



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		implementation of new program for vocational training and employment. CSOs participate in this program under the same conditions as state bodies and private companies.	
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Principle: State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs

STANDARD 2	INDICATOR	FINDINGS	RECOMMENDATIONS
2. There are enabling volunteering policies and laws	<p>Legislation:</p> <p>1) Legislation stimulates volunteering and incorporates best regulatory practices, while at the same time allowing for spontaneous volunteering practices.</p> <p>2) There are incentives and state supported programs for the development and promotion of volunteering.</p> <p>3) There are clearly defined contractual relationships and protections covering organized volunteering.</p>	<p>Legislation:</p> <ul style="list-style-type: none"> • The Law on volunteering treats volunteering as a special form of labor-law relations, rather than voluntary, spontaneous citizens' initiative • The Law bureaucratizes and complicates the process of volunteering • Law on volunteering prescribes that volunteers should have a volunteering contract. • The Law prescribes certain benefits for volunteering 	<p>Legislation:</p> <ul style="list-style-type: none"> • It is necessary to make the Law on volunteering fully correspond to the nature of volunteerism as a voluntary citizens' initiative. • Define legal criteria that would allow those volunteers that do volunteer work without contractual relation, have legally prescribed benefits



	<p>Practice:</p> <p>1) Incentives and programs are transparent and easily available to CSOs and the policy/strategic document/ law is fully implemented, monitored and evaluated periodically in a participatory manner.</p> <p>2) Administrative procedures for organizers of volunteer activities or volunteers are not complicated and are without any unnecessary costs.</p> <p>3) Volunteering can take place in any form; there are no cases of complaints of restrictions on volunteering..</p>	<p>Practice:</p> <ul style="list-style-type: none"> • 94% of organizations from our survey stated that they hire volunteers for their activities. • Organizations mostly hire volunteers in accordance with their internal rules, not by the Law on Volunteering. • Volunteering in practice is mostly spontaneous and it is not defined by contractual relation as set by the Law 	<p>Practice:</p> <ul style="list-style-type: none"> • Ensure dissemination of regional and international good practices in this field
<p>3. The educational system promotes civic engagement</p>	<p>Legislation:</p> <p>1) Non-formal education is promoted through policy/strategy/laws.</p> <p>2) Civil society-related subjects are included in the official curriculum at all levels of the educational system</p> <p>Practice:</p> <p>1) The educational system includes possibilities for civic engagement in CSOs.</p> <p>2) Provision of non-formal education by CSOs is recognized</p>	<p>Legislation:</p> <ul style="list-style-type: none"> • The Ministry of Education has adopted Guidelines on criteria and procedure for approving the programs and projects of NGOs which are to be implemented in educational institutions. • University of Montenegro joined the trend by making strategies for lifelong learning 2012-2014 and Rules for lifelong learning in the TEMPUS project <p>Practice:</p> <ul style="list-style-type: none"> • The educational system does not include all the available resources that can be provided by CSOs. • There are some examples of CSOs 	<p>Legislation:</p> <ul style="list-style-type: none"> • Incorporate programs of non-formal education, implemented by CSO, into the educational system <p>Practice:</p> <ul style="list-style-type: none"> • It is necessary that there is constant communication between the authorities, Ministry of Education principally, and the CSOs that deal with non-formal education in the areas of civic education, human and minority rights, civil society development, environment protection, etc. • Create long-term cooperation

		organizing workshops in Montenegrin schools on different topics, but that's mostly part of CSOs existing projects which means that it has limited funding and duration.	between Ministry of Education and some CSO in order to have constant programs on non-formal education in Montenegrin schools.
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Area 3: Government – CSO Relationship

Sub-area 3.1.: Framework and practices for cooperation

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

STANDAR D 1	INDICATORS	FINDINGS	RECOMMENDATIONS
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<p>1.</p> <p>The State recognizes , through policies and strategies, the importance of the development of and cooperation with the sector</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There are strategic documents dealing with the state-CSO relationship and civil society development. 2) The strategic document includes goals and measures as well as funding available and clear allocation of responsibilities (action plans incl. 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"> • The Government has in 2009. adopted the, "Strategy for Cooperation between the Government of Montenegro and NGO" along with the Action Plan for the period 2009-2011. • Strategy for development of non-governmental organizations for period of 2014-2016 and the Action Plan for the same period has been adopted in December 2013. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Start with the legislation changes needed to fulfill steps prescribed by the Action plan
	<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 civil society development 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. State policies for cooperation between state and CSOs and civil society development are based on reliable data collected by the national statistics taking into consideration the diversity of the sector. 	<p>Practice:</p> <ul style="list-style-type: none"> • CSO representatives participate in the process of creating different strategic, legislative and documents of other type. • In 2012, state bodies involved 83 CSO representatives in working groups for drafting public policies in different areas • The involvement of CSOs in monitoring of public policies is not on satisfactory level (According to the report of cooperation between state bodies and CSOs in the first half of 2013, only 8 out of 43 bodies involved CSOs in monitoring • The Government of Montenegro has in 2012. joined the global Open Government Partnership initiative, launched by the United States and seven other countries 2011. 	<p>Practice:</p> <ul style="list-style-type: none"> • Ensure further participation of CSO representatives in working groups for drafting public policies • Improve communication channels between CSOs and the state authorities • Improve joint monitoring and evaluation of public policies by both sectors • Provide efficient monitoring of implementation of the Strategies

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS
<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 civil society organizations (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>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, 	<p>Legislation:</p> <ul style="list-style-type: none"> • There is governmental Office for Cooperation with NGO • There is Council for Cooperation between the Government of Montenegro and NGOs which is coming to the end of its term and there is on-going process of creation of Council for development of NGO • There are Contact persons for cooperation with non-governmental organizations appointed by 61 government bodies • Decree on procedure for achieving cooperation between state bodies and NGOs has been adopted • Decree on the procedure and manner of conducting public debate in preparation of the laws <p>Practice:</p> <ul style="list-style-type: none"> • The Office for Cooperation with NGOs lacks the institutional independence and does not 	<p>Legislation:</p> <ul style="list-style-type: none"> • Provide institutional and financial independence of Office for cooperation between Government and NGO • Provide institutional and financial independence of newly formed Council for development of NGO • Amendments to the Rulebook on organization and systematization of the state administration in regard to the position and responsibilities of contact persons for CSOs. <p>Practice:</p> <ul style="list-style-type: none"> • It is necessary to redefine the status and mandate of the Office for Cooperation with NGOs • Provide financial support from the budget to the Council for



	<p>discussing the challenges and proposing the main policies for the development of Civil Society.</p> <p>2) CSOs are regularly consulted and involved in processes and decisions by the competent institution or mechanism(s).</p>	<p>operate as a separate government authority.</p> <ul style="list-style-type: none"> • Council for Cooperation between the Government and NGOs has no allocated funds in the budget for its work. • Often there are too many replacements of contact persons. Being contact person for CSOs is only their secondary engagement • The Decrees are not being fully respected 	<p>Development of NGO that is to be formed</p> <ul style="list-style-type: none"> • Strengthen the capacity of contact persons for cooperation with NGOs • Introduce mechanisms for higher compliance with the mentioned Decrees and introduce sanctions for their disrespect
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Area 3

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

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

STANDARD	INDICATORS	FINDINGS	RECOMMENDATIONS
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<p>There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner.</p>	<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/trainings 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"> • There is Decree on the procedure for cooperation between state authorities and non-governmental organizations as the obligatory documents for state bodies to inform, consult and involve CSOs representatives in drafting public policies • There is Decree on the procedure and manner of conducting public debate in preparation of the laws as obligatory document for ministries to consult civil society in drafting laws. • Some internal regulations prescribe certain bodies obligation to monitor and report on the CSO participation in the process of policy creation 	<p>Legislations:</p> <ul style="list-style-type: none"> • Ensure adequate implementation of relevant 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 	<p>Practice:</p> <ul style="list-style-type: none"> • Most of the state administration still do not publish annual work programs on their website, as well as details of a contact person in charge of cooperation with NGOs. Only 30 out of 53 authorities that were obliged to inform the public about the contact persons via website, did so. • Only 3 out of 16 ministries publish the list of laws that will be drafted on annual level • Only 6 out of 16 ministries invited civil society in early consultation phase when drafting laws 	<p>Practice:</p> <ul style="list-style-type: none"> • Improve the capacity of government officials for the proper implementation of the Decree on the manner and procedure of cooperation with NGOs • Improve the capacity of government officials for the proper implementation of the Decree on conducting public discussion in preparing laws • Continue with monitoring of implementation of both Decrees



	completed the necessary educational programs/training.	<ul style="list-style-type: none"> • Only 3 out of 16 ministries publish reports from public discussion containing written feedback on consultation process • With 83 representatives of NGOs working in the working groups on an annual basis, it can be concluded that the process of selection of NGO representatives defined in this Decree is applicable and effective. • There are no public information on trainings in which civil servants in charge of drafting public policies have participated. • CSO representatives participate in the work of parliamentary boards 	
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS
All draft policies and laws are easily accessible to the public in a timely manner	Legislation: <ol style="list-style-type: none"> 1) 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. 2) Clear mechanisms and procedures for access to public information/documents exist. 3) There are clearly prescribed sanctions for civil servants/units for breaching the legal requirements on access to public information. 	Legislation: <ul style="list-style-type: none"> • The existing legislation obliges public institutions to make all draft and adopted laws and policies public. This topic is covered by a number of laws and regulations (Law on free access to information, Law on NGOs, Regulation concerning public discussions etc) • Clear mechanisms and procedures for access to public information and documents exist and there are guidelines concerning this topic, which can be found on the websites of almost every ministry and local self-government. 	Legislation: <ul style="list-style-type: none"> • Ensure adequate implementation of relevant legislation as well as its monitoring



	<p>Practice:</p> <ol style="list-style-type: none"> 1) Public institutions actively publish draft and adopted laws and policies, unless they are subject to legally prescribed exceptions. 2) 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. <p>Cases of violations of the law are sanctioned.</p>	<ul style="list-style-type: none"> • There are prescribed mechanisms for appeals to the decision of the body that is in charge for sharing the requested information or making them public. There is also the possibility to appeal to the Agency for the protection of personal data and free access to public information. However there is no possibility to complain in a case where the requested information is labeled as Secret. In that case the authority in charge of the case, is the Administrative Court of Montenegro <p>Practice:</p> <ul style="list-style-type: none"> • All the laws and regulations are published in the Official Gazette in its printed and online version. • The explanations on the reasons for refusal of the requests are often not clear, but they are included in the response. There is a lack of respect for the time frame in which it has to be responded to the request by the large number of government bodies. • As it was earlier stated there are no known cases of sanctioned individuals. There are cases in which the appeal was approved by the Agency or the Administrative court 	<p>Practice:</p> <ul style="list-style-type: none"> • Government bodies should think about creating contact lists of CSOs that have experience in some relevant areas and contact them individually when implementing certain plans and programs • The answers to requests have to be clearer, have to include written explanations on the reasons for refusal, and highlight the right to appeal and the procedure for appealing.
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<p>3.</p> <p>CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes</p>			

	<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>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. <p>Participation in these bodies does not</p>	<p>Legislation:</p> <ul style="list-style-type: none"> Public authorities are under Articles 2 and 3 of the Decree on the Manner and Procedure for achieving cooperation between state authorities and NGOs ("Off. Gazette of Montenegro", no. 07/12 of 30.01.2012), obliged when creating documents from the annual work program (strategy and analysis of the situation in a particular area of draft laws, regulations and by-laws that regulate the manner of exercising the rights and freedoms citizens) to invite NGOs to participate in working groups There is a clear and detailed mechanism for appointing CSO representatives in these bodies that ensure the quality of representative and representation <p>Practice:</p> <ul style="list-style-type: none"> All the advisory bodies relevant for civil society include CSO representatives CSO representatives are selected through selection processes which are considered fair and transparent CSO representatives in these bodies are enabled to freely present and defend their attitudes, although some believe that their 	<p>Legislation:</p> <ul style="list-style-type: none"> Ensure adequate implementation of Decree on the Manner and Procedure for achieving cooperation between state authorities and NGOs <p>Practice:</p> <ul style="list-style-type: none"> Rules of procedures of working groups as part of negotiation process should allow CSO representatives to inform public about the work of those groups
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	<p>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 Legislation:</p>	<p>proposals should be taken under consideration more often</p> <ul style="list-style-type: none"> • According to the questionnaire, 68% of the CSOs participated in some way in working groups or bodies that were in charge for creating laws and regulations. • There are cases in which the CSO representatives are not allowed to share the information on the work of the body/working group, like in the case of the CSO representatives/members of the working groups for negotiating with the EU. 	
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Sub-area 3.3: Collaboration in service provision

There is a supportive environment for CSO involvement in service provision

<p>1.</p> <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"> 1) Existing legislation allows CSOs to provide services in various areas, such as education, healthcare, social services. 2) CSOs have no barriers to providing services that are not defined by law (“additional” services). 3) 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"> • The Law on Public Administration offers the possibility of the transfer of certain obligations of state authorities to other entities. The law does not define in detail the manner in which these obligations are assigned, but points out that it is possible to enable it with separate laws and regulations of the Government. • Legislation states that Ministries can define the transfer of certain obligations to other 	<p>Legislation:</p> <ul style="list-style-type: none"> • Creation of specific legislation regulating CSOs engagement in providing services, in the cooperation with the state
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	<p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs are able to obtain contracts in competition with other providers and are engaged in various services (e.g., education, health, research, and training). 2) CSOs are included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation). 3) When prior registration/licensing is required, the procedure for obtaining that is not overly burdensome. 	<p>entities, however CSOs are not clearly recognized in these laws.</p> <p>Practice:</p> <ul style="list-style-type: none"> • There are examples of short-term service provision in cooperation with the Government • We didn't come to the examples of licensing of CSO for service provision • Since the legislation is not clear enough on this manner, it is not clear whether certain practices can be perceived as service provision in this regard • There are examples of CSOs providing trainings and educations for state authorities 	<p>Practice:</p> <ul style="list-style-type: none"> • Promote regional and international practice of CSO participation in service delivery
<p>2.</p> <p>The state has committed to funding services and the funding is predictable and available over a longer-term period</p>	<p>Legislation:</p> <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. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The budget does not specifically provide funding for these kinds of services, nor for the multi-year funding. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Creation of specific legislation regulating CSOs engagement in providing services, in the cooperation with the state, that would specifically regulate funding, and licensing

	<p>Practice:</p> <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. 	<p>Practice:</p> <ul style="list-style-type: none"> • CSOs cannot be recipient of funding for these kinds of services, there is no licensing, and there are no services that are fully funded by the Government. • However there are exemptions of services that CSO provide but are funded by the international organizations. 	<p>Practice:</p> <ul style="list-style-type: none"> • Promote regional and international practice of CSO participation in service delivery
<p>3.</p> <p>The state has clearly defined procedures for contracting services which allow for transparent selection of service providers, including CSOs</p>	<p>Legislation:</p> <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 conflict of interests. 4) There is a right to appeal against competition results. <p>Practice:</p> <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. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The state did not clearly defined procedures for contracting services which allow for transparent selection of service providers, including CSOs <p>Practice:</p> <ul style="list-style-type: none"> • There are only couple of examples of contractual relations between Government and CSOs in regard to service provision 	<p>Legislation:</p> <ul style="list-style-type: none"> • Creation of specific legislation regulating CSOs engagement in providing services, in the cooperation with the state, that would, among other things, regulate criteria for choosing CSO- service providers. <p>Practice:</p> <ul style="list-style-type: none"> • Promote regional and international practice of CSO participation in service delivery

<p>4.</p> <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>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>Legislation:</p> <ul style="list-style-type: none"> • There is no legislation regulating service provision <p>Practice:</p> <ul style="list-style-type: none"> • Since there is no legislation regulating service provision, all concrete examples of this-like cooperation are being monitored based on individual arrangements from case to case 	<p>Legislation:</p> <ul style="list-style-type: none"> • Creation of specific legislation regulating CSOs engagement in providing services, in the cooperation with the state, that would, among other things, regulate process of monitoring and evaluation of service provision <p>Practice:</p> <ul style="list-style-type: none"> • Promote regional and international practice of CSO participation in service delivery
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VI. Used Resources and Useful Links

Documents used:

- *Constitution of Montenegro (Official Gazette 1/2007)*
- *Law on NGOs (Official Gazette 39/2011)*
- *Law on public assembly (Official Gazette 31/2005)*
- *Law on volunteering work (Official gazette 14/2012)*
- *Law on corporate income tax (Official Gazette 65/2001)*
- *Tax Law (Official Gazette 36/2013)*
- *The law on administrative fees (Official Gazette 20/2011)*
- *The law on value added tax (Official Gazette 29/2013)*
- *The law on budget of Montenegro (Official Gazette 78/2010, 66/2011, 66/2012)*
- *Inspection Law (Official Gazette 39/2003)*
- *Action Plan for Chapter 23*
- *The Strategy for NGO Development in Montenegro 2014-2016*
- *The Strategy of Cooperation of Government of Montenegro and NGOs (www.gsv.gov.me)*
- *Situation Report in the Area of Judicial Reform and Human Rights in Montenegro in the period 10 October 2012 to 01 October 2013 (www.crnvo.me)*
- *Decree on procedure for achieving cooperation between state bodies and NGOs(Official Gazette 07/2012)*
- *Decree of the procedure method of a public discussion in preparing laws (Official Gazette 12/12)*
- *Decree on criteria for defining beneficiaries and a manner of distributions of revenues from games of chance (Official Gazette 42/2011)*
- *Survey conducted among Montenegrin NGOs during 2013 by Center for Development of Non-governmental Organizations*

- *Report on cooperation between state bodies and CSOs 2011, 2012, 2013- Council for cooperation between Government and CSOs*
- *Report on implementation of Decree on procedure for achieving cooperation between state bodies and NGOs in 2012 (Official Gazette 07/2012):*
- *Report on implementation of Decree of the procedure method of a public discussion in preparing laws (Official Gazette 12/12): www.crnvo.me*
- *Report of the implementation of good governance principles in local self governments in Montenegro in 2012: www.crnvo.me*

Useful links:

- *Office for Cooperation of Government of Montenegro with NGOs:*
http://www.gsv.gov.me/sekretarijat/Kancelarija_za_saradnju_s_NVO
- *Council for Cooperation of Government of Montenegro with NGOs:*
http://www.gsv.gov.me/sekretarijat/Kancelarija_za_saradnju_s_NVO/133306/Savjet-za-saradnju-Vlade-Crne-Gore-i-nevladinih-organizacija-odrzao.html
- *CSOs Coalition: Cooperation toward the Goal: <http://www.saradnjomdocilja.org/>*
- *Centre for development of Non-governmental organizations- CRNVO: www.crnvo.me*

