



BALKAN CIVIL SOCIETY DEVELOPMENT NETWORK



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

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

Croatia 2014



Project funded by the European Union

Contents

I	Executive Summary	
	Civil Society and its Development in the Republic of Croatia.....	3
	Key Findings.....	4
	Key Policy Recommendations.....	5
	About Project and Research Matrix.....	6
II	Introduction	
	About Monitoring Report.....	7
	Monitoring Matrix on Enabling Environment for Civil Society Development	7
	Civil Society and its Development in the Republic of Croatia	8
	Specificities and Challenges in Applying Matrix in the Republic of Croatia.....	10
	Credits.....	10
III	Methodology	
	Overview of Methodological Approach.....	11
	Participation of CSO Members.....	11
	Lessons Learned.....	11
IV	Research Findings and Recommendations for Improvement	13
V	Research Findings and Recommendations for Improvement (Tables)	36
VI	Useful Sources and Links	58

I. Executive Summary

II. Civil Society and its Development in the Republic of Croatia

Despite the fact that institutional framework for creation of an enabling environment for civil society development in the Republic of Croatia is defined by determinants of **National Strategy for Creation of an Enabling Environment for Civil Society Development** for the period **2012-2016**, all relevant parameters, that could fully guarantee unobstructed and productive social environment for functioning of civil society organizations, have not been fulfilled yet.

Civil society in the Republic of Croatia is urban phenomenon and is predominantly more developed and efficient in economically more developed areas or in bigger cities, while smaller cities and rural environments are completely marginalized. There is a realistic danger of complete disappearance of „small associations“ due to lack of state support and centralization of allocation of institutional supports to organizations that work in central Croatia. At the same time, the state is not creating efficient and economically acceptable framework that would guarantee survival and enhancing of civil society as a whole through tax reliefs and stimulation of social entrepreneurship.

Basic legislative framework for setting up and functioning of civil society organizations, **Associations Act**, was amended during 2014 and entered into force as of 01/10/2014.

Novelty in legislative framework related to regulation of CSOs is also adoption of **Bylaw on Content and Way of Keeping Associations' Register and Foreign Associations' Register in the Republic of Croatia**. Adoption of Bylaw is expected during December 2014, and according to the draft that is currently under public discussion, Bylaw will regulate form and content of Associations' Register and Foreign Associations' Register, requests for registration in Associations' Register, classification of associations, way of submitting requests for registration in Register and will contain a number of other relevant provisions.

Apart from that, in October 2014 **Financial Operation and Accounting of Not-for-Profit Organizations Act** was adopted (**Official Gazette of the Republic of Croatia, iss.121/14**)¹, that enters into force as of **1 January 2015, godine** and regulates framework of financial operation and elements of accounting system for not-for-profit organizations. This Act is based on the principles of publicity and transparency and is in accordance with National Strategy for Creation of an Enabling Environment for Civil Society Development for 2012-2016.

Entering into force of new **Volunteering Act** created normative framework for regulation of system of volunteering activities and introduced the principle of inclusive volunteering with prescribing provisions that oblige organizer of volunteering to pay particular attention to ensuring equal conditions for volunteering with particular focus on stakeholders from socially excluded groups of population and with the objective of including them into society and empowering them in social sense.

¹ <http://www.zakon.hr/z/746/Zakon-o-financijskom-poslovanju-i-ra%C4%8Dunovodstvu-neprofitnih-organizacija>

At the same time, education about human rights and citizens' participation is completely marginalized in spite of the efforts of civil society organizations to have it implemented into the educational system.

From all mentioned herein we can conclude that creation of an enabling environment for development and operation of civil society organizations in the Republic of Croatia is still not sufficiently developed and the everyday implementation is extremely difficult due to mentioned factors and in spite of positive legislative solutions.

1. Key Findings

Despite the fact that in National Strategy for Creation of an Enabling Environment for Civil Society Development for 2012-2016 the need for investing additional efforts in development of support programs directed on more uniform regional development of civil society with stimulating decentralization process of financing projects and programs of associations from public funding is explicitly stated, in practice it is usual that majority of public resources intended for institutional support to CSOs is allocated to associations with legal seat in Zagreb or its surroundings. In this way development of CSOs in other parts in the Republic of Croatia is directly slowed down and with time completely made impossible which ultimately leads to centralization of civil society.

Although the Republic of Croatia as full-fledged member of EU has at its disposal EU funds, in practice a number of factors that make absorption of disposable means difficult for civil society organizations occur. The main responsibility for this problem lies in untidy administrative procedures run by state authorities in charge of preparation of documents that serve as foundation for further distribution of disposable funding. Namely, competent Ministries and state institutions prolonged to a great extent preparation of **Croatian strategic and operative documents necessary for absorption of EU funds for programming period 2014-2020, which made work extremely difficult for potential beneficiaries who prepare project proposals since there is no legal and procedural safety because of non-existence of national frameworks.** As a consequence, being late with making of the mentioned basic documents led to a number of problems for CSOs in Croatia in which it is customary that grant procedures are late from two months to one year or even more than envisaged by the planned calendar announced in Call for Proposals which leads to impossibility of continuous implementation of programs and projects of CSOs and financial instability.

At the same time, the Republic of Croatia, though having one of the best Access to Information Acts has not secured its implementation in a quality way. Namely, Information Commissioner's Office has only four employees who cannot carry out trainings and supervision over all public authorities for the purpose of their transparency because of which right to access to information is nothing but a "dead letter" which represents a serious threat to one of fundamental human rights – right to access to information, that is protected by Croatian Constitution as well.

No	Top 6 report findings	References	
1	<i>Insufficient public perception on potential situations of conflict of interest and insufficient knowledge of Prevention of Conflict of Interest Act by public officials</i>	Area	1
		Sub-area	1.1
2	<i>State authorities are late with preparation of strategic and operative documents for absorption of EU funds</i>	Area	1
		Sub-area	1.1

3	<i>Encouraging self-censorship by penalizing freedom of speech and expression</i>	Područje	1
		Podpodručje	1.2
4	<i>There are no clear criteria for selection of project evaluators and committees for evaluation of projects are not transparent in relation to their structure</i>	Area	2
		Sub-area	2.2
5	<i>Criteria for allocation of state incentives put CSOs in unfavourable position</i>	Area	2
		Sub-area	2.3
6	<i>Inadequate implementation of Access to Information Act</i>	Area	3
		Sub-area	3.2

1. Key Policy Recommendations

In part 4 of Monitoring Report recommendations for improving each of listed standards for the purpose of enhancing status of CSOs and creating an enabling framework for their everyday work are stated in a detailed way.

In spite of already mentioned fact that in the Republic of Croatia progressive legal frameworks and institutional mechanisms for unobstructed work of civil society organizations are set up, we are still witnesses to existence of obstacles in implementation of policies that would facilitate the work of CSOs.

A problem is perceived related to insufficient knowledge of public officials and employees of state and public institutions and society as a whole about provisions of Prevention of Conflict of Interest Act because of which there is no timely detection of potential cases of conflict of interest.

Enhancement of framework for absorption of EU funds is necessary considering that in practice many obstacles occur, such as being late with preparation of relevant umbrella documents, frequent fluctuations of employees in implementing authorities which leads to being late with implementation and reporting processes and non-uniform procedures of project implementation by contracting authorities.

All mentioned makes work and quality of CSOs' activities more difficult by creating financial and legal uncertainty and definitely does not provide enabling environment for civil society development.

In order to implement Access to Information Act that protects one of fundamental rights guaranteed by the Constitution it is necessary that the state secure financial support that would make unobstructed work of Information Commissioner's Office possible.

No	Top 6 recommendations for change	References	
1	<i>To implement systematic education of civil servants on provisions of Prevention of Conflict of Interest Act and Ethical Code of Civil servants. To point out situations of potential conflict of interest so that the public could be presented with circumstances in which conflict of interest occurs during distribution of public finances.</i>	Area	1
		Sub-area	1.1
2	<i>To prepare documents relevant for absorption of EU funds timely so that continuity of financing of CSOs is made possible.</i>	Area	1
		Sub-area	1.1
3	<i>To eliminate provisions from Criminal Act that limit the freedom of expression as it is a</i>	Area	1

	<i>fundamental human right.</i>	Sub-area	1.2
4	<i>To promote Guidelines for Evaluators of Project Proposals among potential project applicants with the objective of increasing quality of project proposals. To publish the list of project evaluators, members of evaluation committees and criteria for their selection together with criteria for allocation of public finances.</i>	Area	2
		Sub-area	2.2
5	<i>To legally enable CSOs to use all state incentives that are at disposal of other legal entities.</i>	Area	2
		Sub-area	2.3
6	<i>To create adequate framework for implementation of Access to Information Act.</i>	Area	3
		Sub-area	3.2

1. About Project and 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 Turkey². Region Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area at www.monitoringmatrix.net.

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 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 optimal 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 lie in implementation, the indicators are defined to monitor the situation on levels of legal framework and practical application.

Annual monitoring and reporting in 2014 is focused on 14 core standards and the following elected standards:

1. All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online
2. CSOs operate freely without unwarranted state interference in their internal governance and activities
3. CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities
4. CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly
5. CSO representatives, individually or through their organizations, enjoy freedom of expression
6. Tax reliefs are available on various income sources of CSOs
7. Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants

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

8. Public funding is distributed in a prescribed and transparent manner
9. CSOs are treated in equal manner as other employers
10. There are enabling volunteering policies and laws
11. The State recognizes, through the operation of its institutions, the importance of the development and cooperation with the civil sector
12. There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner
13. CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes
14. CSOs are engaged in different services and compete for state contracts on an equal basis as other providers

II. Introduction

1. About Monitoring Report

As component of Project “*Balkan Civil Society Acquis: Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs*” financed by European Union and Balkan Trust for Democracy, Association for Promotion of Human Rights and Media Freedoms CENSORSHIP PLUS from the Republic of Croatia drafted Monitoring Report based on Monitoring Matrix of enabling environment for civil society development.

Association for Promotion of Human Rights and Media Freedoms CENSORSHIP PLUS is not-for-profit civil society organization from Split, that promotes human rights, media freedom and works on civil society development by methods of independent television production, non-formal education and public advocacy, all for the purpose of providing contribution to building of modern, democratic and fair society in Croatia. Censorship Plus operates in several priority areas, such as: improvement of media and not-for-profit media status, European informing, fight against discrimination, improvement of human rights status, prevention of corruption through active citizenship and good governance, improvement of civil society status and civil dialogue, and stimulation of development of social entrepreneurship and local communities.

Having as objective implementation of this research Censorship Plus established research methodology consisting of analysis of relevant legal and institutional frameworks, implementation of structured interviews and organization of focus groups.

Research was carried out during September, October and November of 2014 in the Republic of Croatia.

2. 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 levels and to strengthen structures for CSO integration and participation in EU policy and accession processes on European and country levels.¹

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 annually for at least the 48-month duration of the Project. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev). It is part of a series of country reports covering 8 countries in the Western Balkans and Turkey³. A regional Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-

area at www.monitoringmatrix.net.

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,

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

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 the 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 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 Recommendations section.

The development of the Monitoring Matrix on enabling environment for CSDev was part of a collective effort of CSO experts and practitioners from the BCSDN network of members and partners and with expert and strategic support by ECNL. The 11-member expert team spanned a variety of not-for-profit and CSO specific knowledges and experiences, 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 groups 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 Croatia

More intensive CSDev started with building of today's institutional and legislative frameworks during the last decade of the past century and the first one of this century, and its back bone is represented by the institutions, such as Office for Cooperation with NGOs (established in 1998), the Council for the Development of Civil Society (set up in 2002) and National Foundation for Civil Society Development (founded in 2003). By setting up Foundation "Kultura nova" in 2011, conditions were created for promotion and CSDev in the area of contemporary culture and art which was an additional recognition of the significance of public foundations for the solution of problem with systematic financing of CSOs operating in specific areas.⁴. A number of other strategic documents and programs – National Strategy for Equalization of Possibilities for Persons with Disabilities, Anti-Corruption Strategy with belonging Action Plan, National Program for Protection and Promotion of Human Rights, National Policy for the Promotion of Gender Equality, Program of Activities for Prevention of Violence among Youth, National Youth Program, Strategy of Social Welfare System Development – recognize the importance, values and needs of civil society and envisages civil society organizations as stakeholders responsible for joint implementation of many activities.

⁴ National Strategy for Creation of Enabling Environment for Civil Society Organizations 2012-2016.

Number of organizations is one of more relevant indicators for CSDev. According to data from official records and registers, there are more than 50,000 registered associations, 181 foundations, 12 trusts and more than 500 trade union and employers' associations, 52 religious communities and more than 2,000 legal persons incorporated by Catholic Church, 428 organizational forms of Orthodox Church, and according to estimate more than 600 private institutions operating in Croatia today. In view of the fact that there are about 16,000 associations registered in the sports and recreation sector, almost 7,000 in culture and art sector, more than 4,000 are related to various economic activities, almost 4,000 associations operate in technical culture sector, social, health, children, youth and family protection sector has more than 4,000 associations, there are more than 1,000 associations related to Croatian War of Independence, more than 6,000 associations operate in humanitarian, ecological, hobby, educational, scientific, spiritual, human rights protection and national minority protection, informational and other fields. Such a number of civil society organizations is to be considered as national treasure.

Republic of Croatia has developed system of financial supports for programs and projects of civil society organizations on state and local levels, and according to data regularly collected by Government's Office for Cooperation with NGOs since 2007, on the average 1.5 billion non-refundable kunas from public funds are allocated on annual basis to civil society programs and projects, one third of which is from the state budget, and two thirds are from budgets of counties, cities and municipalities. Analyses of allocated financial means as per financed sector show that sport sector receives about one quarter of overall amount on the annual basis in the Republic of Croatia. Then follows support for persons with disabilities, persons with special needs and socially marginalized groups that is financed with about 20% of annual allocation for programs and projects of associations, and almost equal share in the overall amount is allocated to projects related to protection and promotion of culture, cultural and historical goods and nature preservation. Participation of national minorities in public life of the state is represented with 10%, and projects in the field of democratization, CSDev and volunteering, strengthening of social cohesion and development of philanthropy participate with about 7%, in relation to overall amount of public funding allocated to programs and projects of civil society organizations they have a less than 5% share.

It is important to note that associations in the Republic of Croatia have so far used almost 100% of disposable means from European Union funds intended for civil society sector by which they financed education of all society sectors, provision of various social services when the state was not able to provide them, environment protection, social entrepreneurship and fight against corruption.

From some internationally comparable pieces of research carried out in Croatia (e.g. Civicus-Civil Society Index) it is obvious that the most critical area of CSDev in Croatia is related to the limited space for acting, determined as legal, political and socio-cultural framework enabling for CSDev. Although citizens generally have positive attitude towards civil society organizations, they are still not sufficiently included in work or initiatives of civil society.

Objectives of civil society organizations can be realized by various tasks and activities of these organizations ranging from advocacy associations, that fight for the rights of socially marginalized and minority groups by way of citizens' initiatives they start and consultative role they play in public policies shaping which is expressed in active participation of civil society organizations in adoption of some laws, national programs or strategies, up to work of local communities foundations or local associations networks that support CSDev or civil activism on local level. And, of course, importance of some associations in provision of social and public services of

general interest in fields of education, health and social welfare as desirable and good partner to the state on the basis of role model of European associations, is not to be disregarded.

Majority of civil society organizations is connected with the four largest cities in which more than 21,000 associations and the largest number of foundations are registered. It is beyond doubt that extremely big differences in standard of citizens among Croatian regions are directly related to the level of CSDev.

According to data from Croatian Government's Office for Cooperation with NGOs, in 2013 the largest number of associations realize annual revenue in the amount of up to 100,000.00 kunas, while only 6 associations realized revenue bigger than 200 million kunas.

4. Specific Features and Challenges in Applying Matrix in Croatia

Monitoring process of CSDev in the Republic of Croatia by Matrix is very complex particularly because many indicators overlap and it is impossible to clearly map the domain of each of the offered standards. Considering the specificity of establishment of each of the countries, more detailed adaptation of Matrix is required for each country in a way that frameworks are set in more flexibly and that not too general indicators and standards are set. In that sense, we stumbled upon difficulties during applying Matrix in the Republic of Croatia, more so since a number of indicators cannot be simply copy-pasted to each of the countries included in this research, but more detailed and flexible, from the research point of view, approach is needed for specific socio-legal environment of each country.

5. Credits

We are grateful to Government's Office for Cooperation with NGOs that provided us with requested information in due time, as well as to representatives of civil society organizations who responded to our invitation for participation in this research (GONG, Centar za mirovne studije, Association MI, Info zona, Društvo multiple skleroze – Split, League for Prevention of Addictions, Platforma Doma mladih..).

III Methodology

1. Overview of the methodological approach

Process of making of Monitoring Report for the Republic of Croatia in 2014 happened throughout September, October and November of 2014. Censorship Plus carried out the research by several mechanisms relevant for each of the researched areas.

Analysis of legislative framework and relevant legal regulations was carried out by analysis of key strategic documents, systematic analysis and comparison of laws that regulate particular parts from Monitoring Matriy (so called desk research approach). Application of such research procedure is the most efficient for the concrete area therefore it was applied in the first phase of research work.

On the basis of carried out analysis of the legislative framework of relevant Monitoring Report, key areas were detected that received additional attention by mapping out of potential interviewees.

For the needs of this research, several competent people were interviewed, whose replies to a set of questions asked in a form of structured interview were collected and put together in the final version of the Monitoring Report for Croatia in 2014.

As an important segment in carrying out of this research, collection of data by organization of focus group in November in Split is also significant.

2. Participation of the CSO Community

In order to collect relevant data from members of civil society organizations, Censorship Plus organized focus group in November of 2014.

Several representatives of civil society organizations operating in the area of Split-Dalmatia County participated in the work of focus group. During work of focus group, participants were presented with indicators relevant for this research in the form of questions and they were asked to provide elaborate replies to each of the questions asked. In this way valuable data was collected that shows real position of acting of civil society organizations and points out the problems and obstacles that CSOs encounter on a daily basis in spite of the existence of satisfactory legal and institutional frameworks for work of civil society in the Republic of Croatia.

Besides focus group, relevant information was received from representatives of civil society organizations by everyday conversations in the informal network of civil society organizations from the Republic of Croatia (60 members of Platforma 112 and Advocacy Network), informal conversations on everyday basis and daily internet communication in social networks.

3. Lessons Learnt

Due to specificities of each of the countries in the sense of legislative framework and social establishment it is of extreme importance to adapt the research to the concrete system in a quality way. Therefore, we think it is very important to work out so called "preliminary" adaptation

of the Monitoring Matrix to the concrete country, in sense of more quality selection of relevant indicators and adaptation to social-legal establishment of each country.

Considering set framework of research implementation in the Project, in this case the mentioned factor of indicators adaptation was somewhat left out which is important to keep in mind during carrying out of future research of this type.

IV Findings and Recommendations

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1.: Freedom of Association

STANDARD 1 All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online.

Research Findings:

Starting from the constitutional principle under which the freedom of association is one of fundamental civil and political freedoms that the state has to ensure for each of its citizens, we will review legislative framework within which the mentioned freedoms are realized in the Republic of Croatia.

On 06 June 2014 new **Associations Act**⁵ was adopted that came into force on 1 October 2014, and for the first time after Association Act that had been adopted in 2001, legal set up for incorporation and operation of associations was regulated in a comprehensive way. In part that regulates the way an association is incorporated, the Act sets up minimal conditions in regard to the number of incorporators by prescribing that association can be incorporated by at least three incorporators, which is in accordance with the Article 11 of Convention for the Protection of Human Rights and Fundamental Freedoms that determines the freedom of gathering and association.

Despite the request of the wide public, new Association Act is not applied subsidiary to trade unions, political parties, religious communities and employers' associations. Although in the draft of the Act it was envisaged that it would be subsidiary applied to trade unions, political parties, religious communities and employers' associations, the final proposal of the Act had this legal provisions removed by the competent Ministry.

According to Associations Act, incorporator of association can be any legally capable for work physical person, if work capability for execution of legal deals was not taken away from him/her, or legal person. Also, association incorporator can be underage person, being 14 years of age

⁵ http://narodne-novine.nn.hr/clanci/sluzbeni/2014_06_74_1390.html

(with certified consent of legal representative), and adult person stripped of work capability in part related to execution of legal deals by which provisions of UN Convention on the Rights of a Child, that Croatia is a signatory of, were built in the Act. Foreign physical and legal persons can be incorporators of associations under the same conditions prescribed for domestic physical and legal persons. It is important to point out that at the moment of incorporation of association at least one of the incorporators has to be of age, legally capable for work person that is not stripped of work capability in part related to execution of legal deals.

The Act further prescribes legal characteristics of the person authorised for representation and states that the person authorised for representation of association can only be an adult, legally capable for work person that is not stripped of work capability in part related to execution of legal deals.

Any physical and legal person can become member of association. Persons younger than 14 years of age can also be members of associations, under additional condition that legal representative or custodian issue written declaration on joining as a member and for person 14 years old persons written consent is issued by legal representative or custodian.

According to Art. 22. of Associations Act, registration in Associations' Register is voluntary and is executed at the request of incorporators of association. Request for registration on the prescribed form is submitted by the person authorised for representation of association to the competent State Administration Office. Request for registration has to be submitted within a period of three months from the day the decision on initiation of registration of association in register was adopted. In spite of informatization of the State Administration Office, it is still not possible to execute on-line registration in Associations' Register.

Register of Associations is electronically kept public record unique for all associations in the Republic of Croatia. Registration in Register is voluntary and is done at the request of the person authorised for representation of the association who submits is on behalf of incorporators to the u State Administration Office competent according to legal seat of the association. Register is public and anyone can see the contents of the Register online.

Within a period of 60 days as of the Association Act enetering into force (till 1 December 2014) Public Administration Minister has to adopt Bylaw for Regulation of the Contents of the Associations' Register. Draft of **Bylaw on Content and Way of Keeping Associations' Register and Foreign Associations' Register in the Republic of Croatia** was in public consultations process until 23 November 2014. Draft of Bylaw prescribes form and content of Associations' Register and Foreign Associations' Register, requests for registration in Associations' Register, requests for registration of changes in Associations' Register, contents of extract from Associations' Register and Foreign Associations' Register, classification of associations, way of submitting requests for registration in Associations' Register and Foreign Associations' Register, collection of documents, termination of associations with the status of legal persons and termination of activity of foreign associations in the Republic of Croatia.

Within a period of 90 days as of the Association Act enetering into force, Government of the Republic of Croatia has to adopt regulation by which criteria, standards and procedures of financing and contracting of projects of general interest implemented by associations are to be regulated at proposal of its office competent for associations. After this Regulation enters into

force, Codex of Positive Practice, Standards and Norms for Realization of Financial Support to Programs and Projects of Associations will cease to be valid (Official gazette of the Republic of Croatia, iss. 16/07). Associations are obliged to harmonize their Statutes with the new Act within a year of the Act entering into force (until 1 October 2015) and to submit a request for registration of changes to the competent State Administration Office.

Association can act without it being registered, that is if it is not a legal person. In order for informal association to participate in legal affairs it is necessary that incorporators mutually conclude a contract that is drafted as partnership contract and have it certified by Notary Public. However, by registration association acquires certain rights that do not appertain to informal associations (e.g. only associations registered in Associations' Register and Not-for-Profit-Organizations' Register have a right to allocation of public funds for projects and programs of associations). During procedure of registration association is not obliged to prove the grounds on which it uses certain premises registered as legal seat (to deliver contract or other document from which the right of use of certain premises is obvious). Therefore, legal seat of association can be registered at any address through which state authorities and third parties can communicate with the association.

Croatian Government's Office for Cooperation with NGOs provides information about procedure of incorporation, registration and other legal issues related to associations for all interested parties.

Recommendations:

1. To define more precisely term "of general interest" in Associations Act
2. To introduce a provision in Associations Act according to which the Republic of Croatia is obliged to allocate the funds from public budget for operation of associations by obligatory provision for state administration authorities prescribing that they are obliged to allocate the funds for provision of regular annual financial support to civil society organizations
3. To implement the concept of social entrepreneurship in Associations Act.

STANDARD 2. CSOs operate freely without unwarranted state interference in their internal governance and activities

Research Findings:

New Associations Act introduces the principle of independence prescribing that association independently determines its area of operation, aims and activities, as well as internal set-up, and that it independently executes activities that are not in contradiction with the Constitution and the Act. Apart from the mentioned principle of independence, new Associations Act introduces a number of other principles relevant for unobstructed operation of civil society organizations. In Art.7, the principle of publicity and democratic set-up and the principles of unprofitability and free participation in public life are defined.

Legislative determination of the mentioned principles is extremely important from the position of free operation of associations because they enable direct governance of association by its members based on the principles of democratic representation and free expression of will of their members, as well as free participation of associations in development, monitoring, implementation and evaluation of public policies, formation and expression of views, opinions and undertaking of initiatives on issues related to areas of their interests.

In practice there are situations in which employees of state authorities act as chairmen/chairwomen of civil society organizations that receive funds from the public budget. Although finances for work of associations are allocated by public tenders, the issue of conflict of interest arises. Namely, Article 25 of **Civil Servants Act** (*Official Gazette 92/05, 107/07, 27/08, 49/11, 150/11 and 34/12*) prescribes that civil servants have to behave in a way so as not to diminish their reputation and reputation of state service and that they cannot raise a question as to their impartiality of acting. Rules for behaviour of civil servants are regulated by Ethical Codex of the Government of the Republic of Croatia.

Ethical Codex of Civil Servants (*Official gazette 40/11 and 13/12*) contains the rules of good behaviour towards citizens of civil servants and in their relations to each other and prescribes the possibility of submitting a complaint against unethical and possibly corruptive acting of civil servants for citizens, but civil servants as well.

Also, representatives of civil society have recently tried to divert attention to more frequent interference with their activities and work executed by by political parties which is completely in opposition with the purpose and objective of existence of civil sector in democratically organized societies.

Recommendations:

1. To carry out systematic education of civil servants on provisions of Prevention of Conflict of Interest Act and Ethical Codex of Civil servants. To accentuate situations of potential conflict of interest so that the public can be presented with the circumstances in which conflict of interest occurs during allocation of public finances.
2. To adopt adequate procedure for expression and management of conflict of interest
3. To introduce special provision in relevant acts and regulations that will explicitly forbid any form of political pressure on work of associations or discrimination of associations by civil servants, public officials, political parties and their members

STANDARD 3. CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities

Research Findings:

Although in the Republic of Croatia, as full-fledged member of EU has at its disposal EU funds, in practice a number of factors occur that make quality absorption of disposable funds difficult for civil society organizations. The main problem lies in untimeliness of state authorities competent for preparation of documents that serve as foundation for further distribution of disposable finances. Namely, competent Ministries and state institutions extremely prolonged making of

strategic and operative documents necessary for absorption of EU funds of the Republic of Croatia in programming period 2014-2020 which made work extremely difficult for potential beneficiaries who prepare project proposals since there is no legal and procedural safety because of non-existence of national frameworks.

As a consequence, being late with making of the mentioned basic documents led to a number of problems for CSOs in Croatia, consisting of, as follows⁶:

It is impossible to strategically plan the work of associations considering non-existence of umbrella state strategic documents relevant for absorption of EU funds. Also, there is a number of problems in communication and cooperation with CSOs that are reflected in not respecting the deadlines defined for replying to comments on reports and approving interim or final reports. These procedures can sometime last up to six months. In procedure of approval of reports it happens that already corrected items or parts of reports are commented and changed a number of times. This happens particularly when reports are commented by several project leaders so that there are inconsistencies and illogicalities of comments and previous practice. Fluctuation of employees in contracting authorities is frequent which leads to situations in which changing project leader in contracting authorities leads to frequent changes or amendments to certain practices during project implementation resulting in legal insecurity and additional work load.

In cases of *single tender* some contracting authorities demand supplementing of (three) proposals collected from legal and physical persons with the three-member committee selecting the most favourable offer. Other contracting authorities request only sources on basis of which a certain price is formed. Contracting authorities do not allow the use of Contingency Costs. Considering that projects financed from EU funds are becoming more important and complex, this item in project budgets is a guarantee for quality project implementation and financial stability of CSOs, without it there is no financial security and it is impossible to bridge materialized risks during implementation.

Contracting authorities do not allow engaging experts from partnering organizations who have the necessary skills for implementation of some activities. This also relates to experts engaged on projects who executed certain activities which were not a part of their project job description.

National funds – Ministry budgets, Croatian Government Office funds, and agency or local budgets – designated to finance CSO projects and activities tend to decrease, which is visible from the annual budget. Additionally, local budget funding is insecure because there are cases in which no project funding agreement is signed, but rather the money is only remitted to the NGO's account, thus causing uncertainty about which project the money has been remitted for and how to spend it. On the other hand, even when an agreement is signed for implementation of a specific project, it does not guarantee that the full amount will be disbursed, due to a deficit in the local budget which is then covered from funds designated to CSOs, thus depriving CSOs of a part of the funds designated for the projects and activities which CSOs had already completed. Also, if a CSO receives any financial support at all, it is often disbursed with a considerable delay.

Furthermore, the work of CSOs whose work is focused on democratization, development of civil society and volunteering, strengthening social cohesion and development of philanthropy is not

⁶ Objections to functioning of system of implementation of EU projects in the Republic of Croatia were sent to Croatian Government's Office for Cooperation with NGOs by 24 civil society organizations in a joint letter from 07/11/2014.

sufficiently recognized by the national and local authorities, which is evident from the published tenders, i.e. their criteria.

The problem which CSOs are faced with is the co-funding of EU projects which needs to be secured from non-European funds. This includes national and local budgetary funds which, as was mentioned earlier, have a tendency of decreasing each year.

Recommendations:

1. To define and comply with the deadlines in communication between contracting authorities and project holders;
2. Target tenders at CSOs whose work is focused on democratization, development of civil society and volunteering, social cohesion strengthening and development of philanthropy;
3. Improve human resources management in order to reduce fluctuation of project managers and enhance coordination among project managers, as well as train new project managers;
4. Make sure that there is a sufficient number of competent staff members in public institutions who are trained on the use of EU funds;
5. Allow the involvement of experts from partner organizations;
6. Introduce the practice of approving *Contingency Costs* for projects whose budget exceeds 100.000,00 EUR
7. Continuously allocate budgetary resources to co-funding of EU projects

Sub-area 1.2.: Related-freedoms

STANDARD 1 CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly

Research findings:

The Constitution of the Republic of Croatia protects the right to public assembly, and clearly specifies that every citizen of the Republic of Croatia has the right to public assembly and peaceful protest in accordance with the law. The Public Assembly Act (<http://www.zakon.hr/z/444/Zakon-o-javnom-okupljanju>) provides a more precise definition of the terms and conditions of exercising the right to public assembly. Application for a public assembly and peaceful protest is submitted to the police department in whose territory the public assembly and peaceful protest is to be held. The application needs to be submitted at least 5 days prior to the beginning of the public assembly and peaceful protest. In exceptional cases of justified and valid reasons, the application can be submitted not later than 48 hours prior to the beginning of the public assembly and peaceful protest.

Freedom of speech and public appearance at a public assembly is restricted in the sense that it is forbidden to instigate and encourage war and use of violence, national, racial or religious hatred, or any other form of intolerance.

The Public Assembly Act is the only act which contains provisions that can limit the right to public assembly and that are necessary in a democratic society in order to protect freedoms and rights

of other people, the legal system, public morality and health. The ban on public assembly and peaceful protest is regulated by the Act and it applies in the following cases: in the vicinity of hospitals, if emergency vehicles access is obstructed and patients' peace is disturbed; in the vicinity of kindergardens and primary schools while children are attending; in national parks and protected nature reserves, save for the ones whose purpose is to promote the protection of nature and human environment; in the vicinity of zero category cultural heritage monuments, if the protected values are compromised; in motorways and main roads, if road traffic safety is compromised; in other places, if the time, number of participants, or character of the assembly might seriously disrupt free movement and work of a large number of citizens.

Recommendation:

1. Conduct a systematic training of civil servants on the rights stipulated by the Public Assembly Act

STANDARD 2 CSO representatives, individually or through their organizations enjoy freedom of expression

Research findings:

Freedom of expression is a political and democratic issue and the issue of realization of basic human rights and freedoms. The fundamental documents which legally regulate the concept of freedom of expression are the Universal Declaration on Human Rights (Art. 19) and the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Convention codifies and protects human rights which have become the accepted civilizational, democratic and legal standards of modern countries, such as, for example, the freedom of thought, conscience and religion (Art. 9), freedom of expression (Art.10), freedom of assembly and association (Art. 11), and freedom of choice (Protocol 1, Art. 3). Freedom of expression is a universal and guaranteed right, and is considered as a prerequisite for realization of other rights.

Therefore, freedom of expression as a principle and a right can be limited only by means of another equally important right, and even in that case it is necessary to carefully consider whether such a restriction is legitimate and legal, and whether it is commensurate (i.e. minimal)⁷.

The Republic of Croatia is faced with a rapid deterioration in the practical exercise of freedom of expression, as legal provisions have been adopted which directly encroach on the freedom of expression. Namely, the 2012 Criminal Code classifies defamation as a criminal offense, defining it as an act of *asserting or disseminating a claim which can damage another person's honour and reputation*. A more severe form of defamation is that in which the said act is committed *„through the press, radio, television, computer system or network, at a public assembly, or in another way in which the defamation becomes accessible to a large number of persons.“*

⁷ Prof.dr.sc. Josip Kregar; Pravo javnosti je reći (The Public Has the Right to Speak)

What is particularly problematic from the standpoint of the right to freedom of expression is that the legal definition of defamation as a criminal offense does not consider the element of falsehood of claims and assertions, i.e. defamation is regarded as a criminal offense regardless of whether the person was aware or not of the falsehood of the claim which he/she asserted when the criminal offense was committed, and regardless of whether the claim needs to be true or false. What can be considered as arguable is that the asserted claim either needs to be true, or the person needs to believe it to be true in good faith, but if the Court decides that there was no public interest or other valid reason, the defendant will not be allowed to prove the circumstances which would relieve him/her of criminal responsibility. Thus the defendant might be found guilty just by asserting or disseminating true factual statements which can damage another person's honour or reputation.

It is indisputable that true factual statements can damage the honour and reputation of another person, but it could also be said that the introduction of defamation as a criminal offense represents an expansion of the range of criminal offences against honour and reputation, as a true factual statement which can damage one's honour or reputation does not have to be related to one's personal and family conditions or to the committed criminal offense for which the person was found guilty and convicted.

Paragraph 5 of the Article 148 of the Criminal Code contains an explicit legal provision of optional exemption from punishment if the perpetrator admits that the claims he/she asserted were false and revokes them (effective remorse). **This can lead to the situation in which the person who asserts or disseminates falsehoods could be released from punishment, while the perpetrator who asserts or disseminates the truth could be denied the possibility to prove the circumstances which might relieve him / her of criminal responsibility.**

In this case, as well as in all other criminal offenses against honour and reputation, the law prescribes only a fine, while the criminal procedure for such a criminal offense can be instituted only on the basis of a private prosecution.

As was already stated in the previous paragraphs which deal with the freedom of expression, criminalization of assertion and dissemination of certain information results in a restriction of human rights.

A particularly problematic part is the description of the criminal offence which refers to the more severe form of defamation, encompassing situations in which the criminal offense was committed *„through press, radio, television, computer system or network, at a public assembly, or in another way in which the defamation becomes accessible to a large number of persons“.*

Defamation as a criminal offense leaves a lot of room for Criminal Courts to arbitrarily decide what is and what is not a public interest for public assertion of facts. In the court practice, and especially in Croatian circumstances in which courts are quick to convict journalists, defamation as a criminal offense might become an ideal tool for penal repression of and retribution to journalists. It is necessary to de-criminalize these acts, because it is evident that there is no need for prison sentences nor *ex officio* prosecution, while honour and reputation as legal properties can be protected by means of other, less severe means, such as compensation for damages in a civil litigation.

Such punishments can seriously limit media freedom, as they practically stimulate self-censorship among journalists. At the same time, criminalization of defamation represents a serious threat to the freedom of speech and to all other participants in public communication, as well any citizen who, on whichever occasion, asserts a claim which can be viewed as defamation in front of witnesses.

Recommendations:

1. Conduct an analysis of how valid the definition of defamation is from the standpoint of protection of freedom of expression as the basic human right and the protection of media freedom;
2. Change the legal definition of defamation in the Criminal Code.

Area 2: Framework for CSO Financial Viability and Sustainability

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

STANDARD 1. Tax benefits are available on various income sources of CSOs

Research findings:

On October 3, 2014, the Croatian Parliament adopted the **Law on Financial Operations and Accounting for Non-profit Organizations**⁸. This Law regulates the financial operations framework and elements of the accounting system of non-profit organizations by means of principles of the financial operations system, drafting and implementation of financial plans, reporting on the use of budgetary funds, financial reporting, annual financial reports revision, public announcement of annual financial reports, financial operations and accounting supervision, and other areas related to financial operations and accounting of non-profit organizations.

The parties subject to the Law are local and foreign NGOs and their unions, foundations, institutions, arts organizations, chambers, trade unions, employers' associations, and all other legal entities which were established as not-for-profit organizations and which are defined as non-profit organizations by means of special regulations.

The Act requires the implementation of the principles of publicity and transparency, especially regarding the financial reporting obligation and public announcement of financial reports, in accordance with the National Strategy for Creation of an Enabling Environment for Civil Society Development 2012-2016.

In this regard, non-profit organizations are required to publish their financial reports, which they can do through the Registry of Non-profit Organizations as defined by the provisions of the new Associations Act.

⁸ http://narodne-novine.nn.hr/clanci/sluzbeni/2014_10_121_2300.html

Obligations of non-profit organizations pursuant to this Act should apply to all organizations listed in the Registry of Non-profit Organizations Without Exemptions. However, the final proposal of the Act ended up containing a provision on the exemption of religious communities from the obligation on financial reporting on the total income, and they are – as opposed to all other legal subjects, including political parties – only required to submit reports on the use of budgetary funds. What is problematic is the fact that the said provision on the exemption was not a part of the draft proposal of the Act which was discussed by the Parliament, but was taken from one of the initial drafts of the Law which was not even submitted to the Government. The Legal Status of Religious Communities Act, NN 83/02, 72/13, defines religious communities as non-profit organizations and does not specify any exceptions or particularities related to their financial reporting obligations.

Taking into consideration the public benefit for the social community and the need to develop civil society, the Income Tax Act stipulates that legal entities such as associations, arts associations, volunteer fire brigades, technical culture associations, tourist boards, religious communities, trade unions, chambers, sports clubs and federations and foundations are not subject to income tax. Income Tax Act presumes that the above mentioned legal persons generate certain income, but due to their public benefit purposes they are exempt from paying income tax, for as long as they perform the activity due to which they were exempt from paying income tax in the first place.

If non-profit organizations perform an economic activity, and if due to the tax-exempt status of that activity certain unjustified privileges are acquired in the market, the Tax Administration can issue an official decision requiring the given organization to pay income tax for the economic activity in question. Non-profit organizations which are subject to income tax on the basis of an official decision issued by the Tax Administration are however not required to pay income tax on the difference between revenues and expenses which they generated by performing non-economic and non-profit activities for which they were established. Such a non-profit organization is subject only to tax on profit generated through performance of an economic activity, for which the competent tax authority has issued an official decision.

In other words, if apart from profit generated through an economic activity a non-profit organization also generates income from membership fees, donations and gifts, it is not required to pay income tax for this part of income and for the positive difference between income and expenses.

Income tax liability is determined upon completion of a calendar year, not later than April 30 of the current year for the previous calendar year.

Gifts and donations for which the non-profit organization does not provide any kind of reciprocal favours to the donors, are not subject to taxation. A non-profit organization can receive cash donations, items, services, and other forms of material assets which have a market value, without having to pay tax for the received donations.

However, in practice there is a problem of familiarity with legal regulations and tax exemptions among employees of the Ministry of Finance and the competent Tax Offices. Namely, in the case of exemption from special taxes (based on the signed Agreement on the Award of Grants from EU Sources – IPA projects, and tax exemptions including the value added tax and other special taxes such as, for example, special taxes on motor vehicles, insurance tax, etc.), the legal position of CSOs is unclear, as they are faced with contradictory interpretations of legal regulations offered by Tax Administration employees and do not receive timely replies to their requests for interpretation of legal provisions from second instance bodies.

Recommendations:

1. Obligations of non-profit organizations pursuant to the Non-profit Organizations Accounting Act should apply to all organizations listed in the Registry of Non-profit Organizations Without Exemptions;
2. It is necessary to conduct systematic trainings among Tax Office staff members on the particularities of tax exemptions for programs and projects implemented by CSOs;
3. Improve the consultation system and introduce the obligation according to which competent public authorities are required to respond to requests for interpretation of legal provisions in a timely manner.

Sub-area 2.2.: State support

STANDARD 1 . Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants

Research findings:

Despite the fact that the National Strategy for Civil Society Development 2012-2016 explicitly specifies the need to invest additional efforts in the development of support programs for a balanced regional development of civil society and in stimulating the process of decentralization of public funding for NGO projects and programs, in practice there are numerous situations in which the majority of public funds designated for institutional support of CSOs are given to NGOs based in the City of Zagreb and the neighbouring region. For example, from the total number of grants for the year 2014, more than 50% of grants, i.e. the amount of 470.000,00 Euro, were awarded to CSOs in the area of the City of Zagreb⁹. This directly hinders and eventually completely blocks the development of CSOs in other areas of the Republic of Croatia, which ultimately leads to “centralization” of civil society.

As was already mentioned, there are delays in tender procedures ranging from two months to a year or more from the planned tender calendar published in the Call for Applicants, which reflects onto the financial instability of CSOs and their activity planning.

There are no uniform application and reporting forms, and an unnecessarily large quantity of documents is often required. We believe that it is unnecessary to submit official documents which are available for inspection of competent authorities through systems of other administrative bodies (e.g. Tax Office Certificate, extract from the Registry of Associations, copy of the Statute...). Furthermore, the requirement to send all tender documentation and supporting documents via regular mail needlessly complicates tender application in cases where it is possible to apply on-line.

⁹http://zaklada.civilnodrustvo.hr/upload/File/hr/natjecaji/natjecaji_zaklade/rezultati/2014/institucionalna_podrska_dem.pdf

In the past few years, the front page of the application form has been featuring a recommendation to keep cost-efficiency and paper consumption in mind. On the other hand, however, contracting authorities demand that the supporting documents be submitted in printed form in several copies and on several CDs.

In terms of reporting, the forms either vary considerably, or have not been prescribed at all. Also, there is a number of situations in which certain contracting authorities do not accept legally prescribed forms (e.g. the OP – payroll calculation form), but rather develop their own forms which need to be submitted along with project reports.

Recommendations:

1. Synchronize the publication of tenders with the tender publication calendar;
2. Unify tender documentation;
3. Improve the tender application system by allowing on-line applications, and providing an optional alternative of submitting the application via regular mail
4. Balance territorial distribution of public funding designated for the work of CSOs

STANDARD 2 Public funding is distributed in a prescribed and transparent manner

Research findings:

On the national level (ministries, foundations, agencies, offices, etc.), tender procedures are mostly transparent, but the problems occur on the regional and local level, as the counties and cities conduct entirely non-transparent tenders for CSO funding. Also, public funding award criteria and procedures are either unclear, or the heads of those authorities distribute public funds by means of a discretionary decision without previously defined criteria.

Tenders are rather poorly written, and they do not adhere to relevant programs (e.g. national and municipal programs or strategies) in a given area, nor are the definitions consistent. Furthermore, there is a problem with tender publication, i.e. with the list of documents which need to be submitted when applying projects for tenders. Competent authorities offer inconsistent interpretations of the type and quantity of supporting documentation which applicants need to submit, and in some cases it is even required that the documents be notarized. Since recently, all national-level bodies require grant beneficiaries to submit a notarized blank promisory note when signing the grant agreement, but once the report has been approved, the notarized blank promisory note is not returned to grant beneficiaries¹⁰.

The Government of the Republic of Croatia is obliged to enact an Ordinance which will regulate the criteria, benchmarks and procedures for funding and contracting of public-benefit programs and projects which are implemented by NGOs within 90 days from the date of entry into force of the new Associations Act. Once the Ordinance has entered into force, the Code of Positive Practice, Standards and Benchmarks for receiving financial support for NGO programs and projects will be abrogated.

As a positive step towards the improvement and standardization of the work of contracting authorities, the Office for Cooperation with NGOs of the Government of the Republic of Croatia

¹⁰ http://www.uzuvrh.hr/userfiles/file/Zapisnik%204%20%20sjednice%20Savjeta-5_saziv.doc

has published ***Guidelines for Project Proposal Evaluators***¹¹, whose purpose is to assist Croatian public administration bodies which are responsible for drafting and publishing tenders for EU-funded projects, in order to make the project proposal evaluation procedure as transparent as possible. Furthermore, the purpose of the Guidelines is to clarify project evaluation criteria to all project proposal evaluators.

In the process of ensuring that consistent evaluation criteria are used, insufficient importance is attached to the evaluator appointment procedure, although it is precisely this procedure that has a direct impact on the outcomes of a project proposal evaluation procedure. Seen that the entities which publish calls for submission of project proposals are responsible for the appointment of evaluators, it is their responsibility to make sure that competent evaluators with a proved expertise in the relevant area and competence in project proposal evaluation have been appointed, who are also familiar with the use of consistent evaluation criteria.

The evaluator appointment procedure itself commences with the publication of the public call for submission in the database of independent evaluators. Apart from creating the database of independent evaluators, a public call can also be related to a specific grant tender.

The application criteria are defined by the public administration authority which is competent in a given area, while the call is published both on the website of the said authority and on the website of Structural and Investment Funds.

However, the problem arises in case of a potential conflict of interest, considering the fact that in a concrete tender procedure the names of evaluators are not published. Technically, a situation is possible in which the evaluator is a member of the CSO whose project proposal is being evaluated, in which case it represents a direct conflict of interest.

Therefore, the practice of keeping the names of members of the evaluation committee secret and unpublished is unnecessary and legally questionable.

Recommendation:

1. Harmonize criteria for Grant Tenders for CSOs with the relevant Strategies in the given area;
2. Clearly define public funding award criteria;
3. Promote Guidelines for Project Proposal Evaluators among potential project applicants, which would contribute to a higher quality of project proposals;
4. Publish the list of project evaluators, members of evaluation committees and their selection criteria.

Sub-area 2.3.: Human resources

STANDARD 1 CSOs are treated in an equal manner to other employers

¹¹ http://www.uzuvrh.hr/userfiles/file/procjena_projektnih_prijedloga_FINAL.pdf

Research findings:

The Republic of Croatia implements a series of active labour market measures and policies. To this end, the Ministry of Labour and Pension System has developed a set of labour market measures and policies which are implemented by Croatian Employment Service. The set of measures and policies is subject to frequent changes in terms of the conditions which need to be met by potential users, the amount of funds and duration of the measures.

From the large number of active labour market measures which were implemented in 2014, CSOs could use only two: Public works and **Occupational Training without Commencing Employment for young people without work experience, which places them in an unequal position in comparison with other employers.**

NGOs cannot extend the employment contract to the person who is in occupational training, while other employers are allowed to continue using this measure. Such an attitude towards CSOs as employers is entirely discriminatory, and it directly affects sustainability and quality of their work.

There is no systematic control of the implementation of active labour market measures by competent state institutions in the course of their implementation. Thus we have situations in which persons who are employed through a certain measure do not show up for work at all, or do not fulfill the obligations they are required to fulfill as labour market measure beneficiaries. Such a situation is problematic from the aspect of control of the use of public funds, considering that active labour market measures and policies are funded through the state budget, i.e. by means of public funds.

Despite the existence of the Registry of Non-profit Organizations (RNO) by means of which state administration authorities can also monitor financial operations of civil society organizations, the lack of a CSO quality assurance system results in an insufficiently visible efficiency and effectiveness of CSOs, inability to measure outcomes and impacts on the society, insufficiently recognized quality of CSOs' work among donors, and financial fragmentation of funds allocated to CSOs. On the other hand, all this makes the civil society sector an insecure employment sector, with considerable fluctuations in the quality of workforce.

The share of those employed in the non-profit sector with regard to the total number of employees in Croatia has been increasing over the past several years, and in the past two years it has been revolving around 1,3% (between 18.000 and 19.000 of employees per year, on average). Considering the increasingly important role of civil society organizations in the use of EU funds, it is to be expected that this number will grow in the years to come, and that an increasing number of young people will start viewing NGOs and other civil society organizations as a desirable career choice.

Commercial banks still do not perceive NGOs as creditworthy legal entities, and conditions for receiving loans from commercial banks are considerably different for NGOs than they are for other employers. Even when NGOs receive a loan as a means of funding, they are required to design and undertake complex entrepreneurial ventures in order to be able to pay back the interest on equity.

Recommendations:

1. Allow CSOs to use all measures from the active labour market policies set on equal terms with other employers;
2. Improve the control system for the use of public funds by means of a more intense control of the implementation of active labour market measures and policies;
3. Develop a CSO quality assurance system;
4. Allow equal access to lines of credit as other employers have.

STANDARD 2 There are enabling volunteering policies and laws

Research findings:

Pursuant to the Government of the Republic of Croatia Program for the 2011–2015 mandate period, volunteer service was recognized as an important activity which contributes to the inclusion of marginalized groups, stimulates the acquisition of new knowledge and skills of all members of the society, and improves competences and employment, especially among young people.

In the Republic of Croatia there are incentive policies for the development of volunteering, and volunteering as an activity is regulated by means of a number of relevant documents, such as: **Volunteer Service Act**¹², Volunteers' Code of Ethics, **Regulations on the National Volunteer Service Award**, and the Regulations on the contents of the report on provided services or volunteer service activities.

Ministry of Social Policy and Youth, as the central public administration authority, is responsible for coordination of the volunteer service development policy. It also supervizes the implementation of legislation and measures which stimulate volunteering activities within the National Strategy for Creation of an Enabling Environment for Civil Society Development 2012-2016, and provides technical support to the National Committee for Development of Volunteering which is an advisory body of the Government of the Republic of Croatia consisting of 19 representatives and experts from public and civil sector which operates on the national, regional and local level for the purpose of promoting volunteer service and proposing measures for improving the position of volunteers in the society and supporting volunteering organizations. The network of regional and local volunteer centres (Osijek Volunteer Centre, Zagreb Volunteer Centre, Association for the Development of Civil Society „SMART“ – Rijeka Volunteer Centre, Association „MI“ – Split Volunteer Centre), promotes the values of volunteer service and mobility of volunteers, and improves the institutional framework for volunteer service.

Regulations on the Contents of the Report on Provided Services and Activities of the Volunteer Service Organizer¹³ stipulate the obligation to submit data on the number of volunteer hours, number of volunteers, and volunteer activities and services in the Republic of Croatia. The Regulations process data on volunteer activities, services, volunteers and invested financial resources in order to provide a reliable insight into the structure and number of

¹² <http://www.zakon.hr/z/258/Zakon-o-volonterstvu>

¹³ http://narodne-novine.nn.hr/clanci/sluzbeni/2008_09_101_3089.html

volunteers, volunteer service organizers, and relevant expenses in the Republic of Croatia. According to the data from the Ministry of Social Policy and Youth, in 2013 the **number of volunteers and volunteer service organizers in the Republic of Croatia increased by 50%** in comparison with 2012, with the total number of 1 652 965 volunteer hours worked.

The new Volunteer Service Act introduced some changes and novelties. Thus, for example, the concept of long-term volunteer service is more clearly defined, and concepts of short-term volunteer service and volunteer service in crisis situations are introduced. Furthermore, the concept of volunteer service is more clearly delineated from the other forms of unpaid labour, especially from occupational training which was, due to the fact that no salary is received for it, mistakenly perceived as volunteer service. A recognition and validation system was introduced for volunteering and for competences and skills acquired through volunteering.

The new concept of common benefit was introduced instead of the previously used 'public benefit' term, as well as a new provision according to which volunteer services cannot be provided for more than 40 hours a week over a period longer than three months unless there has been a three-month break. This actually means that it is possible to provide volunteer services for 40 hours a week only over three consecutive months, after which a three-month break is required before that type of volunteer service can be continued.

The principle of inclusive volunteering is also introduced, referring to the inclusion of members of socially excluded groups of citizens in volunteer programs provided by volunteer service organizer, for the purpose of their social inclusion and empowerment.

The Act also introduces changes related to the volunteer service agreement. Apart from the adult legally capable persons, the contract can also be concluded by minors who have 15 years of age with the consent of their legal representative in a written form. For persons who are deprived of legal capacity as well as for those with partial legal capacity, in cases when the volunteer service exceeds the limit of their legal capacity, the volunteer service agreement is signed by their legal guardian, i.e. legal representative, in written form exclusively, with acknowledging the will of the volunteer-ward. In case of an oral contract, volunteer service organizer will have to issue a written certificate on the concluded agreement only at the volunteer's request. A special type of volunteer service agreement refers to **short-term volunteer service and long-term volunteer service** entailing provision of services to children, persons with disabilities, the elderly and infirm, the ill, or persons who are partially or completely deprived of legal capacity. Thus, in case of short-term volunteer service, the agreement also needs to contain a written statement from the volunteer specifying that there are no circumstances which would prevent him/her from being allowed to volunteer, such as, for example, if he / she is subjected to compulsory psychiatric treatment as a security measure, or if he / she has been convicted for criminal offenses against life and limb, as well as in other cases mentioned and elaborated in the Volunteer Service Act. In case of long-term volunteer service in the same circumstances, the volunteer service organizer is required to obtain evidence that there are no circumstances due to which the volunteer would not be allowed to volunteer and provide services to persons with disabilities, the elderly and infirm, the ill, or to persons who are completely or partially deprived of legal capacity, seen that the special criminal record certificate can only be obtained when it is required for a job which entails regular contacts with children. Additionally, when it comes to long-term volunteer service which entails provision of services to children, apart from the volunteer's written consent, the volunteer service organizer also needs to obtain special criminal record certificate issued by the ministry

responsible for justice on the data from the Article 13, Paragraph 4 of the Law on Legal Consequences of Conviction, Rehabilitation and Criminal Records.

An extremely important novelty introduced by the Volunteer Service Act is the recognition and validation of volunteer service, especially among youth, for the purpose of recognizing and validating competences acquired through volunteer service, by means of a Certificate of Competences Acquired through Volunteer Service for long-term volunteer service. The introduction of the Certificate of Competences Acquired through Volunteer Service is particularly important for young people who are in a seriously disadvantaged position in the labour market.

Recommendations:

1. Legally regulate and recognize volunteer service in the relevant occupational area as relevant experience (for example, when determining the length of internship required to take professional exams).
2. Promote validation of competences acquired through volunteer service, especially among youth, in order to enhance their inclusion into the labour market.
3. Continuously monitor and publish official statistical data regarding organized volunteering in the Republic of Croatia, and improve the data collection system to include data about Croatian citizens who volunteer outside of the Republic of Croatia.
4. Legally define and regulate manners in which volunteer service organizers can obtain evidence on the absence of circumstances which would prevent a volunteer from being allowed to provide volunteer service.

Area 3: Government-CSO Relationship

Sub-area 3.1.: Framework and practices for cooperation

STANDARD 2 The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector

Research findings:

The Council for the Civil Society Development in the Republic of Croatia was established in 2009. It is an advisory body of the Government of the Republic of Croatia whose main role is to strengthen cooperation between the Government of the Republic of Croatia and CSOs in the Republic of Croatia on the implementation of the National Strategy for Creation of an Enabling Environment for Civil Society Development, Development of Philanthropy, Social Capital, Partnerships and Cross-sectoral Cooperation. The Council participates in a continuous monitoring and analysis of public policy related to or affecting the development of civil society in the Republic of Croatia and cross-sectoral cooperation; it also advises the Government of the Republic of Croatia on draft legislation which has an impact on the development of civil society, and participates in planning the priorities of national grantmaking programs for CSOs. Through the Office for Cooperation with NGOs of the Croatian Government, public administration authorities and government offices regularly submit information to the Council about their decisions regarding funding of NGOs. The Council has 27 members: 12 representatives of

competent public administration authorities and offices of the Croatian Government, 12 representatives from NGOs and other civil society organizations, and 3 civil society representatives from foundations, trade unions and employers' associations. The Council has a chairperson who is elected by the members of the Council—representatives of NGOs and other non-profit legal entities.

Although on the national level the majority of institutions recognize the importance of civil sector and cooperation with the civil sector, and include CSO representatives in various working bodies (committees, draft strategy development groups, parliamentary committees, etc.), civil society organizations are still not recognized as relevant partners in all areas in which they operate, but are usually regarded as state budget beneficiaries.

Despite the fact that there is a system for cooperation between state institutions and CSOs on the national level, the problem occurs on „lower“– regional (counties) and local (cities / towns and municipalities) – levels. There is no cooperation in terms of participation of CSOs in working bodies of units of local and regional self-government, nor is there an interest in building partnerships for the development of local policies and development of local project interventions. Units of local and regional self-government do not perceive CSOs as relevant stakeholders which can contribute to local development, as opposed to the Association of Cities and Government Office for Cooperation with NGOs, who initiated and developed the Declaration on Cooperation between Cities/Towns and CSOs in the Republic of Croatia¹⁴ which was signed by 75 of the total of 128 cities/towns in the Republic of Croatia by November 2014. The Declaration acknowledges **the importance and possibilities of the civil society** and emphasizes **the need for a concrete cooperation and partnership between local authorities and NGOs** and other citizen associations which are active in local communities. Based on the fundamental principles of citizenship consultation and participation in the decision-making processes on the local level, which have been defined by the Consultation with the Interested Public Code, and based on the goals and tasks defined by the National Strategy for Creation of an Enabling Environment for Civil Society Development 2012-2016, the Declaration elaborates concrete forms of cooperation, partnership and inclusion of citizens and their organizations in decision-making processes related to self-government.

However, there is a certain difference between units of local self-government and counties in terms of cooperation with civil society. Namely, most CSOs have experienced a lack of cooperation with the Counties in which they operate, except when it comes to tender application, which the Counties see as the only possible model of cooperation. For example, in Split-Dalmatia County some NGOs are completely left out of the partnership, while others are represented (e.g. veterans' associations). The problem is that the County does not acknowledge certain CSOs (for example, those which deal with the problem of addiction), practically declaring them redundant by claiming that it is a domain reserved exclusively for public institutions and institutes.

As far as units of local self-government are concerned, a certain progress has been achieved in terms of a greater participation of civil society in the public policy and budget creation processes, and development of clear criteria for allocation of public funds (for example, the Town of

¹⁴ <http://www.uzuvrh.hr/userfiles/file/Deklaracija%20gradovi%20i%20OCD.pdf>

Pregrada¹⁵). Some units of local self-government have taken a step back, as a tender for the use of public premises at a preferential price has not been published in years, nor is there a department for cooperation with the civil society or an Office for Youth. Also, as far as funding from the local budget is concerned, the heads do not allow project-based funding of salaries of those who are employed in an NGO (for example, in Split¹⁶).

Also, in the process of appointment of CSO representatives in various committees and working bodies of certain state authorities, tenders are not published in an open and transparent manner, but the potential candidates are invited on the basis of personal contacts, despite the fact that updated lists of CSOs can be found on competent authorities' websites.

Recommendations:

1. Improve cooperation between administrative bodies of regional and local authorities and CSOs by adopting a binding legal act;
2. Systematically publish tenders for the use of adequate public premises at a preferential price;
3. Strengthen CSO capacities for public policy monitoring and inclusion in public debates;
4. Encourage representatives of towns / cities to sign the Declaration on Cooperation between Towns and CSOs.

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

STANDARD 1 There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner

Rezultati istraživanja:

The Republic of Croatia has defined a legal framework which enables CSO involvement in the legislation enactment processes. In 2009, the **Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, Other Regulations and Acts** was adopted which provides guidelines for an effective consultation between public authorities and the interested public in the process of adoption of laws and other legal acts, as well as existing good consultation practices which are already being implemented by various public administration authorities. According to the Code, the authorities which are responsible for drafting laws, other regulations and legal acts need to publish the said drafts on their webpages or in another appropriate manner.

¹⁵ <http://www.pregrada.info/novosti/grad-pregrada-uspjesan-na-natjecaju-nacionalne-zaklade-za-razvoj-civilnog-drustva/>

¹⁶ <http://www.split.hr>

The call for consultation on draft laws, other regulations and legal acts needs to contain a clearly indicated deadline for submission of comments of the interested public, which should not be shorter than 15 days following the day of publication of the draft legal act on the webpage of the authority responsible for drafting the legal act, allowing the interested public enough time to study the draft legal act in question and formulate their opinion.

Comments of the interested public, along with a Consolidated Summary of Comments to specific provisions in the draft legislature, are published on the webpage of the authority which was responsible for its drafting or in another appropriate manner, so that the impact of consultations in the procedures for adoption of laws, other regulations and legal acts is evident.

In June 2012, the Government of the Republic of Croatia adopted the **Regulation on Regulatory Impact Assessment**¹⁷, which prescribes the implementation procedure for regulatory impact assessment in detail. The main objective of regulatory impact assessment is to stimulate cooperation and cross-sectoral coordination between professional lawmakers in order to achieve a more simple and quicker integration of common objectives and strengthen the transparency of proposed draft regulations.

Although law adoption procedure tends to be lengthy, the interested public plays an active role throughout the procedure, especially in the earliest stage in which law proposals are drafted, and can have a direct impact on the content of the legal norms.

However, lately there have been situations in which some of the crucial provisions featured in the final draft of the law proposal were changed, despite the fact that an entirely different formulation of proposed legal provision was presented to the general public in the course of the public debate. In our opinion, such practice is highly dangerous from the viewpoint of democratic participation of citizens in the process of adoption of laws and other regulations, as the public opinion is being practically ignored, and there was no public debate about such “last minute” alterations, which ultimately leads to a non-transparent legal act.

The most recent example of this is related to the introduction of civic education, where we had the following situation: the Ministry of Education which, once the new Minister came to office, revoked the previously developed civic education curriculum proposed by the Expert Committee which was established for that very purpose and whose additional objective was to introduce civic education as a compulsory subject in senior primary and secondary school grades, followed by a cross-subject implementation on all levels of primary and secondary education.¹⁸

After two years of implementation of the 'New Age for Human Rights and Democratisation in Schools' project by the Croatian Youth Network, Centre for Peace Studies and GONG, thanks to which the civic education curriculum was piloted in 6 schools, it seemed that there is a strong basis for establishment of a permanent cooperation model between civil society organizations and ministries on the introduction and high-quality implementation of civic education in schools. An Expert Committee was established which consisted of experts and practitioners from different formal and non-formal education settings, including the CSOs. The Committee developed the

¹⁷ http://narodne-novine.nn.hr/clanci/sluzbeni/2012_06_66_1554.html

¹⁸ Emina Bužinkić, Centre for Peace Studies

Civic Education Curriculum, proposed the course realigning list, developed a teacher training model proposal, as well as a draft model for introduction of civic education in schools. The proposals were submitted for public debate which lasted for a month in April and May 2014, but the public debate conclusions were never published. There were no more Committee meetings, except the one following the appointment of the minister who presented the decision on cross-subject implementation. This decision was also submitted for public debate, but the public was never informed about the conclusions of that public debate either. The Minister held consultations with church representatives and NGOs associated with the Church; however, no such consultations were held with CSOs specialized in non-formal education in the area of human rights, interculturality and democracy, and peace and civic education.

Particularly alarming is the situation which took place in the Republic of Croatia during the last year, regarding the failure to allocate budgetary funds to the Information Commissioner's Office, which hinders and potentially blocks the work of this body that plays an essential role in the realization of the right of access to information. It is important to mention that the number of appeals and other procedures has been growing rapidly; thus, in 2014, 1.137 procedures have been initiated, and according to 2013 data (which continue into the current year), appeals were most frequently submitted by physical entities (76%), NGOs and trade unions (14%), journalists (5%), companies (3%), and units of local self-government (1%).

In 2013, the largest number of appeals were related to management silence, i.e. to management's disregard of request for access to information. As far as rejection of requests is concerned, the largest number of requests were rejected due to protection of personal data (26,8%) or business and professional secrecy (10,4%). In adjudicating appeal processes in 2013, only 15% of appeals were rejected as groundless, which indicates that applicants are mainly right to insist on requesting certain information.

Even the Information Commissioner, in her the 2013 Report, alerts to the fact that *«legally stipulated autonomy of the Commissioner is compromised due to the limited financial resources which obstruct the Commissioner's work. Namely, the existing capacities of this independent authority are far less than satisfactory and insufficient to ensure the implementation of the Law and protection of citizens' rights as guaranteed by the Constitution, monitoring the implementation of the Law and promoting the right of access to information. The four employees of the Office deal almost exclusively with appeals and reply to queries, as well as provide trainings. Performance of other legally required tasks, in particular the inspection and monitoring and promotion, as well as project implementation, are seriously compromised»*¹⁹.

Recommendations:

1. Prevent "last minute" alterations to draft legislative proposals by means of a law;
2. Publish the conclusions of public debates in a regular and transparent manner;
3. Provide the financial framework for the activities of Information Commissioner's Office.

STANDARD 3 CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes

Research findings:

¹⁹ <http://www.pristupinfo.hr/en/dokumenti-i-publikacije/>

CSO representatives in the Republic of Croatia participate in more than 100 advisory cross-sectoral bodies (committees / councils, permanent working groups), including the National Committee for Development of Volunteering, which implements measures and activities in order to promote and further develop volunteer service. Parliamentary working bodies in the Republic of Croatia have more than 100 representatives of interest groups among their members who are appointed on the basis of a public call and who participate in the work of permanent committees, and thus have a regular access to Members of Parliament.

Members of the Council for Civil Society Development are appointed by CSOs on the basis of a public call by means of a transparent procedure, while public authority representatives are appointed by means of an official decision. Selection criteria are formulated in such a way that they provide a comprehensive representation of CSOs. In Croatia, for example, CSOs vote for 12 representatives of 12 different sectors relevant for their activities, including the promotion and protection of human rights; health protection and improving the quality of life; social services for persons with disabilities; child care; environmental protection and sustainable development; social welfare; youth activism; democracy, rule of law and education; culture; organizations which participate in the provision of social services to the veteran population; sports and technical culture. The Croatian Council has meetings at least once every three months, and minutes from all sessions are available to the public on the webpage of the Office for Cooperation with NGOs. Also, external members can attend the sessions if they have expressed the interest to do so, if they are experts in a specific area, or if they have been invited by the Council because of their specific area of expertise.

However, the problem is that the meetings of the working bodies of certain state institutions are held in Zagreb, while the interested CSO representatives do not get reimbursed for their travel expenses, which further prevents active participation of NGOs which are not based in the capital or in the surrounding region.

Apart from the Council for Civil Society Development, CSO representatives also participate in a number of working and advisory cross-sectoral bodies. All those who are interested in participating in advisory bodies are appointed in accordance with clearly defined criteria listed in public calls / tenders, while representatives of working bodies (which are usually established for the purpose of achieving various short-term goals such as, for example, adoption of laws or strategies) are usually appointed on the basis of calls addressed directly to CSO platforms and networks, which are then required to propose their own interested members in accordance with the required qualifications and experience in the field relevant to the working group in question. CSO representatives participate in a number of state authorities, from the Croatian Parliament Committee, through councils and working groups of various ministries, to Government offices. Some of the currently relevant cross-sectoral bodies in which CSOs have their representatives are the following: Youth Council of the Government of the Republic of Croatia, Council for Civil Society Development, Open Government Partnership, draft Youth Act working group, Working Group for Establishment of Criteria and Definitions for Working with Young People, Working Group for Monitoring the Implementation of European Union Council Recommendations – Youth Guarantee; Human Rights Commission of the Ombudsman, Working Group for Drafting the National Plan to Combat Discrimination; *European Economic-Social Committee (EESC, based in Brussels)*, Advisory Committee for Monitoring the Implementation of the Eurostudent IV Research in the Republic of Croatia, Accreditation Council of the Agency for Science and Higher Education, National Committee to Combat Human Trafficking, Social Justice Council of the President of the Republic of Croatia, Monitoring Committee of the Operational Program

Competitiveness and Cohesion 2014–2020; Parliamentary Committee on the Constitution, Standing Orders and Political System, Gender Equality Committee, etc.

Apart from the previously mentioned cross-sectoral bodies on the national level, CSO representatives also participate in advisory and working bodies of local and regional self-government units, depending on whether such bodies have been founded, considering the fact that units of local and regional self-government are autonomous as regulated by a special Units of Local and Regional Self-government Act. Establishment of certain advisory bodies is further regulated by means of special laws, and units of local and regional self-government have the obligation to establish such bodies (for example, youth councils which are regulated by means of Youth Council Act, and Gender Equality Committees which are regulated by means of Gender Equality Committees Act).

One of the crucial obstacles to equal participation of CSO representatives in cross-sectoral bodies on the national level is the centralization of national authorities, i.e. the fact that all sessions and meetings of advisory and working bodies are held in Zagreb, which further impedes the equal participation of CSOs from other parts of the Republic of Croatia, especially because reimbursement of travel expenses for members of cross-sectoral bodies is often not funded from the state budget, but NGOs have to cover their own travel expenses. This problem is not encountered in all cross-sectoral bodies, and the manner in which it is solved depends on the national authority in question.

Recommendations:

1. Provide prerequisites and possibilities for an equal participation of CSO representatives in cross-sectoral bodies;
2. Increase the number of members from civil society organizations in some cross-sectoral bodies;
3. Create an enabling environment for increasing the number of CSO representatives in advisory and working bodies on the local and regional level.

Sub-area 3.3.: Collaboration in social provision

STANDARD 1 . CSOs are engaged in different services and compete for state contracts on an equal basis to other providers

Research findings:

According to the **2011-2016 Social Welfare Development Strategy**, which was developed by the Government of the Republic of Croatia, civil society organizations are equal providers of social welfare services.

CSOs are a great asset in the social welfare system as they represent citizens' capacities and contribute to social inclusion and community cohesion. Apart from the basic human rights,

providing equal opportunities for participation in the life of a community plays a crucial role in the struggle against poverty and social exclusion.

According to the **2014–2016 Strategic Plan** of the Ministry of Social Policy and Youth, the Ministry will finance programs implemented by NGOs which provide social services to the following categories of socially disadvantaged groups of beneficiaries: children without appropriate parental care, families who neglect their children and families at risk of losing parental care, young people without appropriate parental care who are leaving social welfare homes, children and youth with behavioural disorders, children and youth prone to risk behaviours and their families, children with developmental difficulties, young people with disabilities, adults with disabilities, mentally ill adults, victims of family violence, the elderly and infirm, asylum seekers and the homeless.

The principles which will be sought in social services provided by civil society organizations are: innovativeness, availability, continuity, focus on results, active participation and empowerment of beneficiaries, partnership in the local community, high-quality management, expertise of employees, balanced regional representation, and inclusive volunteering. Through cooperation with civil society organizations, primarily with those NGOs which are specialized in social welfare, support will be provided for their work, especially regarding the implementation of national programs and strengthening social infrastructure in the local community by fostering partnership between public institutions and civil society organizations—social welfare service providers. In the area of social welfare, CSOs provide services which contribute to prevention of institutionalization, a better integration of beneficiaries who live in their own homes, as well as support to the process of deinstitutionalization of beneficiaries placed in social welfare homes. Therefore, the Ministry wants to stimulate the following: development of additional and alternative services which would complement the regular services provided by state institutions, with an emphasis on those services which are not sufficiently developed and which provide support to beneficiaries in their local communities; development of services which directly contribute to overcoming gaps in the existing network of services and help expand the existing network of services in the local community for specific groups of beneficiaries, which also leads to a greater autonomy and independent living of particularly vulnerable groups of beneficiaries; greater availability of services to residents of rural areas, mountain areas and islands, as well as a greater cost effectiveness and increased quality of services.

Involvement of civil society organizations implies their intensified participation in the process of strengthening the social infrastructure in the local community, with an emphasis on social inclusion of disadvantaged groups and participation in the process of deinstitutionalization of the social welfare system. This will result in sustainability and continuity of provision of social welfare services to beneficiaries, while at the same time ensuring a higher quality of provided services. Also, it will stimulate further development of capacities of NGOs as social service providers through employment of trained professionals and involvement of interested volunteers for the purpose of training for a more equal participation in the social welfare system and targeted use of EU funds.

In cooperation with civil society organizations, the Ministry has so far stimulated the development of supported organized housing service for persons with intellectual or mental disabilities who have spent most of their life in institutions (cooperation for a total of 308 beneficiaries was contracted). This form of cooperation is planned to be intensified by ensuring inclusion of beneficiaries from homes into the existing programs in cooperation with social welfare homes

who are undergoing the process of deinstitutionalization and transformation, as well as by developing new organized housing programs in their local communities.

Regulations on Minimum Standards in Provision of Social Services which entered into force on April 1, 2014, are much too normative and inflexible, and they prevent further development of social services in the process of deinstitutionalization by being destimulating for NGOs as social service providers. Furthermore, the Regulations do not offer any sustainable model for the use of property of beneficiaries of the social welfare system, who are being gradually impoverished through the adult guardianship system over the course of many years and made entirely dependent on and supported by the social welfare system of the Republic of Croatia.

As far as CSOs' participation in the education sector is concerned, it is necessary to mention that until recently the Education and Teacher Training Agency approved numerous professional development programs for teachers which were implemented by CSOs. Apart from in-house training models based on the involvement of external experts in professional development of teachers, there were additional two models of cooperation between ETTA and CSOs:

- CSOs specialized in teacher training developed their own programs which were then approved by the MoSES and ETTA, and co-signed by ETTA, or
- ETTA included a specific organization's training program into its Professional Improvement Catalogue, and trainees received certificates from both the organization and the Agency (this type of training usually lasted up to two days).

It was only after the recently published decision on refusing to approve co-signing of professional improvement certificates and after several months of waiting for ETTA to respond to CSOs regarding the implementation of their programs that we realized that ETTA hadn't even developed the criteria and procedures for organizing, i.e. co-implementing this type of professional improvement programs of teachers. Therefore, the conclusion is that such criteria do not exist and that this issue needs to be addressed by the Agency as soon as possible, so that NGOs could become equal service providers in the education system.

Recommendations:

1. Define CSO accreditation procedures for performance of specific activities;
2. Legally regulate the social mentoring system;
3. Legally regulate the system of provision of market services by CSOs, by defining clear accreditation rules.

V Findings and Recommendations (Tabular)

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 FOR THE STANDARD
<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"> • An NGO can be established by any legally capable physical entity and any legal entity. • An NGO can also be founded by a minor with 14 years of age (with a notarized consent of the legal representative) • Entry into the registry of NGOs is voluntary and is conducted at the request of the founder 	<p>Legislation:</p> <ul style="list-style-type: none"> • Define the term “of interest for the public benefit” more precisely in the Associations Act • Introduce the concept of social entrepreneurship into the Associations Act

	<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. 4) Individuals and CSOs can form and participate in networks and coalitions, within and outside their home countries. 	<p>Practice:</p> <ul style="list-style-type: none"> • An NGO / CSO can operate even without being registered, i.e. classified as a legal entity • NGOs can form unions, societies, networks, coordinations, or any other form of association independent of their area of activity, and can autonomously define the form of association. NGOs can join international associations and other organizations. 	<p>Practice:</p> <ul style="list-style-type: none"> • A provision should be introduced into the Associations Act according to which the Republic of Croatia has the obligation to allocate state budget funds for NGO activities on the basis of a binding provision for public administration authorities, according to which these authorities have the obligation to allocate funds as regular annual financial support to CSOs.
--	--	---	---

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1.: Freedom of association

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

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>2. CSOs operate freely without unwarranted state interference in their internal governance and activities</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework provides guarantees against state interference in internal matters of associations, foundations and other types of non-profit entities. 2) The state provides protection from interference by third parties. 3) Financial reporting (including money laundering regulations) and accounting rules take into account the specific nature of the CSOs and are proportionate to the size of the organization and its 	<p>Legislation:</p> <ul style="list-style-type: none"> • The new Associations Act introduces the principle of autonomy according to which an NGO autonomously defines its area of activity, objectives and activities, as well as internal organization, and autonomously performs activities which are not against the Constitution and the law 	<p>Legislation:</p> <ul style="list-style-type: none"> • Civil servants training on the provisions of the Law on Prevention of Conflict of Interest and Code of Ethics for civil servants. Highlighting the potential conflict of interest situations,

	<p>type/scope of activities.</p> <p>4) Sanctions for breaching legal requirements should be based on applicable legislation and follow the principle of proportionality.</p> <p>5) The restrictions and the rules for dissolution and termination meet the standards of international law and are based on objective criteria which restrict arbitrary decision making.</p>		<p>so that the general public is made aware of the circumstances in which conflict of interest arises in the allocation of public funds.</p> <ul style="list-style-type: none"> • Adopting the adequate procedure for conflict of interest identification and management
	<p>Practice:</p> <p>1) There are no cases of state interference in internal matters of associations, foundations and other types of non-profit entities.</p> <p>2) There are no practices of invasive oversight which impose burdensome reporting requirements.</p> <p>3) Sanctions are applied in rare/extreme cases, they are proportional and are subject to a judicial review.</p>	<p>Practice:</p> <ul style="list-style-type: none"> • Operations of an NGO are based on the principle of democratic structure, which means that an NGO is managed by its members and that the NGO's internal organization is based on principles of democratic representation and democratic expression of will of its members 	<p>Practice:</p> <ul style="list-style-type: none"> • Introduction of a special provision in the relevant laws which will explicitly prohibit any form of political pressure on NGOs or discrimination of NGOs by government officials, civil servants, political parties and their members. Persons who actively work in NGOs should not be subject to any form of pressure because of their work in the NGO or because of the NGO's activities.

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1.: Freedom of association

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

STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>3. CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities</p>	<p>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"> • Delays in drafting strategic and operative documents of the Republic of Croatia for using EU funds for the 2014-2020 period. • 	<p>Legislation:</p> <ul style="list-style-type: none"> • Define deadlines in communication between contracting authorities and project holders •
	<p>Practice:</p> <ol style="list-style-type: none"> 1) Legislation on CSOs engaging in economic activities is implemented and is not burdensome for CSOs. 2) There are no restrictions (e.g. administrative or financial burden, preapprovals, or channelling such funds via specific bodies) on CSOs to receive foreign funding. 3) Receipt of funding from individuals, corporations and other sources is easy, effective and without any unnecessary cost or administrative burden. 	<p>Practice:</p> <ul style="list-style-type: none"> • Reduced budgetary funds for CSO activities. • Delayed disbursements of CSO funds. • Inadequate co-funding of projects financed by EU funds. 	<p>Practice:</p> <ul style="list-style-type: none"> • Targeting tenders to CSOs specialized in democratization, development of civil society and volunteer service, strengthening social cohesion and development of philanthropy • Improve human resources management in order to reduce fluctuation of project managers, improve coordination among project managers, and provide training for new project managers • Provide a sufficient number of competent staff members in state institutions who are trained for on the use of EU funds; • Allow involvement of

			experts from partner organizations <ul style="list-style-type: none"> • Introduce a Contingency Costs approval practice for projects whose budget exceeds 100.000,00 EUR • Continuously allocate budgetary funds for co-funding of EU projects •
--	--	--	---

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.2.: Related freedoms

Principle: Freedoms of assembly and expression are guaranteed to everybody

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
1. CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly	Legislation: <ol style="list-style-type: none"> 1) The legal framework is based on international standards and provides the right for freedom of assembly for all without any discrimination. 2) The laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies. 3) The exercise of the right is not subject to prior authorization by the authorities, but at the most to a prior notification procedure, which is not burdensome. 4) Any restriction of the right based on law and prescribed by regulatory authority can be appealed by organizers. 	Legislation: <ul style="list-style-type: none"> • Constitution of the Republic of Croatia protects the right to public assembly • Application for a public assembly and peaceful protest is submitted to the Police Department in whose territory the public assembly and peaceful protest are to be held. The application needs to be submitted at least 5 days prior to the beginning of the public assembly and peaceful protest. 	Legislation: <ul style="list-style-type: none"> •

	<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. 6) Media should have as much access to the assembly as possible. 	<p>Practice:</p> <ul style="list-style-type: none"> • Ban on public assembly and peaceful protest is regulated by the Public Assembly Act, and it is allowed in cases of protection of freedom and rights of others, legal order, public morality and health. 	<p>Practice:</p> <p>Provide systematic training for civil servants on the reights defined by the Public Assembly Act.</p>
--	---	---	--

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.2.: Related freedoms

Principle: Freedoms of assembly and expression are guaranteed to everybody

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>2. CSO representatives, individually or through their organizations enjoy freedom of expression</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework provides freedom of expression for all. 2) Restrictions, such as limitation of hate speech, imposed by legislation are clearly prescribed and in line with international law and standards. 3) Libel is a misdemeanour rather than part of the 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Criminal Code regulates defamation as a criminal offense which refers to situations in which a person, in relation to another, asserts or disseminates a claim which can damage the 	<p>Legislation:</p> <ul style="list-style-type: none"> • Conduct an analysis on how valid the definition of defamation is from the viewpoint of protection of

	penal code.	honour and reputation of another person. A more severe form of defamation refers to the situations in which the act is committed "through press, radio, television, computer system or network, at a public assembly, or in another way in which defamation becomes accessible to a large number of persons".	the freedom of expression as a basic human right and from the viewpoint of protection of media freedom <ul style="list-style-type: none"> • Change the legal definition of defamation in the Criminal Code.
	Practice: <ol style="list-style-type: none"> 1) CSO representatives, especially those from human rights and watch dog organizations enjoy the right to freedom of expression on matters they support and they are critical of. 2) There are no cases of encroachment of the right to freedom of expression for all. 3) There are no cases where individuals, including CSO representatives would be persecuted for critical speech, in public or private. 4) There is no sanction for critical speech, in public or private, under the penal code. 	Practice: <ul style="list-style-type: none"> • During 2013/2014, several court procedures were started against journalists for defamation, i.e. verbal offense. 	Practice: <ul style="list-style-type: none"> • Decriminalize defamation and prevent the occurrence of self-censorship

Area 1: Basic Legal Guarantees of Freedoms

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 favourable tax treatment

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
------------	------------	----------	----------------------------------

<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"> • Tax exemption on donations is legally regulated. • According to the Income Tax Act, if non-profit organizations perform an economic activity, and if due to the taxexempt status of that activity certain unjustified privileges are acquired in the market, the Tax Administration can issue an official decision requiring the given organization to pay income tax for the economic activity in question. • Non-profit organizations which are subject to income tax on the basis of an official decision issued by the Tax Administration are however not required to pay income tax on the difference between revenues and expenses which they generated by performing non-economic and non-profit activities for which they were established. Such a non-profit organization is subject only to tax on profit generated through performance of an economic activity, for which the competent Tax Authority has issued an official decision. • If, apart from profit generated through an economic activity, a non-profit organization also generates income from membership fees, donations and gifts, it is not required to pay income tax for this part of income and for the positive difference between income and expenses. • 	<p>Legislation:</p> <ul style="list-style-type: none"> • Liabilities of non-profit organizations pursuant to the Non-profit Organizations Accounting Act should apply to all organizations featured in the Registry of Non-profit Organizations Without Exemptions • Systematic training necessary for Tax Administration employees on particularities of tax exemptions for programs and projects implemented by CSOs • Improve the consultancy system and introduce the obligation according to which public authorities are required to respond to requests for interpretation of legal provisions in a timely manner.
--	--	---	---

	<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.
--	---

Area 2: Framework for CSOs' Financial Viability and Sustainability

Sub-area 2.2.: State support

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

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>1. 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>Legislation:</p> <ul style="list-style-type: none"> • Office for Cooperation with NGOs of the Government of the Republic of Croatia continuously co-finances EU projects implemented by CSOs throughout the year. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Harmonize the criteria of CSO Fund Allocation Tenders and relevant Strategies • Consolidate project documentation

	<p>Practice:</p> <ol style="list-style-type: none"> 1) Available public funding responds to the needs of the CSO sector. 2) There are government bodies with a clear mandate for distribution and/or monitoring of the distribution of state funding. 3) Funding is predictable, not cut drastically from one year to another; and the amount in the budget for CSOs is easy to identify. 4) CSO participation in the public funding cycle is transparent and meaningful. 	<p>Practice:</p> <ul style="list-style-type: none"> • There are delays in tender procedures, ranging from two months to a year or more from the planned tender calendar published in the call for applicants. • At the level of ministries, tender procedures are mostly transparent, but the problems occur on the regional and local levels, as the counties and cities conduct completely non-transparent CSO funding tenders, where the heads of the local authorities allocate public resources on the basis of a discretionary decision, without previously defined criteria. • The majority of public funds designated to institutional support to CSOs is awarded to NGOs based in the City of Zagreb or in the neighbouring area. 	<p>Practice:</p> <ul style="list-style-type: none"> • Synchronize tender publication with the tender publication calendar • Balance territorial distribution of public funds for work of CSOs
--	--	--	--

Area 2: Framework for CSOs' Financial Viability and Sustainability

Sub-area 2.2.: State support

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

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<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>Legislation:</p> <ul style="list-style-type: none"> • There are Guidelines for project proposal evaluators • Regulation on Criteria, Benchmarks and Procedures for Funding and Contracting of Public-benefit Programs and Projects implemented by NGOs are being drafted • 	<p>Legislation:</p> <ul style="list-style-type: none"> • Clearly define criteria for allocation of public funds

	<p>Practice:</p> <ol style="list-style-type: none"> 1) Information relating to the procedures for funding and information on funded projects is publicly available. 2) State bodies follow the procedure and apply it in a harmonized way. 3) The application requirements are not too burdensome for CSOs. 4) Decisions on tenders are considered fair and conflict of interest situations are declared in advance. 	<p>Practice:</p> <ul style="list-style-type: none"> • Names of evaluation board members are secret • In some tender procedures, criteria for allocation of public funds are unclear 	<p>Practice:</p> <ul style="list-style-type: none"> • Promote Guidelines for evaluation of project proposals among potential project applicants, which would contribute to a higher quality of project proposals • Publish the list of project evaluators, members of evaluation boards and their selection criteria
--	---	--	---

Area 2: Framework for CSOs' Financial Viability and Sustainability

Sub-area 2.3.: Human resources

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

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>1. CSOs are treated in an equal manner to other employers</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) CSOs are treated in an equal manner to other employers by law and policies. 	<p>Legislation:</p> <ul style="list-style-type: none"> • CSOs are treated in an equal manner to other employers in the sense that they do not have to comply with any additional requirements when hiring new employees in comparison with profit-generating companies • CSOs cannot use all active labour market measures in an equal manner to other employers • 	<p>Legislation:</p> <ul style="list-style-type: none"> • Allow CSOs to use all active labour market measures in an equal manner to other employers • Improve the use of public funds control system through a more intense control of implementation of active labour market measures

	<p>Practice:</p> <ol style="list-style-type: none"> 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>Practice:</p> <ul style="list-style-type: none"> • The share of employees from the non-profit sector with regard to the total number of employees in the Republic of Croatia has been increasing over the past few years, and in the last two years it revolves around 1,3% (between 18.000 and 19.000 employees per year on average) 	<p>Practice:</p> <ul style="list-style-type: none"> • Develop the CSO quality assurance system

Area 2: Framework for CSOs' Financial Viability and Sustainability

Sub-area 2.3.: Human resources

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

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
2. There are enabling volunteering policies and laws	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Legislation stimulates volunteering and incorporates best regulatory practices, while at the same time allowing for spontaneous volunteering practices. 2) There are incentives and state supported programs for the development and promotion of volunteering. 3) There are clearly defined contractual relationships and protections covering organized volunteering. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The new Volunteer Service Act regulates volunteer service in detail • The new act defines the contents of the Volunteer Service Agreement • The Volunteer Service Agreement does not need to be concluded in the written form • 	<p>Legislation:</p> <ul style="list-style-type: none"> • Legally regulate and recognize volunteer service in the relevant occupational area as relevant experience (for example, when determining the length of internship required to take professional exams). • Legally define and regulate the ways in which volunteer service organizer can obtain evidence that there are no circumstances which might

			prevent a volunteer from being allowed to provide volunteer services
	<p>Practice:</p> <ol style="list-style-type: none"> 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. 2) Administrative procedures for organizers of volunteer activities or volunteers are not complicated and are without any unnecessary costs. 3) Volunteering can take place in any form; there are no cases of complaints of restrictions on volunteering. 	<p>Practice:</p> <ul style="list-style-type: none"> • There is a system for issuing Certificates of competences acquired through volunteer service for long-term volunteer service 	<p>Practice:</p> <ul style="list-style-type: none"> • Promote validation of competences acquired through volunteer service, especially among youth, in order to enhance their inclusion into the labour market. • Continuously monitor and publish official statistical data regarding organized volunteering in the Republic of Croatia, and improve the data collection system by adding data on Croatian citizens who volunteer outside of the Republic of Croatia

Area 3: Government – CSO Relationship

Sub-area 3.1.: Framework and practices for cooperation

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

STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
------------	------------	----------	----------------------------------

<p>2. The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector</p>	<p>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>Legislation:</p> <ul style="list-style-type: none"> • In 1998, the Office for Cooperation with NGOs of the Government of the Republic of Croatia was established, which coordinates the work of ministries, central government offices, Croatian Government offices and offices of public administration authorities, as well as administrative bodies on the local level, regarding monitoring and improving cooperation with the non-governmental, non-profit sector in the Republic of Croatia • Since 2009, the Council for Civil Society Development has been operating in the Republic of Croatia as an advisory body of the Government of the Republic of Croatia 	<p>Legislation:</p> <ul style="list-style-type: none"> • Improve cooperation between administrative bodies of the local and regional authorities and CSOs, by adopting a binding legal act which will regulate procedures for participation of CSO representatives; • Encourage representatives of towns and cities to sign the Declaration on Cooperation between Towns and CSOs
	<p>Practice:</p> <ol style="list-style-type: none"> 1) The national level institution or mechanism(s) has sufficient resources and mandate for facilitating CSO-government dialogue, discussing the challenges and proposing the main policies for the development of Civil Society. 2) CSOs are regularly consulted and involved in processes and decisions by the competent institution or mechanism(s). 	<p>Practice:</p> <ul style="list-style-type: none"> • There is no systematic cooperation with CSOs on the regional and local level 	<p>Practice:</p> <ul style="list-style-type: none"> • Systematically publish tenders for use of adequate public premises at a preferential price • Strengthen CSO capacities for public policy monitoring and participation in public debates

Area 3: Government – CSO Relationship

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

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

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>1. There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner.</p>	<p>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 fulfil. 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"> • The Republic of Croatia has defined the legal framework which enables CSO involvement in the process of adoption of laws and other regulations and legal acts • 	<p>Legislation:</p> <ul style="list-style-type: none"> • Prevent “last minute” alterations to draft legislative proposals by means of a law •
	<p>Practice:</p> <ol style="list-style-type: none"> 1) Public institutions routinely invite all interested CSOs to comment on policy/legal initiatives at an early stage. 2) CSOs are provided with adequate information on the content of the draft documents and details of the consultation with sufficient time to respond. 3) Written feedback on the results of consultations is made publicly available by public institutions, including reasons why some recommendations were not included. 4) The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/training. 5) Most of the units/officers coordinating and monitoring public consultations are functional and have sufficient capacity. 	<p>Practice:</p> <ul style="list-style-type: none"> • Comments by the interested public and a Consolidated Summary of Comments to specific draft provisions are published on the webpage of the authority which is responsible for the drafting of the said legislation or in another appropriate manner, so that the impact of consultations in the process of adoption of laws, other regulations and legal acts is evident • On their webpages, public authorities publish the annual plan of activities and consultation plan for draft legislation related to their specific area of activity, as well as draft laws and other regulations submitted for consultation with the interested public. 	<p>Practice:</p> <ul style="list-style-type: none"> • Publish the conclusions of public debates in a regular and transparent manner • Provide systematic training for civil servants on provisions of the Right of Access to Information Act • Provide financial framework for the work of the Information Commissioner's Office

		<ul style="list-style-type: none"> By failing to allocate budgetary funds for the work of the Information Commissioner's Office, the Office is marginalized and unable to monitor the implementation of the Right of Access to Information Act 	
--	--	---	--

Area 3: Government – CSO Relationship

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

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

STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
3. CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes	Legislation: 1) Existing legislation requires public institutions to invite CSO representatives on to different decision-making and/or advisory bodies created by public institutions. 2) There are clear guidelines on how to ensure appropriate representation from civil society, based on transparent and predetermined criteria.	Legislation: <ul style="list-style-type: none"> The Council for Civil Society Development in the Republic of Croatia was established in 2009 as an advisory body of the Government of the Republic of Croatia whose main role is to strengthen cooperation between the Government of the Republic of Croatia and CSOs 	Legislation: <ul style="list-style-type: none"> Increase the number of civil society representatives in some cross-sectoral bodies
	Practice: 1) Decision-making and advisory bodies on issues and policies relevant for civil society generally include CSO representatives. 2) CSO representatives in these bodies are enabled to freely present and defend their positions, without being sanctioned. 3) CSO representatives are selected through selection processes which are considered fair and transparent. 4) Participation in these bodies does not prevent CSOs from using alternative ways of advocacy or promoting alternative stand-points which are not	Practice: <ul style="list-style-type: none"> Cooperation with CSOs is poorer on regional and local levels Tenders for appointment of CSO representatives to working bodies of counties and cities are not transparent	Practice: <ul style="list-style-type: none"> Provide prerequisites and possibilities for an equal participation of CSO representatives in cross-sectoral bodies Create the enabling environment for an increase in the number of CSO representatives in advisory and working bodies on local and

	in line with the position of the respective body.		regional level
--	---	--	----------------

--

Sub-area 3.3.: Collaboration in service provision

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

STANDARD 1

1. CSOs are engaged in different services and compete for state contracts on an equal basis to other providers	<p>Legislation:</p> <ol style="list-style-type: none"> Existing legislation allows CSOs to provide services in various areas, such as education, healthcare, social services. CSOs have no barriers to providing services that are not defined by law (“additional” services). Existing legislation does not add additional burdensome requirements on CSOs that do not exist for other service providers. 	<p>Legislation:</p> <ul style="list-style-type: none"> The existing legislation in the Republic of Croatia allows civil society organizations to provide their services in a limited number of areas. For example, CSOs can provide social services, but they cannot provide health care or education in the education sector. 	<p>Legislation:</p> <ul style="list-style-type: none"> Legally regulate the social mentoring system Legally regulate the system of provision of market services by CSOs, by defining clear accreditation rules
	<p>Practice:</p> <ol style="list-style-type: none"> CSOs are able to obtain contracts in competition with other providers and are engaged in various services (e.g., education, health, research, and training). CSOs are included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation). When prior registration/licensing is required, the procedure for obtaining that is not overly 	<p>Practice:</p> <ul style="list-style-type: none"> Regulation on Minimum Standards in Provision of Social Services, which entered into force on April 1, 2014, is much too normative and inflexible, and it does not allow a further development of social services in the process of deinstitutionalization, seen that it is destimulative for NGOs as social service providers 	<p>Practice:</p> <ul style="list-style-type: none"> Define CSO accreditation procedures for particular activities

	burdensome.		
--	-------------	--	--

VI Used Resources and Useful Links

For the purpose of this research, a series of relevant documents, strategies, laws and by-laws were analyzed. The following is the list of the relevant sources of information:

1. National Strategy for Creation of an Enabling Environment for Civil Society Development 2012-2016: <http://www.uzuvrh.hr/stranica.aspx?pageID=42>
2. Associations Act: http://narodne-novine.nn.hr/clanci/sluzbeni/2014_06_74_1390.html
3. Ordinance on the Office for Cooperation with NGOs: http://narodne-novine.nn.hr/clanci/sluzbeni/2012_03_34_820.html
4. Decision on the Establishment of the Council for Civil Society Development: <http://www.uzuvrh.hr/stranica.aspx?pageID=38>
5. National Foundation for Civil Society Development Act: <http://www.zakon.hr/z/491/Zakon-o-Nacionalnoj-zakladi-za-razvoj-civilnog-dru%C5%A1tva>
6. Code of Good Practice, Standards and Benchmarks for Receiving Financial Support for NGO Projects and Programs: http://narodne-novine.nn.hr/clanci/sluzbeni/2007_02_16_657.html
7. Code of Practice on Consultation with the Interested Public in Procedures of Adopting Laws, Other Regulations and Acts: http://www.uljppnm.vlada.hr/index.php?option=com_content&view=article&id=99&Itemid=7
8. Prevention of Conflict of Interest Act: http://narodne-novine.nn.hr/clanci/sluzbeni/2011_03_26_547.html
9. Right of Access to Information Act: http://narodne-novine.nn.hr/clanci/sluzbeni/2013_02_25_403.html
10. Criminal Code: <http://www.zakon.hr/z/98/Kazneni-zakon>
11. Volunteering Act: <http://www.zakon.hr/z/258/Zakon-o-volonterstvu>
12. Regulations on the Contents of the Report on Provided Services and Activities of Volunteer Service Organizer: http://narodne-novine.nn.hr/clanci/sluzbeni/2008_09_101_3089.html
13. Regulations on Minimum Standards in Provision of Social Services: http://narodne-novine.nn.hr/clanci/sluzbeni/2014_03_40_712.html
14. Social Welfare Act: <http://www.zakon.hr/z/222/Zakon-o-socijalnoj-skrbi>

15. Social Welfare Development Strategy 2011-2016

