

Monitoring Matrix on Enabling Environment for Civil Society Development

Regional Report:
Western Balkan & Turkey
2022



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matrix



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Introduction

Balkan Civil Society Development Network is pleased to present the 2022 edition of the Monitoring Matrix on Enabling Environment for Civil Society Development in the Western Balkans (Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Montenegro, Serbia) and Turkey. The Regional Report summarizes the findings and recommendations from all the country reports.

The Monitoring Matrix, developed in 2013 by BCSDN, with the support of its members and partners, sets the main principles and standards crucial for the legal environment to be considered supportive for both the operations and development of CSOs. The Monitoring Matrix is organized around three main areas, each divided by subareas:

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

The principles, standards, and indicators rely on internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries. The Matrix aims to define the optimum situation for effective operation and development of civil society, as well as set a realistic framework that can be implemented by public authorities. Having in mind that the main challenges lay in the implementation, the indicators have been defined to monitor the situation by taking into consideration both the legal framework and its practical use.

The research undertaken with the Monitoring Matrix aims to provide evidence on the enabling environment for CSDev and to influence governments', EU and donor's support towards the more sustainable and strategic development of the sector.

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Executive Summary

During 2022, political developments in the Western Balkan countries and Turkey seriously impacted the state of the civil society sector. High political tensions around the elections held in Serbia and Bosnia and Herzegovina, and the upcoming 2023 elections in Turkey, greatly contributed to the shrinking civic space in these countries, where violations of fundamental freedoms, increased smear campaigns, and attacks on CSOs and media have continuously been reported. A highly politicized climate in Albania, North Macedonia, and Montenegro also paralyzed the involvement of CSOs in important policy processes and no improvements in the environment for civil society were noted. Only in Kosovo, during 2022, civil society has been operating in a stable, enabling environment, with no major disruptions and a few improvements.

The three **fundamental freedoms** of association, assembly, and expression are legally guaranteed in all the countries of the Western Balkans, mostly in line with international standards, while in Turkey most of the laws are rather burdening and restrictive. These, however, do not affect all Turkish CSOs in the same way – rights-based organizations working with certain groups or regions face more severe and frequent obstacles. In practice, most of the violations around the region concern freedom of expression, but restrictions are noted also in relation to practicing freedom of peaceful assembly. Unlike previous years, country reports for 2022 note increased challenges when it comes to freedom of association.

In terms of the main laws that govern civil society and the **freedom of association**, changes have been planned but long delayed in Montenegro, Kosovo, and North Macedonia. The law on associations and foundations in North Macedonia underwent a change in 2022 not only did not address the planned and necessary improvements, rather introduced a change related to the use of controversial historical names in CSOs' names, without any consultation with civil society. The recent change in Albania of the NPO registration law, while bringing some improvements, still represents some problems, such as the high level and non-proportional fines for administrative violations.

Another challenge to the freedom of association is the **state interference** in the internal work of CSOs, reported Turkey, BiH and Serbia. In Turkey, the Anti-terror law not only introduced new sanctions and higher, disproportionate penalties to those in charge of the associations, but was also the ground for many new inspections carried out seen as disproportionate and excessive, often carried out to obstruct the work and harass the organization. Inspections were also a main finding in BiH, as during 2022, inspections were more active in the civil sector than ever before. Targeted were not only organizations with high financial flows, but also smaller and more “vocal” organizations, raising

suspensions for the inspections being a form of oppression over the civil sector, especially since the fines issued to some organizations are so high, they may close down the organizations.

One concern that affects the whole region is the legal frameworks regarding **anti-money laundering and countering financing of terrorism (AML/CFT)**. The problematic issues coming out of this are access to banking services, or reporting requirements that are impossible to be implemented (Kosovo), very high penalties for not registering real owner timely (Macedonia), etc. This happens mostly due to the lack of proper understanding from policymakers and other involved stakeholders on the main principles of civil society, and lack of targeted approach and risk-based approach, which is why in several countries (Albania, Montenegro and Kosovo) there have been initiatives by civil society to address this and to implement a risk assessment of the sector, in cooperation with the government, to varying degrees.

Freedom of assembly has been mostly violated in Turkey, with the police often using disproportionate force to intervene in peaceful demonstrations or simply ban these, and in Serbia, as environmental protesters in particular are subjected to worrying brutality by police and private security. Misdemeanor lawsuits and warrants continued to be issued to protesters in both countries.

Violations to **freedom of expression** have been noted in almost all of the countries. Legal changes in the Criminal codes in BiH and Serbia relating to slander are worrying, while the one in Montenegro seems to provide a safeguard a stronger protection of journalists, something that is missing throughout the region. In practice, representatives of civil society are still not protected from various attacks and pressures from government representatives and other interest groups, and there are no appropriate judicial follow up to these attacks. The situation has been deteriorating at an alarming rate in Serbia, BiH and Turkey. Organizations working with rights-based groups or in certain regions in Turkey are heavily affected by more flagrant and direct rights violations such as repression and targeting, while in Serbia most under attack are watchdog organizations, CSOs dealing with democracy and human rights, but also environmental activists, which are increasingly facing harassment both online and offline. While, positively, there is a rise in **informal civic movements**, most often gathering around local environmental and urban issues, on the other hand they are also most often victims of SLAPP lawsuits - a new trend targeting both journalists and civil society activists, which do not fall under the scarce existing protections offered by media laws.

Concerning the **CSO financial viability and sustainability**, both the fiscal and tax treatment of CSOs, and the framework for individual and corporate giving, remain insufficiently regulated and non-stimulating in most countries. Tax legislation is unclear and subject to individual interpretation and applications, and due to the lack of harmonization, as well as lack of adequate implementation mechanisms, very few cases of tax benefits or are reported in practice in most of the countries. For similar reasons, individual and corporate giving is also poorly practiced in the region, especially towards the CSO sector.

The most problematic issue in this area is **public funding**. A comprehensive public funding reform regulating institutional support, multiannual contracts, co-financing, clear procedures for distribution, monitoring and evaluation, etc., is missing throughout the region. This has been for a while on the agenda of North Macedonia, as one of the main strategic priorities, but not only the process has not been started properly, there has been a worsening in this regard. The government did not live up to the promise of raising the amount of funds for CSO support over the years, and only in the 2022 budget the planned funds were drastically cut without consulting civil society. This also reflects how the government's attitudes towards civil society have changed in the past year. Another worrying example is the new draft Law on Financing Civil Society in the FBiH, initiated by the Ministry of Justice and UNDP, as some fear this might be abused and directed against CSOs.

Overall public funding support across the region is marginal and non-predictable. In some countries, like Kosovo, Montenegro and Serbia, state financial support is an important source of funding for some CSOs (e.g., small and medium-sized service-provider CSOs) but this support is largely unavailable for CSOs dealing with issues like democracy, human rights, monitoring etc. There is a notable lack of transparency in the distribution of funds in most of the countries, and this has been one of the initial reasons for increasing GONGO activities, and significant cases of misused funds and non-transparent open calls, especially in Serbia, BiH and Turkey.

The area in which the biggest deterioration was noted for 2022, except for Kosovo, is the area of **government - CSO cooperation**. State policies and strategies for development of and cooperation with civil society are in place in all Western Balkan countries, including Serbia as of 2022, but still not defined in Turkey. Until February 2022, Serbia was the only other country in the Western Balkans without a comprehensive strategy. The document, however, was drafted in a contentious and problematic process, and was boycotted by a significant portion of civil society. As per the rest of the countries with ongoing strategies, limited progress in the implementation of the measures has been noted in Albania, Montenegro and North Macedonia, as a result of low commitment by the governments and lack of resources available.

The same applies to national level **mechanisms for development and cooperation**, which note a low level of engagement and ineffective work. Even in the case of BiH, the latest country to establish such a mechanism – the Advisory committee to the Council of Ministers that was much welcome in the country and was supposed to prepare the civil society development strategy – notes no meetings or work done during 2022. A worrying development is noted in North Macedonia, where the work of the Council was made impossible by the government's ignoring of its key recommendations and conclusions, which is its basic competence as an advisory body to the Government. After the government cut the funding without any consultation with the Council, the CSO representatives in the Council started boycotting the Council's work as of March 2022 until the end of the year.

Finally, there is a downward trend in effective and genuine **consultations with civil society**, less consideration of the input provided by civil society, and limited CSOs' influence in policy and decision-

making processes. In North Macedonia, during 2022, cooperation with several ministries has deteriorated to a worrying extent, including absence of not only substantive but even pro-forma communication and dialogue with the civil society. This is especially worrying as, only until recently, this cooperation and consultation with civil society in North Macedonia was its most positive strength. In Turkey, there is a tendency to select CSOs for inclusion in consultation processes not according to their expertise and competence but according to whether they have public interest/tax exemption status, while independent and rights-based CSOs are excluded from these processes. Due to the focus of the EU on quantitative criteria, a continuation of the trend of the trend of “tick-the-box” consultations is noted, without proper opportunity for wide engagement of those who are really affected, at the same time allowing for GONGO activities and influence.

Key findings

1.	<p>Inadequate implementation of standards pertaining to freedom of association, peaceful assembly, and expression in practice is a continuous challenge. Violations to freedom of expression and assembly, in particular targeting critical voices, have been most severely pronounced in Turkey and Serbia. SLAPP lawsuits are becoming a regional trend, with several prominent cases reported in Serbia and Bosnia and Herzegovina.</p>
2.	<p>Challenges to the freedom of association are increasingly noted in relation to state interference in the internal work of CSOs, most striking due to excessive, targeted inspections in Turkey and Bosnia and Herzegovina. In addition, anti-money laundering and countering financing of terrorism legislation is still problematic in several countries, mainly due to the lack of understanding of the main principles of civil society, but processes involving CSOs have been initiated in several countries to address this issue.</p>
3.	<p>CSOs' financial viability and sustainability is neither promoted with the fiscal framework in place, nor with regulations supportive towards volunteering and employment in CSOs. Fiscal treatment of CSOs and donors is still problematic and non-stimulating throughout the region, with tax exemption procedures being complex, and tax incentives for individual and corporate giving being insufficient.</p>
4.	<p>Public funding across the region is marginal, non-predictable and unequally available to CSOs. Public funds are often distributed in a non-transparent manner, which has enabled misuse of funds and increasing GONGO activities, especially in Serbia, Bosnia and Herzegovina, and Turkey. Legislation in all the countries requires a comprehensive reform, straightforward legislative clarity, and mechanisms to ensure effective and just practical implementation.</p>
5.	<p>The biggest deterioration for 2022, across the region except for Kosovo, has been noted in the area of government – CSO relations. Very limited progress in the implementation of strategic measures to support an enabling environment is reported, while mechanisms for cooperation note low level of engagement and unproductive work, even in the case of North Macedonia, which for years was seen as a positive example, as the Council has been largely ignored by the government and later boycotted by civil society.</p>
6.	<p>There is a downward trend in effective and genuine consultations with civil society throughout the region, less consideration of the input provided, and limited CSOs' influence in policy and decision-making processes. A trend of "tick-the-box" consultations is again noted, essentially allowing for GONGO activities and influence.</p>

Background

While the COVID-19 effects were much lighter in 2022, political developments in the Western Balkan countries and Turkey seriously impacted the state of the civil society sector in the course of the year. This was greatly related to the elections in several countries - the general elections in Serbia and in Bosnia and Herzegovina, but also the upcoming parliamentary and presidential elections in Turkey scheduled for 2023, which have been creating an uncertain environment for the civic space. It is the same three countries - BiH, Serbia and Turkey - that during 2022 noted significant shrinking of the space for civil society, especially in the narratives of decision-makers. In Serbia, the period before and during the election was marked by an increase in the violation of fundamental freedoms, as well as increased smear campaigns and attacks on CSOs and media amidst high political tensions. The protracted 2022 election process halted legislative activity and policy development processes in Serbia, resulting in no progress being made on the legislative framework for civil society development, while the enabling environment has deteriorated in practice. In BiH, various international requirements have been misused in the interpretation, with attempts to integrate harmful provisions and practices for civil society. In Turkey, CSOs are increasingly under pressure and the civic space continues to shrink. The implementation of penal laws related to national security and the fight against terrorism, increasing repression and restrictive measures have adversely affected civic freedoms.

On the other hand, the highly politicized climate in Albania, Montenegro and North Macedonia has paralyzed the involvement of CSOs in important policy processes, including in the EU accession reform process; and impeded the expected and needed improvements of the CSO enabling environment. In Albania, consultation with and participation of CSOs in policy and decision-making processes remains not effective, regardless of the mechanisms of cooperation established by the government. The change of government in Montenegro not only did not expand the space of dialogue, but also threatened the autonomy of CSO activities by applying a different approach to CSOs depending on whether they are critical to the government or not. Finally, civil society in North Macedonia also noted a decline in the enabling environment during the last year, especially when it comes to the cooperation with the government and participation in policy making, which not long ago was considered its biggest strength. Only in Kosovo, during 2022, civil society has been operating in a stable, enabling environment, with no major disruptions and even a few improvements.

2022 was also marked by progress on the **EU accession path** for several of the enlargement countries, stirring the enlargement fatigue in many of the member states. Following a quick decision to grant a candidate status to Ukraine and Moldova, the European Commission finally recommended a

“conditional” candidate status to Bosnia and Herzegovina, six years after submitting its application for membership. North Macedonia and Albania, after years of blockade, held the first intergovernmental conferences marking the start of their negotiation process. By the end of the year, Kosovo was granted the long-awaited visa liberalization, to take effect as of 2024. Although these developments represent important steps forward for the countries, they are set in a new geopolitical reality prompted by the Russian aggression towards Ukraine, and a spiraling energy and cost of living crisis. Russia’s strong historical ties with the Western Balkans hold a relative soft power that has both political and economic influence, but also played a significant role in the disinformation propaganda framed to tackle the pro-EU narratives. These concerns created an impetus for the EU to safeguard its security and influence in the region; however, an accelerated accession process that compromises EU values and democratic reforms by prioritizing security and stability undercuts the transformative power of the EU accession and raises concerns among civil society across the region.

Findings

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1. Freedom of association

Establishing and Participating in CSOs

Freedom of association continues to be legally guaranteed in all the countries of the region. Legislative changes were very few, although amendment processes have been underway for a while in several countries. More thorough changes in the main laws governing civil society have been planned in Montenegro and North Macedonia, but both have been delayed since 2021. The planned revision of the Law on Associations and Foundations in North Macedonia for 2021 did not start even in 2022, but changes to the law were adopted in 2022 without a consultative process of stakeholders. These changes were related to the use of names of historical figures in the registration of new CSOs and were adopted in a parliamentary procedure, effectively sidelining the active working group for amendments to this Law. In Kosovo, secondary legislation of the NGO Law has been in the process of drafting over the past two years, while an amendment process to harmonize the procedure on administrative complaints and reduce the administrative fines has been initiated during 2022 and is expected to finish in 2023. The law on NPO registration in Albania, adopted in 2021, still represents some fundamental problematic issues, such as the high level and non-proportional fines for administrative violations, and the lack of a procedure for deregistration of NPOs, that need to be amended. The main four laws that govern civil society in BiH have not been changed in recent years. Turkey is the only country in the region where no general definitions of civil society and civil society organizations exist in the legislation.

The Western Balkan countries continue to allow both individuals and legal entities to establish a CSO, generally with no cost and easy registration procedures. In Turkey, however, there are obstacles arising from legislation and practice that prevent exercising freely the freedom of association, but not all CSOs are affected in the same way; rights-based organizations working with certain groups or regions face more severe and frequent obstacles. In addition, it has become obligatory for associations in Turkey to register all their members as well as the members of the executive board with the local authority, presenting another burden to the organizations. In all of the countries, CSOs are allowed to form and join networks, coalitions and other types of unions. A restrictive factor for establishing federations and confederations in Turkey is the high number of members required for

registration. Another specific issue for Turkey is that foreign CSOs face especially serious bureaucratic obstacles when opening a representative office or branch in the country.

Laws in all countries continue to allow CSOs to operate without prior registration, although non-registered CSOs face more difficulties when fundraising. Yet, there is an evident increase in the number of unregistered initiatives, informal groups of citizens who gather around a certain local problem, most often environmental issues (e.g. river or habitat protection) or urban issues (e.g. construction of buildings, roads, destruction of parks, etc.). On the other hand, especially in Serbia, informal community initiatives and mainly environmental activists continue to face state harassment, both from the authorities and other unidentified, possibly state-connected actors. In Serbia, breaches of the digital rights of activists and CSOs have also been recorded, especially in the context of the 2022 environmental protests. To that end, there have been numerous cases of police harassment of individuals sharing on their social networks calls to participate in protests or any related information.

State Interference

Guarantees against state interference in the internal work of CSOs are in place in most of the countries, with North Macedonia further securing safeguards against state interference with the adoption of the Law on Lobbying in 2021 that excludes CSOs from the law, in line with CSOs' long-standing demands. The legal framework on inspections of CSOs is most restrictive, bureaucratic and ambiguous in Turkey, especially since the amendments made by the Law No. 7262 on the Prevention of the Financing of the Proliferation of Weapons of Mass Destruction (commonly named Anti-Terror Law) introduce new sanctions and higher and disproportionate penalties to those in charge of the bodies of the associations. Regulations preventing associations from their activities and filing closure proceedings expand the limits of interference with freedom of association. In practice, Turkish CSOs, especially those with a strong rights-based approach and high capacities, find the state inspections carried out as disproportionate and excessive, often carried out to obstruct the work and harass the organization. Other types of interference reported by CSOs in Turkey are threats by politicians and/or public officials, smear campaigns, police/gendarmerie raids and interventions, or pressures and harassment on the internet.

In addition to Turkey, practice in Serbia and BiH also indicates a disabling environment in this area. The "foreign agents" narrative of high-ranking politicians continues to be especially prominent against environmental activists in Serbia, while watchdogs and CSOs working on transitional justice issues are also particular targets of state harassment. In BiH, during 2022, inspections were more active in the civil sector than ever before. Targeted were not only organizations with high financial flows, but also smaller and more "vocal" organizations, raising suspicions for the inspections being a form of oppression over the civil sector, especially since the fines issued to some organizations are so high, they may close down the organizations. In Albania, Kosovo, Montenegro and North Macedonia, during 2022, CSOs have generally operated free from unwarranted state interference.

The legal frameworks regarding anti-money laundering and countering financing of terrorism (AML/CFT) in most of the countries across the region remain problematic, with the exception of Montenegro, and efforts are being paid to address them in several countries. In Kosovo, the work on a Concept Document on AML/CFT has continued during 2022 and is expected to be concluded during 2023, to open the way for changes in the Law on Preventing Money Laundry and Fighting the Financing of Terrorism, which has been considered restrictive for CSOs. Namely, it includes all CSOs as reporting entities and, as a result, contains a number of provisions impossible to be implemented by the majority of registered CSOs, as well as some undue limitations on cash donations. Commercial banks continue their de-risking approach through hidden barriers to CSOs in opening and maintaining bank accounts, as well as limiting the scope of financial services for the CSO sector. In North Macedonia, the Law on Prevention of Money Laundering and Financing of Terrorism was amended in 2022, specifying provisions on the registration of beneficial owners. The changes, however, do not affect the challenges that CSOs faced before - if the final owner is not registered within the stipulated period of 15 days, organizations face high fines and blocking of their bank accounts. In order to raise awareness of the obligations of this law, CSOs have prepared manuals that show how international standards and national AML/CFT legislation affect their legitimate activities. In Bosnia and Herzegovina, the State Agency for Investigation and Protection plans to create a mechanism or measures for control in the civil sector in view of the upcoming Moneyval visit in 2023. The biggest problem with this is the absence of an updated and relevant CSO register or any classification of organizations in the country.

The problematic provisions in the legislation and the challenging practice related to it come mostly due to the lack of proper understanding from policy-makers and other involved stakeholders on the main principles of civil society, as well as a lack of targeted and risk-based approach. A sectoral risk assessment for CSOs in Albania, Kosovo, and Montenegro has been initiated in 2022, with varying levels of civil society-government cooperation and progress. In Albania, as part of an international response to protect the civic space and avoid over-regulation of NPOs in the name of AML/CFT, the NPO Sector Risk Assessment Methodology on Terrorist Financing was developed, to help understand the risks of terrorism-financing to the sector and to assess how effectively CSOs are mitigating these risks. It was prepared through a collaborative process with the participation of CSOs, state authorities, and financial institutions. In Kosovo and Montenegro, the process saw involvement of civil society representatives from the initial stages, but with slow pace of progress. In Turkey, on the other hand, there was no cooperation with CSOs in determining the risk analysis method and assessment criteria in the process of assessing the risks of laundering money or assets arising from crime and their use to finance terrorism. Therefore, the lack of information and guidance services to address uncertainties about the new practice of inspecting associations at different frequencies according to their risk status has raised concerns among CSOs that controls will be used to restrict freedom of association. Similarly, in Serbia, two years after "the List" case from 2020, when anti-money laundering legislation was abused to pressure civil society, several CSOs have raised suspicions of unjust and invasive oversight related to AML/CFT.

Securing Financial Resources

Securing financial resources from various sources is allowed in all WB countries, however, funding from private domestic donors is scarce and CSOs still rarely engage in economic activities due to lack of favorable legislation. The legal framework is most problematic in Turkey, since regulating aid collection by law and subjecting CSOs to getting permits by imposing numerous conditions make it difficult for CSOs to maintain their financial sustainability and access financial resources. In practice, Turkish CSOs that receive foreign funds often face smear campaigns and accusations such as "supporting terrorism" and "espionage", which is creating reservations among CSOs for seeking foreign funds. Almost all of these CSOs focus on issues such as human rights, women's rights, or LGBTI+ and work in areas such as violations and discrimination against ethnic groups and immigrants. Receiving foreign funds also presented administrative obstacles to CSOs in Serbia due to AML/CFT regulations, although no CSOs have ultimately been prevented from receiving payments. On the other hand, a newly introduced administrative obstacle for CSOs in Serbia relates to receiving funds from public sources. Namely, in December 2022, the Treasury Administration adopted a new rulebook that would oblige CSOs receiving state support to open a new sub-account and e-banking account for every project supported by the state, or even multiple accounts if the same project is co-financed by multiple government entities. This regulation would greatly increase the administrative, as well as financial, burden on CSOs seeking funds from public sources. A positive development in Serbia, however, has been the adoption of a new Law on Social Entrepreneurship in February 2022, creating for the first time a legal framework for social enterprises in the country.

Sub-area 1.2. Related Freedoms

Freedom of Peaceful Assembly

The right to peaceful assembly continues to be legally guaranteed throughout the countries in the region and some legislative changes have been reported in three of the WBT countries. Recent positive developments are the amendment of the Penal Code in Albania in 2021 that no longer deems assemblies without police permission as illegal, and the adoption of a new draft Law on Public Gatherings in Kosovo in 2022, taking into account most of the contributions from civil society, which is now pending final approval by the Parliament. In BiH on the other hand, there is inconsistency of the legal regulations on public gatherings throughout the country, with only Brčko District having a law in line with EU standards, while at some levels tighter regulations have been announced (e.g. in the Sarajevo Canton, following the organization of the Pride Parade 2022). While in Montenegro, North Macedonia and Serbia there are no major concerns on the related legal framework, in Turkey both the law and secondary legislation impose restrictions on the location and duration of demonstrations and marches, and give wide discretion to the administrative and security forces. In many provinces in Türkiye, all kinds of actions and activities are indefinitely prohibited by the local authorities' decisions.

In practice, during 2022, inconsistencies in the law implementation and violations to freedom of assembly have been reported in almost all of the countries. The most serious violations to the freedom of peaceful assembly, however, are noted in Turkey and Serbia. Law enforcement agencies in Turkey often use disproportionate force to intervene in peaceful demonstrations, while in Serbia environmental protesters are in particular subjected to worrying brutality by police and private security. Misdemeanor lawsuits and warrants continued to be issued to protesters in both countries. In Serbia, these were given on grounds of violating traffic laws during the 2021 mass environmental protests, however, an encouraging development were over 60 court-decided acquittals by the end of 2022 in cases in which protest participants challenged the legal basis of the warrants before courts. Cases of police intimidation before protests have also continued in 2022 in Serbia, as well as the practice of banning gatherings due to its alleged inability to ensure the safety of assembly participants, such as the EuroPride 2022. Following these developments, Serbia was added to the CIVICUS watchlist of countries that have seen a rapid decline in civic freedoms. In the rest of the countries, despite occasional incidents, citizens enjoy and exercise their right to assembly.

Freedom of Expression

Freedom of expression also remains legally protected in all of the countries, but violations in practice have been registered in the majority of the countries. While no changes to the basic laws have been made in since 2020, planned amendments have been announced in several countries. On the negative side, the President of Republika Srpska shared plans to criminalize slander by introducing it into the Criminal Code and pass laws on preventing the spread of fake news and hate speech, that will significantly reduce freedom of expression. The national criminal code has been a reason of concern also in Serbia, considering the potential prison sentence for insults to persons with media presence, while in Montenegro the change in the Criminal Code in 2021, aiming to safeguard a stronger protection of journalists, is considered an important step in a positive direction. In North Macedonia, the Law on Civil Liability for Insult and Defamation has been amended in the direction of compliance with international standards, especially the European Convention on Human Rights, and has removed the weaknesses in the previous application of the law. The amendments drastically reduced the penalties for non pecuniary damage caused by insult or defamation by a journalist, editor, or a legal entity. Another positive development in 2022 has been the withdrawal of the controversial anti-defamation package in Albania. In addition, amendments to the law on audiovisual media in Albania positively treat new concepts such as co-regulation, self-regulation, and media education. Still, Albania continues to experience a deterioration in media freedom in practice, and no progress has been made in improving the environment for independent and watchdog journalism or media pluralism.

In practice, the situation has been deteriorating at an alarming rate in Serbia, BiH and Turkey. Representatives of civil society are still not protected from various attacks and pressures from government representatives and other interest groups, there are neither mechanisms for protecting journalists and activists against threats and violence, nor an appropriate judicial follow-up. 2022 was

marked by a new trend of SLAPP lawsuits against both journalists and civil society activists, especially when it comes to environmental activists, with notable cases gaining international attention in BiH and Serbia, too. SLAPP suits do not fall under the scarce existing protections offered by media laws in the countries. In Turkey criminal cases and convictions against journalists, human rights defenders, lawyers, writers, opposition politicians, students, artists and social media users continued. The arbitrary and restrictive interpretation of legislation and lawsuits leads to self-censorship and prevents individuals from joining CSOs and playing an active role in civil society. More specifically, organizations working with rights-based groups or in certain regions are heavily affected by more flagrant and direct rights violations such as repression, targeting and self-censorship.

Access to Information

When it comes to access to information, there are legal guarantees to protect the right to safely receive and impart information through any media, including certain guarantees against illegal monitoring of communication channels. A regress was noted in Albania, as the Ministry of Justice published a draft amendment to the law on right to information, introducing an article on so-called 'abusive requests'. The proposed amendment would give public institutions the right to designate requests for information as abusive and refuse to answer them, thus obstructing media and civil society to obtain crucial information of public interest. In Serbia, there are certain cases in practice where restrictions are imposed on accessing sources of information, as well as preventing journalists from attending press conferences. Availability of information in Montenegro still remains a huge problem, too, which hinders the work and reach of CSOs.

Area 2: Framework for CSO Financial Viability and Sustainability

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

Tax Benefits

The fiscal and tax treatment of CSOs remains to be insufficiently regulated and non-stimulating in most of the countries from the region. Positively, in 2021, for the first time, CSOs in Albania successfully started getting VAT reimbursement of grants, two years after the introduction of the first instruction of this kind. Nonetheless, awareness about rules and procedures governing the relationship between the CSOs and their donors and high level of mistrust still remain to be an issue. The scheduled changes to the laws in Kosovo and Montenegro have again been postponed. In BiH, tax legislation is unclear and subject to individual interpretation and applications, which proved that it can be a threat to organizations in 2021. In Turkey, tax incentives are extremely limited, making it difficult for CSOs to operate and grow. The requirements for earning public interest and tax-exempt statuses are restrictive and are granted by the President to a limited number of CSOs without clear procedures and objective criteria, which causes inequality among CSOs. Due to lack of harmonization of tax and NGO legislation, as well as lack of adequate implementation mechanisms, very few cases of tax benefits are reported in practice in most of the countries.

Incentives for Individual/Corporate Giving

Individual and corporate giving is poorly practiced in the region, especially in the civil sector. Despite repeated advocacy efforts in Serbia and Albania, no changes were made to the legislative framework for tax deductions for individual and corporate donations in 2022. Serbia and Albania are the only countries in the region where the legal framework still does not provide any incentives for individual donations. Around the region, there is no system for collecting data on donations to CSOs from citizens and corporate entities. Changes harmonizing the Law on Personal Income Tax and the Law on Corporate Income Tax have been made in Montenegro in 2021, whereas the planned changes to the Law on Donations and Sponsorships in the Public Activities in North Macedonia have been delayed. Philanthropic awareness is still low, but is on the rise both in resources and number of transactions in most of the countries.

Sub area 2.2. State support

Public Funding Availability, Distribution, M&E

Comprehensive public funding reform that will regulate institutional support, prepayments, multiannual contracts, co-financing, clear procedures for distribution, monitoring and evaluation is still missing throughout the region. During 2022, there have been some relevant developments noted. In BiH, the Federal Ministry of Justice initiated a new text of the Law on Financing Civil Society in the FBiH to establish an efficient system of financing, which was preceded by an Assessment of the Impact of the Financing of Civil Society Organizations in the FBiH published in 2021. One of the key issues of the law is monitoring the efficiency of the organizations' activities in the public sphere, which might be abused and directed against CSOs. The amendment of the Regulation on public funding for NGOs in Kosovo, although planned for 2022, has not been initiated during the year. In North Macedonia, too, the measures related to the comprehensive public funding reform, foreseen in the Government Strategy for Cooperation with Civil Society and expected again in 2022, were not implemented, although the working group started its work during the year. Similarly, no changes were made in the Albanian legislation either, as public institutions did not carry out the revision of the existing legislation for financing NPOs from local and central government, although this has been stipulated in the Roadmap on enabling environment.

Public funding support across the region is still marginal, non-predictable and distributed in a not completely transparent manner. In Kosovo, Montenegro and Serbia, state financial support from both central and local level, continues to be an important source of funding, however certain fields of activity, projects or CSOs (e.g., small and medium-sized service-provider CSOs) are either supported more than others, or affected more than others when this support is unavailable. There is a notable lack of transparency in the distribution of funds in most of the countries. In Serbia, although there is a framework for transparent state funding, it still contains certain gaps, which allow for political influence on the final decisions. The state funding for CSOs in Serbia is one of the initial reasons for increasing GONGO activities, and significant cases of misused funds and non-transparent open calls continue to be recorded in 2022. Another continued problematic practice in Serbia is the allocation of public money to church communities, religious boards, monasteries and other religious organizations through open calls for civil society projects. As an indicator of how availability and distribution of funding reflects government's attitudes towards civil society, in North Macedonia, the planned amount for public funding support was drastically cut from the General Secretariat of the Government in the budget for 2022, without any consultation of civil society. With this, the Government both formally and fundamentally violated the institutional arrangement and determined the Ministry of Political System and Inter-Community Relations as the competent ministry for the distribution of the funds to support CSOs, which goes completely beyond the scope of its competencies determined by the national legal framework.

The implementation of the regulations and mechanisms for state support, where existing, is not at a satisfactory level. In BiH, although the Council of Ministers adopted the Rulebook on criteria for financing and co-financing of projects in areas of public interest implemented by associations and foundations in 2020, it is still only one level of government, and it is questionable how much it is implemented in practice. In Kosovo, the implementation of the Regulation on public funding for NGOs of 2017 is improving gradually at all levels, in particular related to public calls, selection committees and transparency of criteria and beneficiaries. Yet, in most cases public funding is still not coherent and harmonized with other policies of the public institutions, while monitoring is not carried out continuously. In Turkey, there is no standardized and continuous public funding mechanism that is strategically planned for the sector's development and supports the institutional infrastructure and activities of CSOs. The total public resources allocated and provided to CSOs during the year cannot be determined in most of the countries due to a lack of systematic, effective and regular collection of data on all types of state funding, available through different state bodies.

Non-Financial Support

Non-financial support is available in all the countries in the region, yet CSOs are mostly unaware of the opportunities for such support, and when available, it is either insufficient or in poor condition. Positive developments have been reported during 2022 in Albania and Kosovo, both in terms of public policies and practice. The draft Concept Document on Usage of Municipal Property developed in Kosovo during 2022 has included all civil society contributions, in particular by including the sustainable development (social, cultural, environmental and economic) as the main goal of usage of municipal property. In practice, a number of positive practices of state-civil society partnership on revitalizing public spaces have been reported, mainly at the municipal level in Kosovo, while in Albania confiscated assets from organized crime are being socially reused to support CSOs' activity.

Sub-area 2.3. Human resources

Employment and Volunteering in CSOs

Strategic approach to promoting human resource development both in terms of employment and volunteering within the civil society sector is far from becoming a reality. The legislation in place neither hinders nor stimulates employment in the civil society sector, whereas in some countries a more unequal treatment of CSOs in comparison to other legal entities is noted when it comes to state incentive programs for employment, especially given the consequences from COVID-19 crisis. Volunteering continues to be practiced by CSOs in most of the countries in the region, however the lack of clarity in the involvement of volunteers or creating measures for stimulating volunteering is still an issue in most of the countries. Progress was made in North Macedonia with the adoption of the changes to the Law on Volunteerism in 2021. During 2022, new legislation has been underway in

Albania, Kosovo and Serbia, ensuring the participation and contribution of civil society. In Turkey, there is no legislation regulating volunteering; public policies encourage volunteerism limited to disaster and emergency response and solidarity, while areas such as human rights are excluded.

Non-Formal Education

Legislation generally allows for CSO engagement in non-formal education in all countries from the region, although in some cases licenses or certifications are required. Civil society-related subjects are partially included in the curricula, but their importance is not sufficiently recognized. In terms of statistics on the number of employees and volunteers in the non-profit sector, as well as other data on the economic value of the sector, most of the countries are still lacking systematic collection and regular publishing of data.

Area 3: Government-CSO Relationship

Sub-area 3.1. Framework and practices for cooperation

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

State policies and strategies for development of and cooperation with civil society are in place in all Western Balkan countries, including Serbia as of 2022, but still not defined in Turkey. No legal framework or binding policy document regulates the relations between public institutions and CSOs in Turkey and aims to contribute to its institutionalization or is specific to the development of civil society. Civil Society Strategy Document and Action Plan preparation works continue in Turkey; however, the published draft document does not contain concrete decisions to fulfill this mission and does not respond adequately to the needs and demands of civil society. Until February 2022, Serbia was the only other country in the region without a comprehensive document dealing with the enabling environment for the development of civil society. The document, however, was drafted in a contentious and problematic process, and in part fails to adequately address challenges faced by CSOs in Serbia. The process of developing the strategy was boycotted by a significant portion of civil society, which represents a worsening in intersectoral cooperation. As per the rest of the countries with ongoing strategies, limited progress in the implementation of the measures has been noted in Albania and North Macedonia, as a result of low commitment by the governments and lack of resources available. Although the Albanian government in June 2022 claimed that the strategic priorities have been achieved to an extent of over 60%, thus contradicting with the findings of other reports that focus on this issue, there are no public information on how the assessment of this progress was made and what is the evidence for the implementation of measures and indicators. In Montenegro, a new document covering the next strategic period was prepared, in a fairly inclusive process, using the well-mapped challenges in the cooperation of the state and the CSO sector from the previous period as a starting point. Still, none of the Activities foreseen in the Action Plan for 2022 were implemented.

Institutions and Mechanisms for Development of and Cooperation with Civil Society

National level mechanisms for development and cooperation with civil society have also been established and operating in all countries of the Western Balkans, and in some of the countries there are more than one mechanism in place (e.g., Albania, Kosovo, Serbia), but there is no such mechanism in Turkey. Attempts to form new such bodies in Serbia and Montenegro were unsuccessful during 2022. In Serbia, the Ministry of Human and Minority Rights and Social Dialogue, designated as competent Ministry for civil society, initiated a consultation process with CSOs regarding the establishment of the Council for Cooperation and Development of Civil Society. The

consultation resulted in a proposal supported by 57 organizations, which was sent to the Ministry at the beginning of October 2022, but there was no formal response from the Ministry by the end of the year. Similarly, in Montenegro, although in the course of 2022 there were as many as six attempts to form a new Council for Cooperation between State Administration Bodies and NGOs, this advisory body was not formed. There is a low level of engagement of civil society into this process as a result of ineffective work taking place during previous years, and limited information about the body. Finally, in BiH, although the Advisory Committee to the Council of Ministers was established in 2021, not a single meeting between the Committee and the Council was ever held, nor was the Strategy for civil society (the main activity of the Committee) one of the 2022 priorities set by the government.

When it comes to practice however, the functionality of the key cooperation mechanisms records a downward trend. This has been especially visible in North Macedonia, where the work of the Council was made impossible by the government's ignoring of its key recommendations and conclusions, which is its basic competence as an advisory body to the Government. After the government cut the funding dedicated for the annual programme for cooperation with civil society in the 2022 state budget without any consultation with civil society, which directly undermines the role and mandate for which the Council was established, the CSO representatives in the Council started boycotting the Council's work as of March 2022 until the end of the year. In Albania, too, the National Council for Civil Society failed to produce concrete results and to bring the priorities of the sector into the discussion table with the state. While the situation is assessed as somewhat more positive in Kosovo, the dynamics of operation of the Council for Implementation of the Strategy, within the Office of the Prime Minister, is low from both sides, and majority of activities are driven from specific CSOs rather than the state institutions.

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

Standards for CSO Involvement

CSO involvement in policy and decision-making processes on the national level is subject to clearly defined standards, which are generally aligned with the best practices in meeting minimum requirements by policy-making processes. Only in Turkey, no policy or strategy in place recognizes the importance of CSOs' participation in decision-making processes and defines or encourages participation processes. State policies somewhat provide for educational programs for civil servants on CSO involvement in the work of public institutions, and there are certain internal regulations that are tasked to coordinate, monitor and report on CSO involvement in their work. In addition to the Regulation on Minimum Standards on public consultation in Kosovo of 2017, for government and local level, new Rules of Procedures of the Parliament were adopted during 2022, including civil society proposals to improve the provisions on public hearings of Parliamentary Committees. Although public hearings are still not obligatory for every legislative process, new provisions define in more detail this process and advance the legal basis for civil society inclusion in the work of the

Parliament. In Albania, the Law on Co-governance was adopted in 2021 aiming to expand public participation in decision-making and increase government accountability. A new Law on Referendum and People's Initiative was adopted in Serbia in 2021 containing provisions that impose undue restrictions on citizens' involvement in decision-making by obligating authentication of signatures for launching a people's initiative (which, positively, has been amended after the mass environmental protests), while not providing for an effective means to sanction inaction on the part of the National Assembly. Throughout the region, even when the legal framework in place is considered progressive (e.g., Albania and Montenegro), its implementation has been weak.

In practice, the CSO-state relationship throughout the region remains underdeveloped and follows a downward trend in effective and genuine consultations with civil society, less consideration of the input provided by civil society, and limited CSOs' influence in policy and decision-making processes. In North Macedonia, during 2022, cooperation with several ministries has deteriorated to a worrying extent, including absence of not only substantive but even pro-forma communication and dialogue with the civil society. The Macedonian government closed the consultative process for the Reform of the State Reorganization, which violated the basic postulates of cooperation with stakeholders. This process, which represents a complete and comprehensive reform of the state bodies, despite the several demands of the Council and civil society in general, continues to be conducted only within the ministries, which further confirms the worsening in the government's attitude towards civil society. In Kosovo and Montenegro, public consultations at government level continue to focus mainly on the last phase of consultations. In Montenegro, a large number of legal changes were carried out in a procedure that disabled the participation of NGO representatives. Early consultations, initial public meetings, or alternative forms of public consultation happen rarely, while consultation reports often times do not provide quality feedback, are published late, or are not published at all. In Serbia, due to the focus of the EU on quantitative criteria, a continuation of the trend of the trend of "tick-the-box" consultations is noted, without proper opportunity for wide engagement of those who are really affected, at the same time allowing for GONGO activities and influence. In Turkey, there is a tendency to select CSOs for inclusion in consultation processes not according to their expertise and competence but according to whether they have public interest/tax exemption status, while independent and rights-based CSOs are excluded from these processes.

Public Access to Draft Policies and Laws

Access to draft laws and policies is not always provided as required by the legal regulations, and online platforms for consultations are still not effectively used. Online e-consultation platforms aiming to improve access to draft legislation, as well as improve citizen participation in decision-making processes, were launched during 2021 in both Albania and Serbia, while the similar platform in Kosovo has been operational since 2019 and in North Macedonia since 2018. Despite the Government's obligation to submit draft legal solutions to the ENER platform for consultation, in North Macedonia the trend continues to circumvent this obligation and pass laws without any consultation.

CSOs' Representation in Cross-Sector Bodies

CSO representation in cross-sector bodies everywhere, except in Montenegro and Serbia (with the Guidelines for CSOs' Involvement in Working Groups for Drafting Public Policy Documents and Draft Regulations), is not properly regulated and is practiced on an ad-hoc basis. Cooperation more often takes place on local level, rather than under central administration. Generally, CSOs representation in cross-sector bodies is still not conducted in a fully transparent manner, with CSOs being left without the possibility to express their opinions freely. Specified procedures for participation, including transparent selection through a public call, however, exist in a certain form in some bodies in the countries across the region, but still, they take place sporadically.

Sub-area 3.3. Collaboration in social provision

CSO Engagement in Service Provision and Competition for State Contracts

CSO-state collaboration in the provision of services remains underdeveloped. CSOs are allowed to provide services but are rarely engaged in the provision of anything other than social services. Legislation across the region allows CSOs to provide social services in various areas by signing administrative contracts for which they are provided state funding. Generally, CSOs must obtain a license or register at a responsible institution. Challenges remain in terms of equal treatment of CSOs compared to other private entities, insufficient and unpredictable funding, and non-transparent selection procedures. In Turkey, there is an increasing tendency among public institutions to reject the cooperation offers of CSOs for the provision of public services on the grounds that the public sector already provides these services. Positively, minimal standards for social care for LGBTQI persons in public and nonpublic residential centers have been adopted in Albania in May 2021, whereas in Serbia, a new Law on Consumer Protection was adopted in September 2021, with provisions aimed at enhancing transparency in the work of CSOs dealing with consumer protection. The procedures for contracting services are considered somewhat unfair and lacking in transparency in practice. Accountability, monitoring and evaluation of service provision is still sporadic.

Key recommendations

The following are key common recommendations based on the indicators of the Monitoring Matrix, addressed mainly to governments in the Western Balkans with the aim to define actions for regional interventions. Undoubtedly, as noted in past reports, specific country context and challenges need to be taken into consideration in furthering the advancement of an enabling environment for civil society development.

1. Consistent implementation of laws and by-laws around **freedom of association, assembly and expression** must be ensured to protect the internationally and constitutionally guaranteed freedoms and to defend the achieved standards in the legislative framework. The accountability of all relevant institutions responsible for the protection of fundamental rights should be strengthened, to ensure protection from SLAPPs or other meritless lawsuits that prevent human rights/watchdog organizations/activists from exercising their right to freedom of expression regarding issues of public interest.
2. **AML/CFT regulations** must be harmonized with the FATF standards and take into consideration the specific nature of CSO principles and operations in order not to overregulate, restrict legitimate CSO activities, or create unintended consequences that burden CSOs' functioning. Risk-based approach and rights-based approach towards the policies that affect the financial integrity must be ensured, including establishment of mechanisms to prevent potential abuse (e.g., excessive oversight or administrative harassment) of AML/CFT regulations and standards.
3. **Fiscal treatment** of CSOs and donors in the countries throughout the region needs to become more enabling towards CSOs corresponding to their non-profit character, ensure accessible tax incentives and procedures, and provide for genuine incentives for larger individual and corporate giving.
4. **Financial and non-financial state support** needs serious revision in order to effectively contribute to CSOs' financial sustainability. A comprehensive reform of the existing legislative frameworks across the region needs to be performed to introduce institutional grants, co-financing, statistics, and minimum financial resources, but in particular to strengthen the transparency and accountability of the funds distributed to CSOs.

5. **National strategies for civil society development** must ensure operationalization of international and EU standards on enabling environment for civil society through dedicated resources and government commitment in the realization of strategic measures. Strategies must be based on reliable, transparent, and systematically collected data which show the needs of the sector. Mechanisms for CSO-state cooperation need to be further enhanced to improve their functionality and produce concrete results.

6. **Effective involvement of CSOs in policy and decision-making** processes on national level needs to be secured in practice, ensuring opportunities for wide engagement of those who are really affected, including through enabling easy and free access to public information. Policies targeting or affecting civil society must be developed with genuine inclusion of CSOs, from the early stages, allowing for effective contributions.

Bibliography

The regional report is fully based on the results and information provided in the six country reports that are listed below. The sources utilized for the compiling of the country reports are not provided in the regional report and can be acquired in the bibliography section of each individual country report.

Country report of Albania, Partners Albania for Change and Development

Country report of Bosnia and Herzegovina, Centre for Civil Society Promotion (CPCD)

Country report of Kosovo, Kosovar Civil Society Foundation (KCSF)

Country report of Montenegro, Center for Development of Non-Governmental Organizations (CRNVO)

Country report of North Macedonia, Macedonian Center for International Cooperation (MCIC)

Country report of Serbia, Civic Initiatives (CI)

Country report of Turkey, Third Sector Foundation of Turkey (TUSEV)

Annexes

1. Monitoring matrix methodology

The 2022 Regional Report was primarily compiled using the seven Monitoring Matrix Country Updates as its main source of information, data and analytical overview. Furthermore, the authors used their expertise and previous research to deepen the analysis, draw parallels and give overall regionally relevant conclusions and/or recommendations, where applicable. The 2022 Regional Report relates to and builds on previous editions of the Regional Report, especially the most recent one, the 2021 Regional Report.

The information in this report follows the structure and baseline of the Monitoring Matrix. Particularly, the framework is built around three core areas: Basic Legal Guarantees of Freedoms; Framework for CSOs' Financial Viability and Sustainability; and Government-CSO Relationship, each of them divided in sub-areas. All areas are analyzed against standards defined by legal and practice indicators. The Regional Report gives an overview of the legal framework and practice presented in the Country Reports using standards and indicators. As with previous editions of the report, the 2020 Regional Report provides a brief assessment vis-a-vis the objectives set by the EU Guidelines for Support to Civil Society in the Enlargement Countries (EU CS Guidelines), 2014-2020.

The methodological approach has been updated and includes a Data Collection Template aimed to facilitate the work of country researchers and collect data for drawing comparisons between the countries. The 5-grade scale "traffic light" codes ranging from (1)-fully disabling environment to (5)-fully enabling environment have also been improved for the purposes of this methodological exercise. Particularly, a scoring category has been defined for each respective indicator in order to diminish the possibility for ambiguities or inconsistencies in the scoring. The system was created to address the need for 'compressed' and effective visual communication of findings and a systematic presentation of the changes in the enabling environment for CSDev in terms of standards across countries and years. It does not replace, rather complements the qualitative assessment, as the narrative country reports are the basis on which categorization is conducted.

This scoring system provides for a more accurate systematization of the findings on the changes in the enabling environment for CSDev presented in the report. Moreover, it enables standardization of the quality of the Country and Regional Reports, provides for a more effective evaluation of indicators by means of the Monitoring Matrix Tool-kit and opens up possibilities for future comparative analysis. In this context, the Monitoring Matrix online platform has also been updated and redesigned to be more user-friendly and assist in the achieving of the goals of the Monitoring Matrix, i.e. enable a more practical and efficient method for tracking the enabling environment for CSDev, as well as help in the drawing of comparisons between the countries in the region.