



BALKAN
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**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 FOR Montenegro2015



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**The Balkan Trust
for Democracy**

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I. Executive Summary

1. Civil Society and Civil Society Development in Montenegro

Civil society in Montenegro is taking more and more active participation in the public life and in the processes of social changes. Credit for that goes to the persistence and perseverance of the civil society activists who continue to provide inputs despite the large number of obstacles.

The legal and institutional framework creates basic preconditions for the functioning of non-governmental organizations (NGOs)¹, and there are no formal restrictions regarding freedom of association, assembly or expression. Civil society activists with critical attitude towards government and politicians in general might still face convictions from their side or event threats, media campaign aimed at breaching honor and reputation.

Key challenges that Montenegrin civil society will be facing in the near future are connected with creating enabling framework for financial sustainability. In that context, Government will need to provide predictable financing based on sustainable methods and above all in accordance with current public policies. Civil society organizations will on the other hand, need to work on finding alternative financial sources as to reduce its dependence on public funding. It is also of crucial importance to see whether cooperation practices established in the process of EU integration will be further improved and raised to the level above formal. This is concretely related to better functioning of institutional mechanisms (Council for development of non-governmental organizations) consultation process and working groups in shaping and implementation of public policies. Government's relation towards the civil society is possibly best illustrated by the use of public funding. Inability of the Government to regulate legal procedures of public funding for more than 3 years now, and its reluctance towards many attempts to regulate this are clearly showing disrespect towards civil society.

Government has developed several mechanisms with the aim to improve the cooperation with civil society and facilitate its participation in the creation and implementation of public policies. However, situation is quite different when it comes to practice. There is obvious lack of political will to include civil society in the decision-making process and create true partnership. Oftentimes, critical remarks made by civil society representatives are understood as acts of hostility, instead of willingness for concrete improvements. Some civil society members have been facing direct or indirect pressures for expressing their critical attitudes towards the

¹ Given the fact that term non-governmental organizations is recognized by the Montenegrin legislation and is in wide use in practice, in order to achieve higher understanding of the findings in the report, as well as to achieve consistency through the whole report, this is the term that will be used rather than the term civil society organizations.

Government. Participation in the decision-making process, through different mechanisms does exist, but it's often reduced to formality, not providing space for CSOs to contribute in a substantial manner.

It can be noted that the process of European integration has created stronger bonds between Government and civil society, and it has made the Government more open towards the inclusion of civil society in the decision-making processes. The latter implies that the Government is willing to make certain compromises, but only if "pressured" from the outside, meaning that in order for the improvements in the enabling environment for the CSOs to happen, it is necessary for the European Union to continue its pressure.

2. Key Findings

Legal framework regulating functioning of NGOs is in accordance with the international standards. The Government has started the process of developing Changes of the Law on NGOs with the aim to improve public funding of NGO projects and programs. However, that is still an ongoing process and CSO inputs in the preparation phase are not acknowledged in sufficient level.

Public funding is not being conducted in a way that it contributes to the creation of enabling environment for CSO functioning. First of all, the amount funds being allocated are not sufficient for the needs and capacities of the sector and it is also not in accordance with the Law. Discordance between the Law on Games of Chance and the Law on Budget continues to cause reducing the amount of funds allocated to CSOs. The other problem is related to how the funds are being allocated. Modest financial resources intended for the NGO projects make Commission for allocation allocate money in a way that it significantly reduces the amount planned by the submitted budget. Projects are supported in amounts that undermine the possibility of realization of quality ideas. Furthermore, in this process of funds allocation, the importance of whether projects are in line with current public policies is not taken into consideration.

Allocation of non-financial support to non-governmental organizations is equally subjected to possible misuses, given the fact that there is no clear legislation regulating this matter. It is very often that state or local bodies give premises to different CSOs, without adequate procedures preceding the act. However, the decision is not based on publically available and wide spread call, but rather on internal procedures that lack transparency and clear criteria. One of the last, but also most striking cases is the case of "House of Civil Society". At its session held on September 17th 2015, Government of Montenegro adopted a Memorandum of understanding between the Government of Montenegro, Capital City Podgorica, Rockefeller Brothers Fund and Foundation "House of Civil Society". With this Memorandum, the Government obliged to cede state land free of compensations for utility equipment of construction land for the needs of constructing the object of Foundation "House of Civil Society" for the needs of three non-governmental organizations. In this manner Government indirectly creates clientelist relations with certain non-governmental organizations which agree to such relationship for the sake of their own interests.

Current policies are not encouraging the practice of volunteering. On the contrary, current Law on Volunteer Work bureaucratizes and complicates the process of volunteering, causing obstacles for volunteer engagements in the civil sector, rather than promoting voluntarism as one of the key ways of contributing to the community. Law on Volunteer Work treats volunteering as a special form of labor-law relations, rather than voluntary citizens' initiative. The law prohibits employees and minors less than 15 years of age to volunteer even in cases where the action is organized by school or other academic institutions and it is the function of the education of children. That leads to the situation that most of the CSOs are engaging volunteers, but not according to the Law.

Several mechanisms for cooperation have been created, but have been used only for formality and less to practice real and substantive dialogue. Institutional mechanisms such as Council for Development of NGOs, Office for Cooperation with CSOs, as well as contact points in ministries do not possess enough capacities to deal with challenging issues in relation to civil society development. Legal mechanisms that prescribe the participation of CSOs in the decision-making process are being formally fulfilled, but the national and local authorities are still very reluctant to see civil society as a true partner in creation and implementation of public policies.

The Law on Social and Children Protection adopted in 2014 provides possibility for organization to perform social services based on the process of licensing and accreditation of programs. It is commendable that the state recognized, through the new Law, the importance of the NGOs in this field and their contribution as service providers. During the 2015 secondary legislation regarding licensing, accreditation as well as financing has been adopted. Montenegrin CSOs have even in the past year been partner to the state in providing great variety of social services, including those that the state or local social institutions are not providing themselves.

No	Top 6 findings from the report.	Reference to the Monitoring Matrix	Reference to EU CS Guidelines
1	Legal framework regulating functioning of CSOs is in accordance with the international standards. The Government has started the process of developing Changes in the Law on NGOs.	Area	1
		Sub-Area	1.1
2	Financial support allocated to NGOs does not respond to the needs of the sector, in terms of both amount and the procedures	Area	2
		Sub-Area	2.2
3	Non-financial support to CSOs is being allocated in a non-transparent manner, by the unclear, publically unknown criteria. There is no legal regulation on national or local level that would prescribe rules for this kind of support to CSOs.	Area	2.
		Sub-Area	2.2
4	Current policies are not encouraging the practice of volunteering. On the contrary, current Law on Volunteer Work bureaucratizes and complicates the process of volunteering, causing obstacles for volunteer engagements in the civil sector, rather than promoting voluntarism as one of the key ways of contributing to the community.	Area	2
		Sub-Area	2.3
5	Several mechanisms for cooperation have been created,	Area	3

	but have been used only for formality and less to practice real and substantive dialogue.	Sub-Area	3.1.	3.1.a
6	Second legislation regarding NGOs participation as providers of social services has been adopted during the last year.	Area	3	
		Sub-Area	3.3	

3. Key Policy Recommendations

It is necessary to complete the legal framework for the functioning of CSO, by the adoption of the Changes of the Law on Non-Governmental Organizations.

It is necessary to regulate process of the public funding of NGOs. Apart from current provisions that are related to methods of allocation, it is also necessary to determine the percentage of the budget that will be intended for the allocations to the non-governmental organizations. These new rules in the Law on NGO needs to be aligned with procedures for amending the Law on Games of Chance in order to stop the practice of allocating less money for NGO projects that it is actually stipulated by the Law. This kind of divergence between several legal documents are bad, not only in the context of concrete consequences such as amount of funds, but also in the context of the legitimacy and plausibility of decisions being made. These documents need to be put in accordance also in order to provide greater credibility and for the questions of legitimacy not to be raised any further. Apart from the fact that it would finally determine the actual amount that is intended to be used for NGO projects, it would also show the seriousness and readiness of the Government to start regulating CSO public funding in a thorough manner.

It is necessary to adopt Decision on criteria and procedure of allocation of state space and property to the non-governmental organizations that would regulate models of non-financial support to them. This kind of regulation needs to be adopted on national and on local level. Several cases of allocation of space and property in the previous year have shown that the lack of criteria and transparent procedures goes in line with Government's tendencies to favor certain NGOs and deprive those that are critically oriented of their right to gain certain benefits. The regulation would affect creating same rules for everybody and introducing transparency and accountability in the procedures.

It is necessary to pass a new Law on Volunteerism according to the deadlines prescribed in the Action Plan for Chapter 23 in order to legally define volunteering in accordance with its actual aim, and that is voluntary contribution to society, instead of complicating and bureaucratizing what it should be basic action of civil activism.

It is necessary to start implementing the procedures prescribed by the Law on Social and Children Care, regarding NGOs being licenced as social service providers. Now that the necessary secondary legislation has been adopted it is crucial that the process itself starts in the shortest period possible.

No	Top 6 recommendations for reform	Reference to the Monitoring	Reference to EU CS Guidelines
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		Matrix		
1	Complete the legal framework for functioning of CSOs by adopting Law on the Changes of the Law on Non-Governmental Organizations	Area	1	Area No. 1
		Sub-Area	1.1.	Result No. 1.1.b
2	Regulate the amount and manner of distribution of public funding by adopting the Law on Changes of the Law on NGOs.	Area	2	Area No. 2
		Sub-Area	2.2	Result No. 2.4.a; 2.4.b
3	Adopt Decision on criteria and procedure of allocation of state space and property to the non-governmental organizations that would regulate models of non-financial support to the CSOs, both on national and local level.	Area	2	Area No.
		Sub-Area	2.2.	Result No.
4	Develop and adopt the Law on Volunteering and policies that would actually promote volunteerism and affect the raising awareness of the important of civic activism	Area	2	Area No.1
		Sub-Area	2.3	Result No. 1.2.c
5	Strengthen capacities of mechanisms created in order to facilitate Government-NGO cooperation.	Area	3	Area No. 3
		Sub-Area	3.2	Result No. 3.1.b
6	Implement the procedures prescribed by the Law on Social and Children Care, regarding NGOs being licenced as social service providers.	Area	3	Area No.
		Sub-Area	3.3	Result No.

4. About the project and the Matrix

This Monitoring Report is part of the activities of the “Balkan Civil Society Acquis-Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs” project funded by the EU and the Balkan Trust for Democracy (BTD). This Monitoring Report is the first of this kind to be published on a yearly basis for at least the 48-month duration of the project. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev) developed by BCSDN and ECNL. It is part of a series of country reports covering 7 countries in the Western Balkans and Turkey². A region Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area at www.monitoringmatrix.net.

The Monitoring Matrix presents the main principles and standards that have been identified as crucial to exist in order for the legal environment to be considered as supportive and enabling for the operations of CSOs. The Matrix is organized around three areas, each divided by sub-areas: (1) Basic Legal Guarantees of Freedoms; (2) Framework for CSOs’ Financial Viability and Sustainability; (3) Government – CSO Relationship. The principles, standards and indicators have been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They rely on the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries. The Matrix aims to define an optimum situation desired for civil society to function and develop effectively and at the same time it aims to set a realistic framework which can be followed and implemented by public authorities. Having in mind that the main challenges lies in implementation, the indicators are defined to monitor the situation on level of legal framework and practical application.

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

II. Introduction

1. About the Monitoring Report

The Monitoring Report on the Enabling Environment for Civil Society Development contains comprehensive overview of relevant factors affecting the nongovernmental organizations in Montenegro. The monitoring period is December 2014- December 2015. Findings presented in the report represent the result of a research conducted through desktop research, online survey and focus groups. Creation of this report included participants of the civil sector, but also state and local administration.

The Executive Summary gave a brief summary of the findings, highlighting those areas where the improvements are most urgent to happen. Key findings were followed with recommendations on the same issues.

The following part of the report describes the project "Balkan Civil Society Acquis Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs", within whose frames this Report has been done, as well as the basic information on the civil society in Montenegro. It further presents detailed methodology that was used in the monitoring, as well as in defining the recommendations. The core part of the Report is the section "Findings and Recommendations" which in details describes the state on the enabling environment for civil society development in Montenegro and is divided into the following sections:

- Basic Legal Guarantees of Freedoms
- Framework for CSOs' Financial Viability and Sustainability
- Government- CSO Relationship

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

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

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

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

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

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

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

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

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

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

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

According to the data from the Registry of non-governmental organizations lead by the Ministry of the Interior, there are 3940 registered NGOs, out of which 3811 are associations, 129 are registered as foundations.⁴

Most of these non-governmental organizations are registered in the field of culture, a total of 656, agriculture and rural development- 221 social and health care –239, development of civil society and volunteerism- 267 environmental protection – 254, protection and promotion of human and minority rights – 259, art-240, institutional and non-institutional education-233. Fields with the least number of registered NGOs are: business and entrepreneurship-12, fight against corruption

⁴ These are the data from December 2015.

and organized crime= 8, sustainable development – 23, Euro-Atlantic and European integration – 24.

Most of the registered NGOs have its headquarters in Podgorica – 1522 , Niksic is the center for 363 NGOs, while Bar and Bijelo Polje take third and fourth place with 235 and 199 registered NGOs respectively.

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

Financial instability is the biggest obstacle for development of civil society sector. Organizations are mostly dependent on short-term project funding and as such cannot plan for more sustainable actions. The presence of the European structures in the country as well as the pressure of the European Union has significantly help to improve the position of civil society, especially in the context of putting the issue of the civil society on the political agenda. Due to the pressures from the outside, but also for the legal regulations of the matter, NGOs are more active in the process of decision making. This, however is the area that needs further improvements in order to achieve more significant impact to the policies being made. Public still sees the civil sector as a good way to engage in non-party activities and to articulate different interests, social attitudes and initiatives.

4. Specific Features and Challenges in Applying the Matrix in Montenegro

There were no specific challenges in applying the matrix the Montenegro. As the monitoring part is concerned, Matrix covered wide area of questions important for the development of civil society in Montenegro. Given the fact that the report contains comprehensive information about the state of the environment for civil society development, it is often the primary source of information for NGOs active in different fields. The Monitoring matrix provides not only information about basic freedoms, funding or cooperation with the Government, but also the specific sources of information and documents or institutions to be addressed.

Here it must be stated that the 2015 was the year of starting the process of changes of the Law on NGO. In that regard some of the important areas for civil society development are starting to get re-shaped, especially the funding part. But, since the process is still in progress, there are some things that still haven't been finalized and it is question what the final decision will look like.

Monitoring matrix, in that context, presented the provisional solutions contained in the Draft of The Changes of the Law on NGO as well as the recommendations.

5. Acknowledgement

Center for Development of Non-Governmental Organizations would like to thank to the Balkan Civil Society Development Network and its members for the logistic and expert support provided through the process of the development of the report. Also, CRNVO appreciates the effort of all of the non-governmental organizations that, by participating in the online survey, provided significant inputs for the report. Finally, we would like to thank the public administration institutions that provided data for this report.

III. Methodology

Methodology used in writing this report included two methods. One was detailed desktop analysis of different documents concerning legal and institutional framework for CSOs, strategic documents, reports and media articles. The other one was survey conducted with CSOs representatives.

The desktop analysis was used in the review of the documents regulating and assessing the environment for development of civil society. These documents included laws, decrees, regulations and rulebooks which regulate different aspects of civil society. The desktop research also included detailed revision of strategic documents related to civil society with special focus on their action plans and reports on their implementation. It must be stated here that, although the period covered by the monitoring is year 2015, most of the reports on implementing strategies that were published in 2015 are referring to the year 2014 and as such were included in this report.

With the aim of collecting information from NGOs representatives' experiences and opinions on the enabling environment for the development of civil society, an online survey⁵ was sent out to Montenegrin NGOs. The survey was conducted in the period of two months-January and February, and was responded by 40 representatives of NGOs. The survey was divided into three sections: a) Basic Legal Guarantees of Freedoms b) Framework for CSOs Financial Viability and Sustainability c) Government – CSO Relationship. Apart from the questions related to the experiences that NGOs had in these fields, the survey also included their opinions on different aspects, such as freedom of speech, financial support, and participation in decision making process. The survey covered NGOs active in different fields, such as human rights, environment protection, European integration, civil society development, promotion of woman and children rights, culture, etc. It also covered organizations acting on national and international level, as well as those active in their local communities. Results of the survey gave an insight in the concrete experiences of NGOs and important inputs in defining the recommendations.

2. Participation of CSO community

Findings and recommendations from this report fully address the needs and perceptions of Montenegrin NGOs. They were directly involved through the online survey described above. NGO representatives through this method had the opportunity to not only access different aspects of the state of the environment for civil society development, but also to express their opinion on the priorities for further necessary actions. In addition, through its daily work and contact with NGOs on a daily basis, CRNVO regularly assessed the needs of civil society in Montenegro. The everyday experiences of working directly with NGOs provided the significant inputs used in the development of this report. That way, CSO participation was achieved in both direct and indirect manner.

3. Lessons - Learnt

⁵ <http://goo.gl/forms/CDaOQlrZCZ>

The biggest challenge in developing the report was obtaining data from non-governmental organizations. As already mentioned, CRNVO conducted an online survey tackling all of the areas from the monitoring matrix. In spite of invested efforts to disseminate the survey to a large number of NGOs and constant reminder via e-mail, it can be concluded that the response rate was very low. Our analysis concluded that the reasons for that could be many, namely, length of the questionnaire, its comprehensiveness, etc. Even though the questionnaire contains concrete and specific questions that can be applied to any NGO no matter its area of activity, it is possible that it is mostly connected with the topic of enabling environment for civil society development and therefore not very appealing to NGOs not directly engaged in the area of civil society development. Based on this, project team concluded that the next monitoring cycle will require re-design of the methodology approach, in the part of obtaining information from non-governmental organizations.

IV. Findings and Recommendations

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1.: Freedom of association

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

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

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

Organization may be established by at least 3 people, one of whom must have citizenship or domicile in Montenegro. Person in charge to represent organization must be a permanent or temporary resident of Montenegro. Organization may be established by legal entities as well.. Time period prescribed for registration is ten days and costs do not exceed 30 EUR. Organizations do not have remarks on the process of establishing and registering. Process of registration cannot be conducted online.

As far as networking between NGOs in the country and abroad, Law does not impose specific rules, and NGOs use this opportunity in practice. There are couple of networks active on the national level. Some of them are well established networks, such as Coalition of NGOs ``With Cooperation to the Goal``, functional for several years and active in different areas of relevance for civil society, while other are ad-hoc networks, established with specific purpose,

such as coalitions of NGOs for monitoring negotiations in chapter 23-Judiciary and Fundamental Rights, or networks of NGOs gathered for monitoring negotiations in Chapter 27-Environment and Climate Change

Main duties and responsibilities CSOs have towards state authorities are in relation with timely reporting and financial aspects. This is prescribed by the Law on NGOs. Those are also areas where there are defined sanctions in case of disrespect of the rules prescribed. A fine ranging from 500 to 3000 EUR shall be imposed on a NGO if it does not report to the body in charge about the data changes which ought to be entered in the register within 30 days. The same fine is also envisaged in the event of failure to publish financial statements within ten days of its adoption. The Law does not cover those organizations that do not have their web sites, and thus have no place to make their reports publically available. There are specific rules regarding NGOs which conduct economic activity. Apart from the limitation to 4000 EUR as maximum income on yearly level, there is also restriction in case when this limit is exceeded. A fine ranging from 500 to 4000 EUR shall be imposed if, during the calendar year it proceeds to conduct economic activity after crossing the allowed threshold of 4000 EUR or 20% of total annual revenue.⁶ These provisions are a constant reason for open disputes whether these limitations should be set higher or whether should they exist at all if the profit from the economic activity is used for the purposes of re-investing in the activities related to the mission of the organizations. This way, it is limiting provision for all those NGOs that function as social enterprises.

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

The legal framework provides guarantees against state interference in internal matters of associations, foundations and other types of non-profit entities. The state provides protection from interference by third parties.

In practice, Government does not have the tendency to intervene in the inner matters of the organizations, since more than 95% of the organizations covered by CRNVO survey stated that they did not have any similar experiences.

Over 95% of the organization from our survey stated that they did not face any sanctions in their work during the previous year.

When it comes to seeking and securing financial means to support its activities, Montenegrin NGOs can acquire revenue from membership fees, donations, gifts, grants, bequests, interest on deposits, dividends, rents, income and economic activity in a way that is not contrary to the law. They can also directly engage in economic activities specified in the statute, if they are registered in the Company Register. There are very concrete regulations regarding NGOs`

⁶ Article 25, Law on NGO-Official Gazette 39/2011

economic activities, starting from the annual income limit, which is set to 4000 EUR, to restrictions in case that limit is exceeded and regulations about the money above the limit which is set to be allocated to the state budget. The money earned by conducting economic activity can only be used for the purposes of achieving goals of the organization. All the above mentioned regulations are regulated by the Law on NGOs. Organizations are free to receive funding from abroad.

The restrictions and the rules for dissolution and termination of the organization meet the standards of international law.

Sub area 1.1., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020:

1.1.a. Quality assessment of existing legislation and policy framework

-Legislation provides guarantees of freedom of association, expression and assembly.

-Maximum days needed for registration is 10, and that deadline is most often respected

-Maximum costs for registration of association are 30 euros.

-There is no accurate data on the percentage of identified policy gaps. However, some of the drawbacks in the legislative framework regulating work of NGOs have been identified by both NGOs and the Government and that initiated the work on the changes of the Law on NGOs, that is in progress.

1.1.b. Progress with the adoption and implementation of relevant legislation

-The process of the developing the Changes of the Law on NGO is in progress since the last year. The Draft has been made, but due to the political situation there has not been much progress on its discussion. It is expected the process to be finalized in 2016.

1.3.a. Quality of the enabling environment for grass-roots organizations

-Un-registered organizations can operate freely, but cannot participate in public funding. They are free to obtain funds from other sources.

2.1.a. CSOs' perception of the ease and effectiveness of financial rules and reporting requirements (disaggregated by type / size of CSO)

Generally, Montenegrin NGOs do not have objections to financial and reporting procedures. Procedures are clear, but are not proportionate to NGOs turn-over. Current legislation prescribes same financial rules for all of the NGOs, no matter their annual income. This can sometimes be burdensome for less developed NGOs.

2.1.b. Quality assessment of financial rules (with the focus on built-in mechanisms that financial rules and obligations change as the turn-over and non-commercial activities change)

-Financial, including tax, rules are stable, clear, but without different formats for financial reporting according to CSOs' turn-over. NGOs with less than 10 000 EUR annual turn-over are not obliged to submit financial report.

Sub-area 1.2.: Related-freedoms

The area which concerns the right of *free assembly* is mainly regulated by the Constitution⁷ and the Law on Public Assembly⁸ which guarantees freedom of peaceful assembly, without a requirement for obtaining permission for it. However, those seeking to assemble should prior send notification to the competent authority. Notification needs to be done 5 days in advance.

According to the Law on Public Assembly this freedom may be temporarily restricted by the decision of the competent authority for the prevention of disorder or crime, protection of health or morals or for the protection of people and property in accordance with law. Unannounced assemblies shall be banned and the organizers of those assemblies can be fined. The ban can be a reason to a late or improper notification. The ODIHR's Report on the Monitoring of Freedom of Peaceful Assembly in Selected Participating States⁹ marks this as a bad practice. In case of a ban, authorities must notify the organizers 48 hours before the start of a planned assembly. Montenegro's legislation provides for the possibility of submitting a complaint against a ban to the state authorities, which must make a decision within 24 hours. As stipulated in the law, organizers may be fined 100 to 300 times the amount of the average monthly salary for the following reasons: for holding an assembly without prior notification, for holding it in a location where assemblies are not allowed based on Public Assembly Act, for holding a banned assembly, for failing to inform the public about a ban, for failing to provide sufficient monitors, for failing to take all necessary measures to ensure that the participants are not armed and for failing to ensure an undisturbed passage for police and other emergency vehicles. In practice, any group of people can assemble at desired place and time, in line with the legal provisions. In case of restrictions, they are justified with explanation of the

⁷ Constitution of Montenegro-Official Gazette 1/2007

⁸ Law on Public Assembly-Official Gazette 31/2005

⁹ ODIHR Report on the Monitoring of Freedom on Peaceful Assembly in Selected Participating States (May 2013-July 2014), December 2014.

reason for each restriction, which is promptly communicated in writing to the organizer to guarantee the possibility of appeal.

Pride Parade was organized in Podgorica on 13.12.2015. Police was present, but there were no incidents or counter-gatherings. However, attempt to organize Pride Parade in Niksic failed. Even though it was planned, police decided that due to the safety issues, parade will not be organized in that town.

According to the data from our survey, 90% of the organizations did not face any restrictions in the attempt to organize public gathering. Year 2015 saw the work on amendments of the Law on Public Assembly with the aim to amend certain regulations and make them more harmonized with the European practices. This primarily refers to regulating the spontaneous assemblies, which was not the case so far and to reducing limitations when it comes to necessary distance from public institutions and other buildings.

According to the Constitution, everyone has the right to freedom of expression. It can be limited only by other persons' right to dignity, reputation and honor, and if it threatens public morality or security of Montenegro. Restrictions, such as limitation of hate speech, imposed by legislation are clearly prescribed and in line with international law and standards. Libel is a misdemeanor rather than part of the penal code.

However, activists of the civil society sector who are critical towards official governing structures sometimes face consequences for their public criticism of authorities. 30% of participants in the survey stated that they have been exposed to the pressures for their critical actions. What must be stated is that respondents mostly agreed that those are not systematic cases of pressures directly from the state, but rather ad-hoc cases of inappropriate actions by individuals, certain state bodies, political parties or even media. As couple of organizations stated, although there are no formal restrictions and limitations regarding freedom of speech, there are changes in relation towards CSOs by certain state bodies after CSO expresses its critical view of some Government policy. Also, there are cases of so called ``soft`` censorship by pro-Government media. In addition, several CSO representatives pointed out that there were attempts to fabricate different kind of affairs connected to certain individuals, in order to discredit him/her in the public. The State Department Human Rights Report for 2014 states that ``There were also governmental and quasi-official attacks on leaders of nongovernmental organizations (NGOs) in government-controlled media.``¹⁰

Civil society representatives, individually and through their organizations, have the rights to safely receive and impart information through any media. The legal framework provides the possibility to communicate via and access any source of information, including the Internet and ICT. There are no restrictions in this area in practice.

¹⁰ <http://www.state.gov/documents/organization/236770.pdf> page 1

Recommendations:

- Finalize the process of the adoption of Changes the new Law on Non-Governmental Organizations,
- Finalize the process of adoption of the new Law on Public Assembly

Sub area 1.2., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020:

1.1.a. Quality of existing legislation and policy framework

-Freedom of speech is explicitly guaranteed in the legislation.

-Legislation requires only prior notification (and not authorization) for the public assembly

1.1.b. Progress with the adoption and implementation of relevant legislation

-The process of adopting the Changes of the Law on NGO is in progress. The current Law on NGO is not being implemented accordingly, in the part regarding financing.

Area 2: Framework for CSO Financial Viability and Sustainability

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

NGOs are, generally speaking, subject to the same VAT regulations (payable at the standard rate of 19 percent as of 2013) as commercial enterprises, although NGOs do not have to register for VAT if their annual turnover does not reach the VAT threshold of 18 000 EUR. Also, NGOs are exempted from VAT in key areas (health, education, sports, culture, sustainable development). However, key areas do not include human rights, fight against corruption or European integration. Foreign grants and donations are not subject to VAT, nor are imported humanitarian goods. In addition, the Law on Value Added tax provides a broad exemption of VAT charges for all services provided by NGOs, unless there is a probability that the exemption would distort market competition. Services “of public interest”, which include educational, cultural, sporting and religious services, are also exempted from VAT. These regulations are prescribed by the Law on Corporate Income Tax and the Law on Value Added Tax.¹¹ The law does not provide tax benefits for economic activities of CSOs. The law does not provide tax benefits for passive investments of CSOs. Some donations are subjected to the tax deduction.

¹¹ The Law on Corporate Income Tax-Official Gazette 65/2001; The Law on Value Added Tax- Official Gazette 29/2013

It is commendable that that in 2015 Tax Administration published the Guidelines for NGOs regarding tax payments and financial obligations. The Guidelines are available on their web page.¹²

The culture of giving and **corporate social responsibility is not being encouraged,**

Natural persons and legal entities may deduct up to 3.5% of the total income on the basis of expenditures for “health, educational, scientific, religious, cultural, sport, humanitarian and environmental purposes”. Funds given for these purposes in this scope are considered as expenditures and are not calculated as the part of tax base for calculating taxes for legal and natural persons. However, most of the companies are not familiar with this possibility and do not use it in practice.

There are no concrete data regarding CSR when it comes to the specific amounts donated to CSOs by companies. There have been, however, couple of researches and studies¹³ which were mostly concerned with general opinions on CSR and companies readiness to cooperate with CSO. Those researches indicate that the most common form of cooperation between enterprises and CSOs is sponsorship or donations in money or goods. **But they all indisputably show that the culture of CSR and corporate philanthropy is on very low level.**

In the last few years there are more and more NGOs that are dealing with social entrepreneurship. However, current legislation framework is not encouraging for that kind of actions. Currently there is no law on social entrepreneurship, although there have been several initiatives to regulate this matter, for the reason of increasing number of legal entities that can be identified as social enterprises. Possibility to act as social enterprises, is not only beneficial to NGOs that are doing it, through providing them additional financial resources and providing financial sustainability, but is also very beneficial to the society in general, through providing working places, employing the marginalized and hardly-employable citizens.

As it can be found in the Needs Assessment of the Social Enterprises in Montenegro¹⁴ developed by Centre for Non-Governmental Organizations, most of the organizations that are dealing with social entrepreneurship consider current legal provision limiting for the successful performance. Limitations regarding the threshold of the allowed income from performing economic activity are especially restrictive to those practicing social entrepreneurship. Those active in this field believe that dealing with social entrepreneurship as a non-governmental organization under the current financial rules is preventing the development of sustainable social-entrepreneurship ideas.

¹² http://www.poreskauprava.gov.me/rubrike/Novosti_i_informacije_za_poreske_obveznike/156909/PORESKI-TRETMAN-NEVLADINIH-ORGANIZACIJA.html

¹³ Research on citizen`s attitudes on corporate social responsibility:

<http://www.poslodavci.org/aktivnosti/istrazivanja-i-ankete/istrazivanja-upcg/csr-tacso-istrazivanje-2012>

¹⁴ http://www.crnvo.me/sites/crnvo/files/article_files/analiza_potreba_socijalnih_preduzeca_u_crnoj_gori_0.pdf

Sub area 2.1., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020:

2.2.a. Quality and applicability/practice of the legal framework for individual and corporate giving

-Legal framework is not supportive towards the individual and corporate giving. It doesn't not encourage corporate giving.

-Corporations, as well as individuals will have their tax base deducted for 3.5% in case of charitable contribution in one of the areas defined by the law (limited list of areas, excluding for example human rights, fight against corruption, EU integration, etc.)

2.3.a. Quality of the system of tax benefits for the CSOs' operational and economic activities

-Legal provisions are very limiting when it comes to performing economic activities by non-governmental organizations. Apart from the limitation to 4000 EUR as maximum income on yearly level, there is also restriction in case when this limit is exceeded. A fine ranging from 500 to 4000 EUR shall be imposed on if, during the calendar year it proceeds to conduct economic activity after crossing the allowed threshold of 4000 EUR or 20% of total annual revenue. This is very limiting factor for all those NGOs that want to perform social entrepreneurship.

Sub-area 2.2.: State support

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

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

The conclusion is that the public funding is not being implemented in accordance with existing legal regulations. The way public funding is being conducted is not supportive for the NGOs and does not contribute to the creation of the enabling environment for civil society. Priorities for financing are not being defined in accordance with current public policies. General impression is that allocations to NGOs are done in order to fulfill the obligation and satisfy bigger number of CSOs for a short-term period. This does not contribute to achieving the

sustainability of non-governmental organizations and their stronger impact to the society. Process of decision-making is usually not transparent in sufficient measure. In addition, process of evaluation and monitoring could be done more often and deeper into assessing projects impact to social change.

Next paragraphs will in details explain several different methods the public funding is being allocated.

Commission for the Allocation of the Revenue from Games of Chance

According to the Law on Games of Chance¹⁵, concession fees from games of chance belong to the budget of Montenegro. The latter Law further states that the funds from concession fees, in amount of 60% will be used to finance plans and programs that are: dealing with social protection and humanitarian activities; dealing with problems and needs of persons with disabilities; contribute to the development of sports, culture and technical culture; dealing with non-institutional education of children and youth; contribute to the fight against drugs and all forms of addiction. The Law further provides that these funds shall be used to finance plans and programs of non-governmental organizations in the amount of at least 75%.¹⁶ ***From year to year, Government is not providing 60% of the real revenues from the games of chance to this fund, showing the amount of the revenues much lower than it really is.*** Data shows that in the period from 2013-2015, as a consequence of this, NGOs were deprived for more than 3 million of euros. ¹⁷*The Commission for the allocation of revenue from the games on chance is providing funds for projects of CSOs in above mentioned areas: **This is how the biggest part of state financial support to CSOs is being allocated.*** This Commission is composed of 15 members, out of whom 7 are CSO representatives, and 7 are coming from relevant ministries. The president of the Commission is representative of the Ministry of Labor and Social Welfare. Funds are distributed according to clear criteria available to the public. Commission made all granted project available on their web site integrally.

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

Allocations of the funds are done once per year, based on a public call for proposal which should be published by the end of first quarter for the current year. Commission published public call for proposals August 25th, which is four months later than defined by the Law. The Decision was published on December 4th. The Law stipulates that the Decision is to be

¹⁵The Law on Games of Chance-Official Gazette 40/2011

¹⁶ Paragraph 3, Article 15, The Law on Games of Chance- Official Gazette 40/2011

¹⁷ <http://media.cgo-cce.org/2016/02/cgo-cce-cinjenice-i-predrasude.pdf>

adopted within the deadline which cannot be longer than 45 days since the termination of the competition.

Commission does not have its premises, stamp, archive or web-site, but it publishes its information the web-site of the Ministry of Finance. Commission is obliged to submit annual report to the Government within the first quarter of next year. All of the supported projects are available online since 2010. Commission is conducting the evaluation of the supported projects, and those organizations whose projects are supported with more than 30 000 EUR, are envisaged for the direct inspection in the organization. There are no data if this is being done.

In 2015, the amount approved for the allocation was 2.819.637,45 EUR (including the fees for Commission members). Number of submitted projects was 1.228 and out of that number 593 projects were supported.¹⁸

Commission has the practice of reducing the budget of the supported projects so as to allocate significantly less money than the organization has planned within the project proposal. It means that organizations get less money than it needs for the successful implementation of all of the planned activities, and the Commission still expects all to be implemented according to the plan even though the funds are reduced. Besides practical reasons of the implementation, this is also bad practice because it shows the negative attitude Commission has towards non-governmental organizations. Amounts allocated to the supported projects raise a question on the possibility of successful implementation. This way of funding undermines the true purpose of the NGO projects which is contribution to the changes in the society and achieving positive impact to certain area. This brings another important problem, namely, the supported projects are often not in accordance with current public policies. Commission does not take under consideration current national priorities when deciding on the funding. This is worrying practice, because it makes the whole process of less importance to the general framework. This way, even projects cannot have full effect and quality impact as it would be the case if those would actually be connected with official public policies and together with Government's actions create a strong synergy that is able to achieve better results in the concrete field.

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

This Commission is still positioned in the budget, although it is not in accordance with the current Law on NGOs. This Commission was established by the previous Law on NGOs and it was formed by the Parliament of Montenegro. The Law on Games of Chance stated that this Commission will continue to perform its work until the centralized commission is formed. However, the Parliamentary Commission ceased with its work even though the centralized commission is still not formed. It is still positioned in the budget, but now as the Government's unit. In 2015, the amount of 90 000 EUR was assigned to this budget line. The amount remained un-allocated, as it was the case every year since the Law on NGO was adopted.

¹⁸ <http://media.cgo-cce.org/2016/02/cgo-cce-cinjenice-i-predrasude.pdf>

Fund for the Protection and Promotion of Minority Rights Fund for Protection and Promotion of Minority Rights is independent state institution, aimed to support projects that contribute to the respect of minority rights, preservation of national, cultural, religious, language and ethnic identity. Apart from NGOs, beneficiaries of the funds from this Fund can also be individuals and public institutions. Competitions for the funding are published annually and the list of supported projects is available online¹⁹. In 2015, the Fund allocated 769.030,00 EUR.

However, there have been some public allegations on the lack of transparency in decision-making and the possible conflict of interest. The substantial annual allocations require larger level of transparency in the process.

In 2015, the Government adopted draft amendments to the Law on Minority Rights. Amendments prescribe reform of the functioning of the Fund for Protection and Promotion of Minorities with the aim to prevent possible conflict of interests and to introduce the principle of two instances in the decision-making process²⁰. Submitted projects are evaluated by special Commission that is appointed by the Parliament, and based on a public call. Commission member can be person that has obtained seventh level of academic qualification and has at least five years of professional experience in the field of minority rights, as well as experience in the preparation and realization of projects related to minority rights. Commission member cannot be a member of a CSO or any other legal entity participating in the competition.

Also, the changes prescribe the two-instances in the decision making process, in the sense that it will be possible to file a complaint to the Directors` Board of the Fund.

- **Local Self-Governments**

The legal basis for the allocation of funds to NGOs by local governments is contained in Article 116 of the Law on Local Self-Government²¹, which stipulates that local self-governments participate in financing of local non-governmental organizations that perform activities of public interest. Their cooperation is defined under conditions and procedures prescribed by the general act of the municipality.

Some local governments, due to the budget deficit, do not distribute funds to NGOs, regardless of the adopted budget decision. Also, often, the amount of funds actually allocated to NGOs is lower than it was planned with the budget.

Important problem when it comes to financing NGOs from the budget of the local self-governments is that the *money is also being awarded to NGOs by the other legal basis, such as the independent decision of the Mayor. This procedure does not require special criteria or explanations for the allocation, and thus represents field fertile for misuses. Though not often, it also happens that the amount of money allocated this way is higher than the amount*

¹⁹ <http://www.fzm.me/1/index.php?lang=en>

²⁰ <http://www.vijesti.me/vijesti/usvojen-predlog-izmjena-zakona-o-manjinskim-pravima-835648>

²¹ Law on Local Self-Government, "Official Gazette of Republic of Montenegro", No. 42/2003, 28/2004, 75/2005, 13/2006 i "Sl.ist CG", br. 88/2009, 3/2010, 38/2012 i 10/2014,57/2014

allocated through public competition. This kind of allocation does not represent violation of legal procedures, but it establishes non-transparent and unclear practices. In addition, these ad-hoc procedures are not helping strategic development of local civil society sector. This kind of allocation is rather one-off help to organizations, rather than strategic, reasonable and procedural in accordance with local public policies. Montenegrin local self-governments, according to their budgets planned 533 000,00 EUR for financing NGO projects in 2015. Public calls for projects proposals were published by only 12 out of 22 local self-governments.

The overall allocations in the last year were 440 572 EUR, which is 92 428 EUR less than it was planned. However, only 285 538 EUR were allocated based on the decisions of financing projects submitted through the public call. That is only 65% of the overall allocations. The rest of the money, 155 034 EUR was allocated on other legal basis, mostly by the Mayor's decision.

Other budgetary units

Although the Law on NGOs prescribes centralized funding of the NGO projects, separate budgetary units still allocate funds to NGOs. This is possible since the preconditions for the adequate implementation of the Law on NGOs were not met.

Table 1.1: Allocations by state bodies

Ministry	Allocations in 2015 ²² (in EUR)
Ministry of Agriculture and Rural Development	42.800,00
Ministry of Interior	34,396.81
Ministry of Science	32.265,80
Ministry of Health	275,00
Ministry of Economy	300,00
Ministry of Defense	500,00
Ministry of Transport and Seafaring	2,275.00
	112.812,61

According to the data, Ministries that did not allocate funds to the NGOs in 2015 are: Ministry of Sustainable Development and Tourism, Ministry of External Affairs and European Integration, The Ministry for Information Society and Telecommunications, Ministry of Justice, Ministry of Culture and the Ministry for Human and Minority Rights.

However, what is important to mention is that only one part of the Ministries that have allocated financial support to NGOs during the last year have had approved funds in the budget line 4314-Transfers to non-governmental organizations. The new Law on NGO that is

²² According to the data acquired through the request for free access to information, by Centre for Civic Education for the needs of publication "Facts and Prejudices": <http://media.cgo-cce.org/2016/02/cgo-cce-cinjenice-i-predrasude.pdf>

in the procedure of adoption should, by introducing the semi-decentralized way of NGO project funding, regulate the procedures implemented by Ministries in this regard.

Legislation changes in the financing of NGOs

Last year saw the process of starting to work on the changes of the Law on Non-Governmental Organizations. There has been created working group in which NGOs representatives have been included. The group has developed the draft Law on the Changes of the Law on Non-Governmental Organizations.²³

In part of financing, changes prescribe transition from centralized to the combination of centralized and decentralized model of financing. In that way, ministries themselves will have the opportunity to allocate money to non-governmental organizations for implementing projects in their fields.

Every state body that will perform allocation, according to the previously established list of priority areas will form a Commission that will include independent evaluators appointed upon public call.

The draft Law also tackles the problem of allocation of funds apart from the public competition. The draft Law prescribes that state administration organ can allocate financial support to the non-governmental organization apart from the public call in cases there are circumstances that could not have been predicted in the period of public call. The amount cannot be higher than 5 000 EUR per year.

Also, the new Law, as current proposition stipulates, should also provide the possibility of co-financing projects funded by European Union.

However, although civil society sector welcomes these changes, most of it is still not in favor of this draft Law. First of all, it demands that the Law prescribes percentage of the state budget that will be allocated to the NGOs, so that the financing is predictable and sustainable. Also, civil society sector considers that changes of this Law should go in line with the changes of the Law on Games of Chance. Given the fact that the Law on NGO and Law on Games of Chance are the two documents regulating fund allocation to NGOs, they need to be in accordance. New system of public funding will be established and these two laws need to be put in accordance regarding the amount of funding, procedures and priority areas.

Non-financial support

Allocation of non-financial support to non-governmental organizations is equally subjected to possible misuses, given the fact that there is no clear legislation regulating this matter. It is very often that state or local bodies give premises to different NGOs, without adequate procedures preceding the act. Non-governmental organizations often get to use state property or are exempt from paying the utilities. However, the decision is not based on publically available and wide spread call, but rather on internal procedures that lack transparency and

²³ <http://www.gov.me/pretraga/150430/Poziv-za-javnu-raspravu-o-Nacrtu-zakona-oo-nevladinim-organizacijama.html>

clear criteria. This kind of behavior puts certain non-governmental organizations in more favorable position compared to others that also have needs for space or land for building their premises and thus providing sustainability for their organizations.

One of the last cases is the case of ``House of Civil Society``. At its session held on September 17th 2015, Government of Montenegro adopted a Memorandum of understanding between the Government of Montenegro, Capital City Podgorica, Rockefeller Brothers Fund and Foundation "House of Civil Society". With this Memorandum, the Government obliged to cede state land free of compensations for utility equipment of construction land for the needs of constructing the object of Foundation "House of Civil Society". The allocation of land to the non-governmental organizations is novelty in current practice of management of state property.

By this decision, the Government of Montenegro favors group of non-governmental organizations which are founders of Foundation "House of Civil Society" (Civil Alliance, Centre for Democratic Transition and FAKT).

This and similar decisions of Government of Montenegro do not have base in any legal regulation and surely do not contribute to systematic approach and to the improvement of the environment for the operation of non-governmental organizations in Montenegro.

Strategy of Development of Non-governmental Organizations 2014-2016, adopted by the Government of Montenegro, envisaged the activity under number 22 for the second quarter of 2015 as follows: "22. Adopt the act of Government which will serve to establish the criteria and procedure of allocating space and state-owned property for NGOs to use".²⁴

Allocation of office space and now of land practically in the ownership of non-governmental organizations, without any procedures is equally dangerous as the allocation of financial resources to non-governmental organizations without any criteria.

Coalition of non-governmental organizations "Through the Cooperation to the Goal", gathering 96 organizations from Montenegro, has issued a statement regarding this matter and has urged Government to stop performing non-transparent procedures that create inequalities in the Montenegrin civil society sector. In light of recent events, Coalition has addressed the Government with the Initiative to urgently adopt Decision on criteria and procedure of allocation of state space and property to the non-governmental organizations.²⁵ No feedback has been provided yet.

Local self-governments also have the practice of allocating its premises to the use of NGOs without clear criteria and public procedures, sometimes even without the official decision. NGOs active on local level have, several times advocated for establishment of the legal regulation in this area. The capital city of Podgorica has adopted the propositions of the NGOs regarding this matter and during the 2015 has started the procedure of the development of

²⁴ Strategy of Development of Non-governmental Organizations 2014-2016.

²⁵ <http://www.cdm.me/drustvo/crna-gora/saradnjom-do-cilja-hitno-urediti-dodjelu-drzavne-imovine-nvo>

legal act that tends to determine clear methods and criteria of allocating municipal property to the use of NGOs.

Sub area 2.2., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020:

2.4.a. Increase of public funding for CSOs

Public funding is not sufficient for the needs and capacities of civil sector. The biggest fund is the one from Fund of Games of Chance that in 2015 allocated 2.735.048,33 EUR, which is still almost 1 Million less that it should have been allocated according to the Law on Games of Chance.

2.4.b. Quality of state funding frameworks for civil society organizations (focusing on procedural document)

Legal framework for public funding include clear criteria published in advance, deadlines for decision, merit decision with arguments. However, the process itself is not being conducted according to the legally prescribed rules. Even though the Law on NGO prescribed creation of specialized Commission for allocation of funds to CSOs it has not been formed until now. The biggest source of funds for NGO projects is the allocation of the funds from revenue of games of chance. The Commission in charge for the allocation does not respect deadlines and uses questionable criteria in its decision making. In addition, funding is not in line with public policies.

Sub-area 2.3.: Human resources

Lack of official statistics regarding NGOs represents a huge problem in understanding the importance of the civil sector, as well as making long term plans and strategies. Data on the income, employees, salaries and volunteers can be found through different means, such as some state bodies or researches conducted by organizations themselves. Sometimes they can be quite outdated and unreliable. For example, the data on the NGOs income can be received from the Tax administration. However, not all of the NGOs are obliged to submit financial reports to the Tax administration²⁶ therefore, the data is only partial. The lack of these data keeps the public away from the information on how NGOs contribute to GDP, how many persons are employed in the sector and what is the sector's contribution through the payment of taxes, which are important data in perceiving the importance of the sector. In addition, lack of these information is a serious drawback when it comes to long-term planning of the development of the civil society.

²⁶ According to the Law on Accounting and Auditing (Official Gazette 32/2011), only NGOs registered for performing economic activity are obliged to submit yearly financial reports to the Tax Administration.

As already mentioned, there is no systematic manner of running statistical evidence on the civil society. However, there is possibility of acquiring certain data, based on the request to different state institutions. It must be mentioned that those data do not reflect all of the NGOs in Montenegro and as such are not completely reliable, but can serve to give a basic overview of the scope of the sector. Balkan Civil Society Development Network has, in the previous year developed a Report on the Economic Value of the Non-Profit sector in Western Balkans and Turkey.²⁷ Data collected for purpose of that report showed that NGOs income makes total of 0,58% of total GDP.

*Labor Law*²⁸ treats NGOs equally as other employers. On the one hand, this means that NGOs have the same rights, such as possibility to participate in different activities and programs. For the past two years NGOs have been participating in state program for the professional training of young graduates through which they had the opportunity to have an intern for the period of nine months who has been paid by the Government

The Law on Volunteer Work²⁹ defines a number of issues relevant to volunteerism: the definition of volunteers, their rights and obligations, the definition of the organizers of volunteer work, their rights and obligations, the definition of users of voluntary services, mandatory elements of volunteering, international volunteering, development and monitoring of volunteerism, etc. The Law defines contractual relationships and protections covering organized volunteering. It also prescribes different benefits for volunteers. The law on Volunteer Work treats volunteering as a special form of labor-law relations, rather than voluntary citizens' initiative. The law prohibits employees and minors less than 15 years of age to volunteer even in cases where the action is organized by school or other academic institutions and it is the function of the education of children. It is necessary to adopt Law on Volunteering that will fully correspond to the nature of volunteerism as a voluntary citizens' initiative. Law prescribes the existence of volunteer books and contracts for every volunteer action. The Law bureaucratizes and complicates the process of volunteering, causing obstacles for volunteer engagements in the civil sector, rather than promoting voluntarism as one of the key ways of contributing to the community.

Montenegrin CSOs generally include volunteers in their activities (mostly ad-hoc activities, implementing certain periodical events, for promotional campaigns, etc.). However, they do not do it according to the Law on Volunteer work, just for the reasons explained above. More than half of the organizations that participated in the survey who said they are engaging volunteers, stated that they do not do it in accordance with the mentioned Law.

One of the activities planned by the Action Plan for Chapter 23 in the process of negotiations with the European Union is "Development of the Law on Volunteerism in order to create an enabling framework for civic activism and sustainability of civil society organizations", in 2014. The work on the new Law on Volunteering has not started yet.

²⁷ http://www.balkancsd.net/novo/wp-content/uploads/2015/11/Report-on-the-Economic-Value-of-the-Non-Profit-Sector-in-the-Countries_final.pdf

²⁸ Labor Law-Official Gazette 59/2011

²⁹ The Law on Volunteer Work- Official Gazette 14/2012

When it comes to non-formal education, it can be noted that Montenegrin NGOs are widely active in that field. Number of 233 organizations is registered in the field of institutional and non-institutional education. A large number of NGOs is active in organizing educational activities for young people, raising awareness of important social issues and promoting youth participation. There are also several educational programs implemented by different NGOs that have long traditions and count hundreds of attendants. Also, there are cases of cooperation between formal educational structures and NGOs in initiating and implementing common activities. On many occasions, schools are partners with NGOs on different projects. However, the official education policies do not fully use these capacities. Also, the educational system does not sufficiently tackle the topic of civic education.

Sub area 2.3. reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020:

1.2.a. Number of employees in CSO (permanent and part-time)

There is no an effective system for keeping records on employees in CSOs that would provide data for comprehensive information and analyses. Data collected based on CSO research shows that the number of employees in CSOs in 2014 was 774, which makes it 0.37% of the overall employment. This data is however, not accurate.

1.2.b. Number of volunteers in CSOs

There is no an effective system for keeping records on volunteers in CSOs that would provide data for comprehensive information and analyses

1.2.c. Quality of legislative framework

There are no discriminative articles for CSOs in labor legislation (including active employment policy). However, there are neither supportive articles. The current Labor Law does not take into account specific nature of CSOs. Legislation enables reimbursement of expenses volunteer may have during the activity.

Recommendations:

- It is necessary to finalize the process of adopting the new Law on Non-governmental organizations that will introduce changes in the system of public funding.
- Determine the percentage of the budget that will be intended for the allocations to NGOs.
- New Law on NGO needs to go in line with the procedures for amending the Law on Games of Chance in terms of defining the concrete amount of the funds to be allocated.
- Funding from the budget of the local self-governments also needs to be regulated especially in the terms of the allocations besides public calls.
- It is necessary to adopt Decision on criteria and procedure of allocation of state space and property to the non-governmental organizations that would regulate models of non-

financial support to the CSOs. This kind of regulation needs to be adopted on national and on local level.

- It is necessary to establish an effective system of statistics regarding NGOs. In order to be able to make long term plans and strategies, some data are necessary to know, such as the income, its structure, number of employees and volunteers, the level of salaries, etc.

Create the Law on Volunteerism according to the deadlines prescribed in the Action Plan for Chapter 23 in order to legally define volunteering in accordance with its actual aim, and that is voluntary contribution to society, instead of complicating and bureaucratizing what it should be basic action of civil activism.

Area 3: Government-CSO Relationship

Despite the fact that legislative and institutional mechanisms create basic pre-conditions for quality cooperation between the Government and civil society, this is still not the case in practice.

Sub-area 3.1.: Framework and Practices for Cooperation

Strategy for Development of NGO for the time period of 2014-2016 and the Action Plan for the same period have been adopted in December 2013. This strategic document has embraced measures that have been developed in consultations with CSOs.

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

However, it is evident that the level of Strategy's implementation is not at the satisfactory level. Even though some measures were realized, there have not been any changes in the areas of the biggest importance of the CSOs development, such as financing of NGOs, volunteering, social entrepreneurship, etc. Council for Cooperation with NGO has prepared conclusions stating their dissatisfaction with the tempo of the Strategy's implementation, as well as pointing out the importance of adopting those measures that directly and most notably affect sustainability of the CSOs in Montenegro. The process of creation of the Strategy for Development of NGOs 2017-2020 has started.

In July 2014 Government appointed new *Council for Development of Non-Governmental organizations*. The Council is consisted of president and 22 more members, 11 Government representatives and 11 NGO representatives as well as President coming from the ranks of

Government representatives. The main task of the Council is to follow the implementation of the Strategy for Development of NGOs 2014-2016, along with its Action Plan as well as the implementation of the Action Plan for Chapter 23, in the part related to civil society. The Council also gives opinion on legislative and strategic documents regarding civil society as well suggesting the areas which are priority for financing.

However, after 18 months of Council's work in the current composition the question is how much have they achieved and how much have they contributed to the improvement of the general situation in which CSOs function. Representatives of the NGOs- members of the Council are generally dissatisfied with the way Council functions, having in mind that minority of NGO representatives is in most cases outvoted by the majority of Government representatives. That has led to the paradox situation that the Council did not vote for the proposition that the Council actually discusses the draft Law on the Law on NGO.³⁰ As one of NGO representative in the Council stated, this is an attempt of the Government representatives to provide advice for the Governments in a form of approval of the Government's actions.³¹

The Council did not manage to form an opinion even on the draft "Analysis of the Institutional Framework for the Exercise of State Administration in Connection with the Development of Non-Governmental Organizations", and therefore, there were no Council inputs for the Government on this matter. Also, Council did not have its saying neither on the Reports on the implementation of obligations from the Action Plan for Chapter 23, for the part related to development of civil society, since the Report was submitted after the Government has already adopted it, which made the approval of the report pointless. Another crucial decision was made without the participation of the Council and that is the Decision on the budget for 2015 and 2016. The Council did not have its voice heard on the topic of the amount of money that is going to be allocated to the NGOs.

The Office for Cooperation with NGOs exists since 2012. It is involved in the development of almost all regulations and documents related to NGOs and is facing problems that are primarily related to the "modest" mandate, as a result of its dependent position, i.e. as organizational segment of the General Secretariat. On the other hand, there are high expectations from the Office, which exceed its current mandate, personnel and financial capacities. The Office does not have separate budget, which significantly affects the quality and pace of its work, especially given the additional burden and new responsibilities of the Office in connection with the performance of technical and administrative tasks for the Council for Development of NGOs. In 2015, the Office has increased the number of its employees to three, which is expected to raise the quality.

Contact persons for NGOs in the ministries, other state administration bodies and local self-governments are designed as a specific mechanism of horizontal cooperation with NGOs. This mechanism was necessary in order to create institutional preconditions for horizontal (decentralized) cooperation between the Government and CSOs. However, this practice has

³⁰ <http://www.vijesti.me/forum/savjetuj-me-kao-sto-mislim-878612>

³¹ <http://www.vijesti.me/forum/savjetuj-me-kao-sto-mislim-878612>

not been fulfilled in its full range. First of all, most of the appointed contact persons have only been added with this new function to their existing work. Therefore, being contact person is only their secondary engagement. In addition, there are no clear job descriptions, containing list of duties of contact persons. Some state bodies did not publish names of contact persons on their websites as it was previously planned. There are often replacements of contact persons in some state bodies, on which CSOs are not being timely informed. According to the research done by CRNVO, in 2014, only 34³² state bodies out of 54 have appointed contact persons for NGO on their web pages.

Sub area 3.1., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020:

3.1.b. Quality of structures and mechanisms in place for dialogue and cooperation between CSOs and public institutions *in terms of: -CSO representation in general - representation of smaller/weaker CSOs -its visibility and availability -government perception of quality of structures and mechanisms -CSOs' perception of quality of structures and mechanisms

-There is Office for Cooperation with NGOs, as part of the General Secretariat of the Government. Office does not have institutional of financial independence and as such cannot contribute to the creation of the enabling environment in substantial level.

-There is Council for Development of NGOs consisted of Government's representatives and CSOs representatives. However, Council only has advisory function and due to the clear division on representatives of Government and representatives of CSOs and the practice to vote upon the membership in one of those two groups, Council has not been as successful as it was initially planned.

-Ministries have appointed contact persons for CSOs. However, those positions do not have clear job responsibilities, it is often position added to the previous function and does not include proactive approach.

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

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

Those are **Decree on the procedure and manner of developing cooperation between public administration bodies and NGOs**, and **Decree on the procedure and manner of conducting public debate in preparing laws**.

Decree on the procedure and manner of developing cooperation between public administration bodies and NGOs represents the first legal regulation defining main principles and objectives of this cooperation. This Decree regulates rules regarding election of representatives of CSOs as members of working groups and other bodies formed by state

³² http://www.crnvo.me/sites/crnvo/files/article_files/civilno_drustvo_u_kreiranju_i_primjeni_javnih_politika.pdf

authorities. This regulation, for the first time, standardized the process of consulting CSOs by state authorities, which are foreseen by Article 80 Law on State Administration. Another important thing that was legally regulated by this document was appointing officials for cooperation with CSOs within organs of state administration, which is one of the prerequisite for effective cooperation.

NGOs participation in decision-making process is achieved through participation in working groups or other bodies formed by state institutions, participation in public debates and consultations as well as participation in the Parliaments' committees.

Participation in the process of the negotiation with the European Union

Participation of civil society in the Montenegrin process of accession negotiations is regulated by the **Decision for Establishing the Negotiating Structure for the Accession of Montenegro to the European Union**³³. Montenegrin non-governmental organizations are invited to nominate their representatives for membership in the working groups. That has made Montenegro the only country which formally included CSO representatives in the negotiating structure.

Mechanisms for this kind of CSOs involvement are very clear, including the publishing of the open call and requiring clear and reasonable criteria for both candidate and his/her organization.

NGOs are involved in the working groups for the preparation of negotiating positions for the following chapters: Free movement of goods; Freedom of movement for workers; Right of establishment and freedom to provide services; Free movement of capital; Public procurement; Commercial Law; Intellectual property law; Competition policy; Financial Services; Information society and media; Agriculture and Rural Development; Food safety, veterinary and phytosanitary policy; Fisheries; Transport policy; energy; taxes; Economic and Monetary Union; Statistics; Social policy and employment; Enterprise and Industry; Trans-European networks; Regional policy and coordination of structural instruments; Judiciary and fundamental rights; Justice, freedom, security; Science and research; Education and Culture; Environment; Consumer protection and health; Customs Union; External relations; Foreign, security and defense policy; Financial supervision; Financial and budgetary provisions.

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

The negotiating structure counts 1300 persons, out of which 293 are representatives of civil society sector (including representatives of the universities). In the 22 working groups there are 52 representatives of the NGOs. Two representatives of NGOs are members of the Joint

³³ Official Gazette of the Republic of Montenegro No. 9/2012.

Consultative Committee between Montenegro and Economic and Social Committee of the EU. In certain chapters, NGO representatives have the role of the coordinator in some areas. For example, NGO representatives, members of the working group for the Chapter 23 Judiciary and Fundamental Rights, have coordinated development of some parts of the Action Plan for this area.

Apart from the participation in the negotiating structure, CSO members are also part of the **Operational Structure Responsible for Implementing the Strategy on Informing the Public about Montenegro's Accession to the EU 2014-2018**. The body is consisted of 19 representatives of ministries and one for the Parliament, one on the Union of Municipalities, two representatives of the Government and five representatives of CSOs. This body is in charge of the implementation of the **Strategy on Informing the Public about Montenegro's Accession to the EU for the time period 2014-2018**, in whose creation have participated three NGOs representatives.

Participation in decision-making process on national level

As already mentioned above, CSOs participation in decision making process is regulated by two Decrees. CRNVO has during the 2015, done the monitoring of their implementation. According to this Decree, state bodies are obliged to conduct the process of consultations with NGOs in the preparation of different kinds of documents. The Monitoring report done by CRNVO shows that only 3 state bodies published calls for consultations on different documents (total 4 calls). This is even less number compared to the year 2012 when the last monitoring was done, when 12 calls for consultations were published by 7 bodies of state administration. What remains as a problem is the lack of practice to publish reports from the conducted consultations. Only one body fulfilled its legal obligation by publishing the consultation report. This practice affects the transparency, but also the quality of the process itself. It prevents NGOs to get adequate feedback on their inputs, but also deprives the public from insight into the processes conducted.

The process of consultations of NGOs at this stage of the legislation development is of an immense importance given the fact that this is the earliest stage where CSO can give concrete contribution before any form and structure has already been made.

Other aspect regulated by this Decree is the participation of CSO members in the working groups formed by state authorities. CRNVO monitoring report shows that in year 2014, 55 NGO representatives participated in the work of 36 working groups. Number of 15 state bodies announced 79 calls for participation in the working groups. Out of that number, NGOs did not propose candidates for 42 groups. These numbers show that state administration generally respects its obligation regarding working groups. NGO representatives in these bodies are enabled to freely present and defend their positions, without being sanctioned. However, the part which requires additional and serious improvements is the one where actual

participation of CSO representatives in the working groups is taking place. Willingness to adopt the suggestions of the CSO members and the relation towards their contribution is something that those CSO participants in the working groups have most complaints. That is something that cannot be regulated by the legislation, but is the matter of the actual political will. NGO representatives are selected through selection processes which are considered fair and transparent. Participation in these bodies does not prevent CSOs from using alternative ways of advocacy or promoting alternative standpoints which are not in line with the position of the respective body. It is a fact that CSO representatives have a difficult position in the working groups, although formally they have the same role as public administration representatives. They are a minority in relation to the members of the state authorities, who represent Governments' official policy and strategic goals in certain areas and there is little space for CSO members to truly be influential. This even puts more focus on the importance of the process of consultation of CSO in the earlier stage of the process.

On the other side, process of broader consultation with CSOs is still on a low level, as well as informing CSOs. The Decree prescribes obligation of state authorities to publish annual working plans and reports on their web pages. This article was respected by 23 state bodies when it comes to publishing working plans and 27 with regards to publishing yearly working reports.

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

According to the results of the report³⁴ done by CRNVO, state bodies are still not familiar with this new concept of public discussion, so there are rare cases of consulting interested parties in the early phase of law preparation. *Traditionally, state bodies make public discussion when the law is already drafted, which decrease the influence of public on its final shape*. Only five out of 16 ministries published on-line list of laws on whose content public debate will be held (in 2012 that number was 3).

When it comes to number of held public debates in the preparation of legislation development, although Government adopted 73 laws in the year 2014, the process of consulting the general public was conducted only in the case of 16 laws, by 8 ministries.

State administration bodies tend to regularly publish draft of the laws and other documents that are being consulted with the CSOs and the wider public. CSOs usually have 15 days at their disposal to deliver comments, which is perceived as sufficient by the participants of the CRNVO survey. What remains a problem is the state administration bodies' practice of not publishing written feedbacks of reports from held consultations.

Regarding CSO freedoms and possibilities to access to information, CSOs widely use the possibility of addressing state organs with the requests for free access to information, based on the Law on Free Access to Information.³⁵ The Law however is not in accordance with other relevant laws, such as Law on Classified Information. In this practice, there is often situation of

³⁴ http://www.crnvo.me/sites/crnvo/files/article_files/civilno_drustvo_u_kreiranju_i_primjeni_javnih_politika.pdf

³⁵ Law on Free Access to Information, Official Gazette of Republic of Montenegro, No 44/2012

not meeting legally prescribed deadlines for answering the requests. Persons whose request are denied, have the possibility of filing complaint to the Agency for Protection of Personal information. Nonetheless, there are no mechanisms of complaint in case when certain information is labeled as secret.

Through the portal E-Government, it is possible to submit request for free access to information via online form. State bodies were obliged until February 1st 2016, to make all of their services available in an online version as well.

Sub area 3.2., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020:

3.1.a. Percentage of law/bylaws, strategies and policy reforms effectively consulted with CSOs in terms of: - adequate access to information; - sufficient time to comment; - selection and representativeness / diversity of working groups; - acknowledgement of input; - degree to which input is taken into account; - feedback / publication of consultation results.

-Montenegrin public administration has the practice of including CSOs representatives into working groups for developing legal, strategic and other documents. However, due to the fact that the CSOs representatives are minority in the group, their proposals often remain on the level of suggestion.

-Drafts of the documents are being published prior to public debates and the usual time for comment is 15 days.

-Public debates are being organized regularly in the process of developing legal and strategic documents. However, this practice is conducted only after the draft of the document has already been made. Public administration does not have the practice of organizing consultations in the initial phase, before the document is drafted, even though it is prescribed by the legislation. Publishing of reports on conducted consultations and debates is not very common, although it is stipulated in the Law. Similar as in the case of working groups. Acknowledgment of inputs provided by NGOs is not on a sufficient level.

Sub-area 3.3.: Collaboration in social provision

Large number of Montenegrin NGOs are active as service providers. There is no separate legal document regulating NGOs participation in service provision, especially having in mind that there are different areas in which NGOs function providing services. Most of NGOs, service providers are active in the field of social protection and most of the services are provided based on the project funding, often by foreign donors.

Currently, there are no examples of multi-annual funding for the NGOs service providers, and there are no special conditions prescribed for NGOs that provide different kind of services. However, service provision in the field of social and children protection is being regulated by the Law on Social and Children Protection from 2013, and it includes NGOs, which are put to

the equal level as other service providers, with the possibility to acquire license and get their programs accredited.

The Law on Social and Children protection³⁶, adopted in May 2013 prescribes possibility for other entities, besides from state institutions to provide different social services. Previous Law that was in force since 2005 did not recognize the institute of social protection service. Social protection was limited to the institutionalized one, meaning the one that is provided by the state. The only providers of social work service, as stipulated by this Law were centers for social work.

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

When it comes to financing of these services, the Law stipulates that these shall be financed by the state budget, local self-governments budgets as well as by the users themselves. However, the Law prescribes adoption of second legislative that will regulate financing, but also accreditation and licensing.

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

- Services of support to community life are: daycare/centre, assistance at home, housing with support, shelter, personal assistance, interpretation and translation to and from sign language and other services of support to community life.
- Counseling-therapeutic and social-educational services include: counseling, therapy, mediation, SOS hotline and other services whose goal is to overcome crisis situation and to foster family relations.
- Accommodation is a service which includes the stay of beneficiaries in: family accommodation-foster-care, family accommodation, social and child protection institution, reception center – shelter and other forms of accommodation. In this research, only the shelter/reception center form of accommodation was covered as an extra-institutional form of protection.

³⁶ Law on Social and Children Protection (Official gazette of Montenegro 27/2013)

During the year 2015 all of the secondary legislation necessary for the implementation of the Law was adopted. However, when it comes to implementation, the process has not been launched yet. The start of the implementation is expected for 2016.

Recommendations:

- NGOs participation in decision making process needs to be put on a higher level and instead of a being on formal level, as that is the current situation.
- Strengthen human and financial capacities of the Office for Cooperation between Government and the NGOs in order for it to be more effective and have more jurisdiction to perform concrete tasks
- Define clear job description for NGO contact persons in state bodies; Their job should not be limited just to being those who will be contacted by the NGOs, but as well have duties that will include their initiative, such as informing NGOs, organizing meetings, mailing important notifications.
- Ministries should adopt and publish yearly Citizens` Participation Plan with the list of documents that will be put to public debate during the year. That way, citizens and non-governmental organizations could prepare themselves in advance and create more detailed and quality suggestions.
- State bodies, as well as local self-governments need to start practicing the process of consultations before the draft document is created, as it legally prescribed. Not only because this is prescribed by the Law, but this mechanisms allows citizens to create better impact in decision making process and the authorities to examine the citizens` needs before the actual work on the document has started.
- State bodies and local self-governments need to regularly publish reports from conducted debates, consultations as well as working group sessions. Citizens and NGO representatives need to get timely feedbacks and concrete explanations in regard to their suggestions.
- Local mechanism for participation, the institute of ``free chair`` needs to be applied within the legally prescribed matter. Local officials need to be educated on its adequate application, as well as NGOs on the possibility provided.
- State bodies and local self-governments need to make more effort in actual motivating and encouraging citizens to participate in decision making process. The obligation of the body does not finish with the creation of the legal framework 33 for the citizens participation, but it requires further work on the promotion of the regulation. In the aim of every state body is for its legal and strategic documents to be implemented in its full extent.

V. Used Resources and Useful Links

1. Law on NGOs (Official Gazette 39/2011)
2. Law on Public Assembly (Official Gazette 31/2005)
3. Law on Volunteering Work (Official gazette 14/2012)
4. Law on Corporate Income Tax (Official Gazette 65/2001)
5. Law on Local Self-Government, "Official Gazette of Republic of Montenegro", No. 42/2003, 28/2004, 75/2005, 13/2006, br. 88/2009, 3/2010, 38/2012 i 10/2014,57/2014
6. Tax Law (Official Gazette 36/2013)
7. The Law on Administrative Fees (Official Gazette 20/2011)
8. The Law on Value Added Tax (Official Gazette 29/2013)
9. The Law on Budget of Montenegro (Official Gazette 78/2010, 66/2011, 66/2012)
10. Inspection Law (Official Gazette 39/2003)
11. Action Plan for Chapter 23
12. The Strategy for NGO Development in Montenegro 2014-2016:
<http://www.osce.org/montenegro/124433?download=true>
13. Decree on procedure for achieving cooperation between state bodies and NGOs(Official
14. Decree of the procedure method of a public discussion in preparing laws (Official Gazette
15. Decree on criteria for defining beneficiaries and a manner of distributions of revenues from games of chance (Official Gazette 42/2011)
16. Guidelines for the Tax Treatment of NGOs:
http://www.poreskauprava.gov.me/rubrike/Novosti_i_informacije_za_poreske_obveznike/156909/PORESKI-TRETMAN-NEVLADINIH-ORGANIZACIJA.html
17. Research on citizen`s attitudes on corporate social responsibility:
<http://www.poslodavci.org/aktivnosti/istrazivanja-i-ankete/istrazivanja-upcg/csr-tacso-istrazivanje-2012>
18. Needs Assessment of the Social Enterprises in Montenegro:
http://www.crnvo.me/sites/crnvo/files/article_files/analiza_potreba_socijalnih_preduzeca_u_crnoj_gori_0.pdf
19. Publication: Facts and Prejudices; Financing of NGOs and Political parties from Public Funds:
<http://media.cgo-cce.org/2016/02/cgo-cce-cinjenice-i-predrasude.pdf>
20. Report on the Economic Value of Non-Profit Sector in the Countries of Western Balkans and Turkey:
http://www.balkanccd.net/novo/wp-content/uploads/2015/11/Report-on-the-Economic-Value-of-the-Non-Profit-Sector-in-the-Countries_final.pdf

21. Civil Society in the Creation of Public Policies:
http://www.crngo.me/sites/crngo/files/article_files/civilno_drustvo_u_kreiranju_i_primjeni_javnih_politika.pdf
22. Constitution of Montenegro (Official Gazette 1/2007)
Gazette 07/2012)
12/12)
23. <http://www.vijesti.me/vijesti/usvojen-predlog-izmjena-zakona-o-manjinskim-pravima-835648>
24. <http://www.gov.me/pretraga/150430/Poziv-za-javnu-raspravu-o-Nacrtu-zakona-oo-nevladinim-organizacijama.html>
25. <http://www.cdm.me/drustvo/crna-gora/saradnjom-do-cilja-hitno-urediti-dodjelu-drzavne-iovine-nvo>
26. <http://www.vijesti.me/forum/savjetuj-me-kao-sto-mislam-878612>