

# Monitoring Matrix on Enabling Environment for Civil Society Development

Regional Report:  
Western Balkan  
2021





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Sanja Bogatinovska Davkovska, Anja Bosilkova-Antovska  
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# Introduction

Balkan Civil Society Development Network is pleased to present the 2021 edition of the Monitoring Matrix on Enabling Environment for Civil Society Development in the Western Balkans (Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Montenegro, and Serbia). The Regional Report summarizes the findings and recommendations from all the country reports.

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

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

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

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

# Acknowledgment

BCSDN would like to extend its sincere gratitude and appreciation for all of the hard work of our colleagues in Partners Albania for Change and Development (Albania), Center for Promotion of Civil Society (CPCD, Bosnia and Herzegovina), Kosovar Civil Society Foundation (KCSF, Kosovo), Center for Development of NGOs (CRNVO, Montenegro), Macedonian Center for International Cooperation (MCIC, North Macedonia), and Civic Initiatives (Serbia) for the preparation of this report. The Monitoring Matrix research is a challenging regional endeavor that requires extraordinary teamwork and dedication of everyone involved, which has proved a cornerstone for successful work.

# Executive Summary

Throughout 2021, civil society organizations in the countries across the region operated in a state of prolonged COVID-19 environment, with all the insecurities and instabilities that continuously challenged their skillfulness, capacities and creativity.

**Freedom of association** continues to be legally guaranteed in all the countries of the region. Only Albania reported amendments to the Law on NPO registration requiring the establishment of an electronic NPOs register. Following a heated debate and a strong criticism over the consultation process, transparency and the content of the law, NPOs proposals on 32 articles of the draft law were accepted. Nevertheless, a series of challenges for the free operation of the organizations, such as high fines for administrative violations as well as lack of a procedure for NPOs deregistration in court and the authority responsible for NPOs that are not registered at tax authorities, still remain. The planned amendment to the Law on Associations and Foundations in North Macedonia did not start, and the drafting of the bylaws of the NGO Law in Kosovo did not conclude. The countries continue to allow both individuals and legal entities to establish a CSO, and laws in all countries continue to allow CSOs to operate without prior registration, although non-registered CSOs face more difficulties when fundraising. Registration procedures are generally accessible, and in all of the countries, organizations are allowed to form networks, coalitions and other types of unions.

Guarantees against **state interference** in the internal work of CSOs are in place in most of the countries; however, the legal frameworks regarding anti-money laundering and countering financing of terrorism (AML/CFT) in most of the countries across the region remain problematic and efforts are being paid to address them. To avoid over-regulation of the sector in the name of AML/CFT, an Oversight Group to draft the Terrorist Financing (TF) Risk Assessment Methodology for the NPO sector in Albania was established, with members from both public institutions and CSOs. The methodology aimed to help understand the risks of TF to the NPOs sector, to assess how effectively they are mitigating these risks, and for them to be able to demonstrate how they have achieved this understanding. Work on further securing safeguards against state interference has been conducted also in North Macedonia, where the Law on Lobbying has been adopted, excluding CSOs from the law, which is in line with CSOs' demands since 2020. In practice, threats to CSOs' autonomy and integrity continue to pose a challenge to CSOs, and have been quite salient in Serbia. In addition, securing financial resources from various sources is allowed, however funding from private domestic donors is scarce and CSOs still rarely engage in economic activities.

The right to **peaceful assembly** continues to be legally guaranteed throughout the countries in the region and legislative changes have been reported in three of the countries. A positive development was noted in Albania with the amendment of the Penal Code article which deemed assemblies without police permission as illegal, in line with the decision of the Albanian Constitutional Court of 5 May 2021. On the negative side, however, the Ministry of Health and Social Protection in Albania issued 19 acts as a preventive measure to the pandemic, imposing restrictions to the right of peaceful assemblies. The Law on Peaceful Assembly in Brčko District, Bosnia and Herzegovina made limited progress with the last changes, while amendments to the Law on Public Gatherings in Kosovo have still not been adopted. The changes to the Law on Referendum and People's Initiative and the Law on Protection from Noise in the Environment in Serbia triggered massive environmental protests, and the repressive state measures enacted in response resulted in a more disabling environment in regards to this right. In practice, dozens of restrictions and rejections as well as detentions, arrests and other types of violations have been recorded in the majority of the countries, and the situation in practicing freedom of assembly remains to be seriously endangered in Serbia.

**Freedom of expression** also remains legally protected in all of the countries. While no changes to the basic laws have been made, legislative interventions have been observed with regards to the national criminal codes. A new law entered into force in Montenegro, and a proposal for amendment, expanding the punishment of hate speech, has been submitted to the parliament of Bosnia and Herzegovina. In Serbia, the amendments to the Criminal Code are threatening the right to freedom of expression, considering the potential prison sentence for insults to persons with media presence. While the legal framework remains strong, violations have been registered in the majority of the countries. The situation is deteriorating in Serbia at an alarming rate.

The **fiscal and tax treatment of CSOs** remains to be insufficiently regulated and non-stimulating in most of the countries from the region. Positively, in 2021, for the first time, CSOs in Albania have been successful in getting VAT reimbursement of grants, two years since the introduction of the first instruction of this kind. Nonetheless, awareness about rules and procedures governing the relationship between the CSOs and their donors and high level of mistrust still remain to be an issue. The scheduled changes to the laws in Kosovo and Montenegro have again been postponed. North Macedonia is a positive example in that the necessary changes for the fight against COVID-19, which include certain VAT exemptions remain to be force in 2021. Individual and corporate giving is poorly practiced in the region, especially in the civil sector. Changes to the Law on Personal Income Tax and Law on Corporate Income Tax have been made in Montenegro, whereas the planned changes to the Law on Donations and Sponsorships in the Public Activities in North Macedonia have been delayed. Philanthropic awareness is still low, but fortunately, it is on the rise both in resources and number of transactions in most of the countries. Corporate social responsibility is still poorly practiced, but there have been positive changes in the adoption of a related national strategy in North Macedonia.

**CSOs' financial viability and sustainability** has still not changed. Comprehensive public funding reform that will regulate institutional support, prepayments, multiannual contracts, cofinancing,



clear procedures for distribution, monitoring and evaluation is still missing. Public funding support is still marginal, non-predictable and not completely transparent. CSOs' participation in the public funding cycle remains to be mainly sporadic. Non-financial support is available in all the countries from the region, yet CSOs are mostly unaware of the opportunities for such support, and when available, it is either insufficient or in poor condition.

Strategic approach to promoting **human resource development** both in terms of employment and volunteering within the civil society sector is far from becoming a reality. The legislation in place does not hinder nor stimulate employment in the civil society sector, whereas in some countries a more unequal treatment of CSOs in comparison to other legal entities is noted when it comes to state incentive programs for employment, especially given the consequences from COVID-19 crisis. Volunteering continues to be practiced by CSOs in most of the countries in the region, however the lack of clarity in the involvement of volunteers or creating measures for stimulating volunteering is still an issue in most of the countries. Progress was made in North Macedonia with the adoption of the changes to the Law on Volunteerism, which clarify the existing provisions regarding organizer of volunteer work, determining the procedure for issuing consent for volunteer work in public institutions, the rights of volunteers, etc. Legislation generally allows for CSO engagement in non-formal education in all countries from the region, although in some cases licenses or certifications are required. In terms of statistics on the number of employees and volunteers in the non-profit sector, as well as other data on the economic value of the sector, most of the countries are still lacking systematic collection and regular publishing of data.

**State policies and strategies for development of and cooperation with civil society** are in place in all Western Balkan countries with the exception of Serbia. North Macedonia adopted the new Strategy of the Government for Cooperation with and Development of Civil Society, along with the Action Plan 2022-2024. **National level mechanisms** for development and cooperation with civil society, have also been established in all countries of the Western Balkans, and in some of the countries there are more than one mechanism in place. When it comes to practice however, the functionality of the key mechanisms records a downward trend. On the positive side, the Council for Cooperation with and Development of the Civil Sector in North Macedonia has been quite active and following the expiration of the first mandate of its members, a new Council was elected through an open call and in a transparent manner.

**CSO involvement in policy and decision-making processes** on national level is subject to clearly defined standards, which are generally aligned with the best practices in meeting minimum requirements by policy-making processes. State policies somewhat provide for educational programs for civil servants on CSO involvement in the work of public institutions, and there are certain internal regulations that are tasked to coordinate, monitor and report on CSO involvement in their work. In Albania, the Law on Co-governance was adopted aiming to expand public participation in decision-making and increase accountability through an agency held accountable by the Prime Minister's Office and coordinators at each government institution, as well as an online platform that

citizens and stakeholders can visit to receive information, leave feedback, and file complaints. A new Law on Referendum and People's Initiative was adopted in Serbia containing provisions that impose undue restrictions on citizens' involvement in decision-making by obligating authentication of signatures for launching a people's initiative (which, positively, has been amended after the mass environmental protests), while not providing for an effective means to sanction inaction on the part of the National Assembly. In practice, the CSO-state relationship remains underdeveloped. **Access to draft laws and policies** is not always provided as required by the legal regulations, and online platforms for consultations are still not effectively used. CSO representation in **cross-sector bodies** everywhere, except in Montenegro, is not properly regulated and is practiced on an ad-hoc basis.

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

## Key findings

Key findings of the report	
1.	Inadequate implementation of standards pertaining to freedom of association, freedom of assembly and freedom of expression is a continuous challenge, being further amplified following the state measures undertaken in combating COVID-19, and most severely pronounced in Serbia and Bosnia and Herzegovina to a certain extent.
2.	Fiscal treatment of CSOs and donors is still problematic in the countries throughout the region, with VAT exemptions being complex, and tax incentives for individual and corporate giving being insufficient.
3.	Financial state support to CSOs lacks comprehensive scope of all the elements related to sustainable and viable CSO operations, straightforward legislative clarity and practical implementation.
4.	The legislative frameworks of the countries still remain short of a strategic approach for regulating, facilitating and stimulating both employment and volunteering in CSOs, and recognize the specific nature of CSO operation.
5.	Mechanisms for CSO-state cooperation remain to be mainly declarative with little practical significance, and CSOs are still not recognized as equal and serious partners in policy and decision-making processes.
6.	CSOs are a crucial factor in providing high quality state services to citizens, however, their engagement in the provision of service and in the cycle of service provision development is still mainly marginal.

## Key recommendations

Key recommendations of the report	
1.	Legal guarantees for freedom of association, freedom of assembly and other related freedoms should be enforced, whereas the implementation of the existing legislative framework should be secured in practice.
2.	Fiscal treatment of CSOs and donors in the countries throughout the region needs to become more enabling towards CSOs corresponding to their non-profit character and provide genuine incentives for larger individual and corporate giving.
3.	Financial and non-financial state support needs serious revision and a comprehensive reform of the existing legislative frameworks in the countries across the region needs to be performed and to introduce institutional grants, co-financing, statistics and minimum financial resources so as to contribute to CSOs financial sustainability.
4.	The approach to human resources gravitating in the civil society sector both in the form of employment and volunteering, should become more strategic.
5.	Mechanisms for CSO-state cooperation need to be further enhanced, and effective involvement of CSOs in policy and decision-making processes on national level needs to be secured in practice.
6.	CSO engagement in service provision needs to be further enhanced and expanded in response to the already increasing provision of high quality state services provided by them.

# Civil Society Overview

	Albania	Bosnia and Herzegovina	Kosovo	Montenegro	North Macedonia	Serbia
<i>Number of registered organizations</i>	12,240 (278 newly registered)	25,646	11, 259 (538 newly registered - associations: 452; foundations: 35; institutes:47; foreign or international NGOs: 4)	6,395 (386 newly registered)	11,134 registered CSOs (467 newly registered)	35,733 citizens' associations (3.1% increase from 2020), 996 endowments and foundations (4.95% increase). No data on newly registered CSOs is publicly available.
<i>Key civil society laws</i>	(1) Law 80/2021 "For the registration of Nonprofit organizations" (2) Civil Code of Albania (3) National Accounting Standard for Non-Profit Organizations (4) Law for the Right of Information /Law for Notification and Public Consultations	(1) Law on Association and Foundation at levels of BiH, FBiH, RS and DB	(1) Law on Freedom of Association in NGOs (2) Law on Access to Public Documents (3) Government Strategy for Cooperation with Civil Society 2019-2023 (4) Regulation on Minimum Standards for Public Consultation Process (5) Regulation on Criteria, Standards and Procedures on Public Financing of NGOs (6) Administrative Instruction no.06/2018 on Minimum Standards of Public Consultation in Municipalities (7) Guidelines on Consultations with CSOs and Other Stakeholders in the Framework of the EU-Kosovo Stabilization and Association Bodies	(1) Law on NGOs	(1) Law on Associations and Foundations	(1) Law on Associations (2) Law on Endowments and Foundations (3) Public Assembly Act (4) Law on the Central Record of the Beneficial Owners (5) Government Regulation (by-law) on financing programs of public interest (6) Law on Volunteering (7) Adult Education Law (8) Law on Youth (9) Law on Local Self Government (10) Law on the Planning System (11) Law on Free Access to Information of Public Importance (12) Law on Social Protection (13) Law on Consumer Protection (14) Law on Public Procurement
<i>Relevant changes in</i>	(1) Law 80/2021 "For the registration of non-profit	(1) The Law on Peaceful Assembly fully EU	(1) Regulation no. 03/2021 on Determining	N/A	(1) Law on Prevention of Money Laundering and	(1) Law on Referendum and People's Initiative

<i>legal framework</i>	<p>organisation”</p> <p>(2) Law no. 87/2019 on “Invoice and Circulation Monitoring System” amended</p> <p>(3) Law no. 112/2020 “On the Register of Beneficial Owners”</p> <p>(4) Law no.154/2020 “On the Central Register of Bank Accounts”</p> <p>(5) Law 162/2020 “For Public Procurement”</p> <p>(6) Law 107/2021 “On Co-governance”</p>	standardized in the Brcko District of BiH	<p>the Procedure for Receiving and Handling the Cases of Whistleblowing</p> <p>Draft acts:</p> <p>(1) Public Gatherings</p> <p>(2) Youth Volunteering</p> <p>(3) Social and Family Services</p>		<p>Financing of Terrorism</p> <p>(2) Law on lobbying</p> <p>(3) National Strategy for Development of Social Enterprises in the Republic of North Macedonia (2021-2027)</p> <p>(4) Law on Volunteerism</p>	(2) Law on Free Access to Information of Public Importance
<i>State funding (key bodies and amounts)</i>	90 million ALL (Approx. 744,000 EUR)	N/A	<p>Public funds distributed to CSOs (Government’s report vs. KCSF’s analysis of the government’s report, 2020)</p> <p>Total (in mil.): €19 vs. €4</p> <p>By government (in mil.): €12 vs. €2</p> <p>By municipalities (in mil.): €6 vs. €2</p>	<p>Total of 2.213.205,40 EUR</p> <p>Ministry of Capital Investment 250.000</p> <p>Ministry of Justice, Human and minority rights 1.433.205</p> <p>Ministry of Finance and Social Welfare 380.000</p> <p>Ministry of Economic Development 30.000</p> <p>Ministry of Ecology, Spatial Planning and Urbanism 210.000</p> <p>Food, Veterinary and Phytosanitary Administration 160,000</p>		<p>A total of 2,355,987,799 RSD or 20,013,816 EUR allocated at the central, provincial and local self-government levels through open calls for civil society projects.</p> <p>(central government level: 912,080,534 RSD or 7,748,007 EUR; provincial level: 135,056,296 RSD or 1,147,286 EUR; local self-governments 1,308,850,969 RSD or 11,116,595 EUR)</p>
<i>Human resources (employees and volunteers)</i>	9872 employers working in the CSOs sector. No data on volunteering	N/A	<p>5,120 employees have continuously paid contributions in the past 12 months</p> <p>11,246 employees have more than one job, one of them being in the CSO sector</p>	N/A	1665 according to the official data of Central Register of North Macedonia	N/A.
<i>CSO-Government Cooperation</i>	(1) National Council for Civil Society	(1) Advisory Board of the BiH Council of Ministers	<p>(1) Online Platform for Public Consultations</p> <p>(2) Office of Good</p>	(1) Council for Cooperation of NGOs with state bodies	(1) Council for Cooperation with Civil Society and Government	(1) Ministry for Human and Minority Rights and Social Dialogue

<i>(relevant/new body: consultation mechanism)</i>			<p>Governance  (3) Council for Government – Civil Society Cooperation  (4) Ministry of Local Government Administration's forum for cooperation with the civil society sector  (5) National Council for European Integration</p>			<p>(2) Contact points for cooperation with civil society  (3) NCEU  (4) SEKO</p>
<i>Other key challenges</i>	<p>(1) Lack of unified data and accurate information for CSOs  (2) Financial viability and sustainability of the sector remain weak. The sector is donor-dependent, and the foreign donor support  (3) Regress on transparency and accountability of public funding support to CSOs</p>	<p>(1) Existence of the legal framework used to ensure legal compliance without actual substantial forms of democratic decision making</p>	<p>(1) Lack of official data on the civil society sector is evident, especially related to the economic value of the sector.</p>	<p>(1) Lack of data on CSOs, as well as lack of records on number of employees in CSOs,  (2) Underdeveloped philanthropy and donations;  (3) CSOs are donor dependent; lack of funding diversity</p>	<p>(1) The reform of the system for state funding for CSOs has progressed slowly  (2) Criminal code poses certain risks to the freedom of association.  (3) Law on Donations and Sponsorships in Public Activities should be amended so that the procedure for donations is more stimulating.  (4) Cutting of the state funding for CSOs from the Budget of the General Secretary  (5) Inclusion of CSOs in decision-making processes should progress in practice.  (7) Not perceiving CSOs as a real partner by the state institutions.</p>	<p>(1) Lack of records was observed when it comes to the implementation of tax incentives, statistics in the area of distribution of state funds volunteering, the number of employees and contracted persons, regulations adopted at all governance levels including the involvement of CSOs in these processes, as well as the provision of services in all relevant areas.</p>



# Background

The prolonged COVID-19 pandemic along with its health, economic and social consequences, coupled with political instabilities due to pursued electoral cycles have gravely affected the environment in which civil society organizations (CSOs) operate. The attitude of the state authorities towards civil society under such circumstances appears to be a litmus test to the preparedness of the countries to buffer all these challenges.

Major **political events** have been present in all of the countries of the region, leaving their footprint on the everyday operations of civil society organizations. A total of six election cycles took place in four of the countries from the region, practically freezing most of the public authorities' meaningful activities. Only in Kosovo, three election cycles were held - parliamentary elections on 14 February 2021, presidential elections on 3 and 4 April 2021, and local elections on 17 October 2021. Local elections were also held in Montenegro on 14 March 2021 and North Macedonia, with the first round held on 14 and 15 October 2021, and the second round held on 28 and 29 October 2021. Finally, Albania held its parliamentary elections on 25 April 2021. All these elections, together with various measures due to the ongoing COVID-19 pandemic have been stalling the countries' reform processes and thereafter, largely affecting CSOs work.

In Bosnia and Herzegovina, elections were not planned to be held in 2021, however it faced a major political crisis that some fear could lead to armed conflict, little more than 25 years after the Bosnia war ended with the signing of the Dayton Peace Agreement. In fact, one of its three presidents, Milorad Dodik, the Serb member of Bosnia's tripartite presidency, announced in October 2021 that the country's Serb-run entity, Republika Srpska, is prepared to quit its key state institutions in order to achieve full autonomy within the country. This act of president Dodik is a complete violation of the 1995 peace accords. Serbia, too, faced major political tensions on two fronts with its immediate neighbors. Triggered by the decision of the Government of Kosovo to reciprocally ban Serbian license plates, a series of protests by Serbs in North Kosovo began on 20 September 2021 at the border points, which worsened the relations between Serbia and Kosovo. Although an agreement was reached not long after, which ended the license plate ban with a solution that Kosovar license plates are covered with a temporary sticker, overall, there were no important developments in the dialogue between Kosovo and Serbia. Even though both countries continued their meetings facilitated by the EU representatives, they did not manage to reach an agreement for normalization of the relations. With its other neighbor - Montenegro, a somewhat passive dispute took place on 5 September 2021 with a physical clash between protesters and riot police in Cetinje, provoked by the inauguration of the new Head of the Serbian Orthodox Church in Montenegro, which resulted in many arrests and

left at least 60 people injured. This clash is explained as a riot of Montenegrins against Serbia caused by the unique position of the church in the political relationship between the two states.

On top of all these events, the **process of integration in the European Union** in all the countries from the region has also been in a complete standstill. Serbia and Montenegro, despite being considered as front runners in the region, had little to no progress during the past year. At the same time, notwithstanding the decision of the European Council as for the several past years to open accession negotiations with Albania and North Macedonia, no success has been achieved. Even more, the Republic of Bulgaria continued to veto the start of the accession process of North Macedonia, demanding several issues to be resolved related to the Macedonian identity, language, and history. Despite the fact that North Macedonia has been acknowledged and supported for its efforts in implementing all the necessary reforms, as well for becoming an example of reconciliation and good-neighborly relations by reaching a historic agreement with Greece and putting an end to the three-decade-long dispute over its official name, the new bilateral issue with Bulgaria that has emerged just in 2020, blocked its, but also Albania's progress on the EU integration path.

Simultaneously, the EU as such, notwithstanding its support in funding, expertise and various packages that contribute to the democratization of the Western Balkan countries, is facing issues with its credibility in the region. The enlargement policy of the Union, considered as one of the most successful policies of the EU peace and unification project, is being questioned. Furthermore, being left at the forefront of its doors, support for accession in the European Union is continuously and steadily decreasing among the Western Balkans citizens. Parallel to the rise of Euroscepticism, doors for the influence of other illiberal and non-democratic actors remain wide open.

CSOs continued to conduct their planned operations, however **the COVID-19 pandemic** along with its consequences on the health, economy and society as such, took its toll. Democracy has been questioned many times by the state authorities as they employed their discretionary powers under the state of emergency and have taken selective and arbitrary approaches to applying restrictions, curtailing civil liberties and sometimes using these measures to silence their critics and opponents.

The COVID-19 pandemic had a negative impact on the proper functioning of public institutions and respect for democratic procedures around the region, reflected in fewer public consultations held. The overall policy-making, including most of the expected legal changes, was brought to a stalemate, and only a few positive developments were noted around the region. At the same time, the discriminatory economic packages by the states aimed at supporting all the sectors, but civil society in fighting against the consequences of COVID-19 adversely affected CSOs infrastructure and maintaining its employees. Aside from all the political events that threaten the civic space, as well as the pandemic, CSOs managed to adjust quickly to the new situation and explored new tools and spaces for their activities. They managed to remain crucial actors in addressing the needs of the citizens, voicing curbs to the fundamental liberties and designing effective public policies and regulations to wait for better times.

# Findings

## Area 1: Basic Legal Guarantees of Freedoms

### Sub-area 1.1. Freedom of association

#### Establishing and Participating in CSOs

**Freedom of association remains legally guaranteed in all countries of the region.** Only Albania reported changes in the legal framework during 2021. The Law 80/2021 “For the registration of non-profit organizations” entered into power in August 2021 – a government-initiated effort addressing one of the MONEYVAL recommendations on AML/CFT measures which required the establishment of an electronic register for NPOs in Albania, thus fulfilling one of the Road Map 2019 – 2023 measures. The amendment process was accompanied by a heated debate between the non-profit sector on one side and the Ministry of Justice and the Parliament, on the other side, and faced criticisms related to its consultation process and transparency, particularly by the government, as well as the content of the law. As a result of wide mobilization of the non-profit sector led by Partners Albania and the legal analyses and proposals submitted, 32 articles of the draft law were changed. Nevertheless, a series of challenges for the free operation of the organizations remain, such as high level of fines for administrative violations, in contradiction with the principle of proportionality and in violation with the legal framework in power, and lack of a procedure for the deregistration of NPOs in the court and the authority responsible for the process, in cases when the NPOs are not registered at tax authorities. Furthermore, the institution in charge of the implementation of this law, the High Judicial Council, was introduced in the draft law at the very last minute, and could not come up with a decision about the date when the electronic register would be in place as required by the law due to the lack of a dedicated budget for it.

In North Macedonia on the other hand, the amendment to the Law on Associations and Foundations, as planned according to the Strategy for Cooperation with and Development of the Civil Society, has been once again delayed, and by the end of 2021 the working group was not even formed. In Kosovo too, the process of amendments of the Law on Association and Foundations was not started in 2021, although it was planned. The countries’ legislations generally allow both individuals and legal entities to establish a CSO, and laws across the region continue to allow CSOs to operate without prior registration, although non-registered CSOs face more difficulties when fundraising. Registration

procedures are generally accessible, and in all of the countries, organizations are allowed to form networks, coalitions and other types of unions.

**In practice, freedom of association continues to be generally practiced without limitations**, however some obstacles have been noticed. While in all countries the number of registered CSOs has continued to increase, CSOs in Albania still face challenges with their registration, as noted in previous reports too. According to the Tirana District Court, the average time for registration of a CSO from the day of the submission of the request and documentation is 67.3 days, which surpasses the 15-day period stipulated in the law. In Serbia on the other hand, amendments to the Law on the Registration Procedure in the Business Registers Agency have been adopted, digitalizing the registration procedure for business entities, but not for associations, endowments and foundations, effectively putting CSOs at a disadvantageous position compared to corporate entities. In North Macedonia, CSOs have faced challenges due to the obligation to register their final owner, based on the amendments to the Law on Prevention of Money Laundering and Financing of Terrorism CSOs. More so, the Central Registry allowed for free of charge registration for a limited time, after which it started applying fees. Some CSOs were not aware of this obligation and had difficulties paying the charges that go up to approximately 1000 EUR. When not paid, bank accounts were frozen and CSOs were not able to operate with their finances.

## State Interference

The legal frameworks in all the six countries of the region generally provide protection against unwarranted interference in the internal matters of a CSO. Positive changes have been marked in the legal framework of Albania and North Macedonia. In North Macedonia, the new Law on Lobbying was adopted, whereby CSOs succeeded in ensuring their exemption from the law provisions, after initiating advocacy efforts already in 2020. In Albania, the preparation of the NPO Risk Assessment Methodology on Terrorist Financing started in 2021, following a series of legal initiatives affecting the operation of NPOs including the law on beneficial owners, the central register of bank accounts, and the new NPO registration law. The initiative, implemented through a collaborative process with the participation of NPOs and state authorities, is part of the international response of NPOs to protect the civic space and avoid over-regulation of NPOs in the name of AML/CFT, in line with FATF Recommendation 8 on NPOs. Its aim is to help understand the risks of TF in the NPO sector, to assess how effectively these risks are to be mitigated, and for them to be able to demonstrate how they have achieved this understanding.

Collaboration between the civil society and the public sector on matters of risk assessment of financing of terrorism continued in North Macedonia too, most closely with the Financial Intelligence Office, which led to improved communication regarding CSO obligations stemming from the Law on Prevention of Money-Laundering and Financing of Terrorism, and thus helped many CSOs avoid possible penalties due to lack of understanding or misinterpretation of the law provisions. Nevertheless, the concern regarding bank monitoring of CSOs' accounts and their transactions

remains to be an issue in 2021 since CSOs are still classified as entities with high-risk transactions. Similarly, in Kosovo, CSOs also face problems with the banking services, due to the AML/CFT regulations in place.

Despite these positive changes, challenges within the legal framework continue to be present during the reporting period. In North Macedonia, changes other than the Law on Lobbying however have been stalled. The Strategy for Cooperation with and Development of the Civil Society envisaged amendments to the Law on Accounting for Non-Profit Organizations so as to improve the legal framework nonetheless the process of preparing the changes did not start. Financial reporting and accounting rules did not change during the reporting period. In Montenegro too, the need for creating new regulations for submitting financial reports to the tax administration authorities, as recognized with the Strategy on Improving Enabling Environment for the work of CSOs in Montenegro, was not addressed.

In practice, threats to CSOs' autonomy and integrity continue to pose a challenge, and have been quite salient in Serbia. The ruling party MPs often use the Parliament floor to insult and belittle CSOs and activists, with the narrative of them being "foreign agents" working to destabilize the country. To illustrate, MPs in one instance accused a specific CSOs of plotting the President's assassination and openly stating that those who criticize the government would be "beaten in a sack". This narrative has been especially prominent following leaked information that the governments of Serbia and Russia have established a joint working group to "combat color revolutions". More so, following "The List" case from 2020, when anti-money laundering legislation was abused to pressure civil society, new administrative pressures were recorded over the Center for Judicial Research, prominent critics of constitutional amendments to the judiciary proposed by the government, who have been subjected to a month-long inspection by the financial police, allegedly in order to determine the regularity of their funding. Even more, in August, a state-affiliated print tabloid Srpski Telegraf published an eight-page supplement dedicated to CSOs and independent media funding, listing 57 subjects investigated by the Serbian Administration for the Prevention of Money Laundering and Terrorist Financing. In Bosnia and Herzegovina on the other hand, public authorities did not interfere directly in the work of CSOs during 2021, but pressure on CSOs was observed by public officials or business entities.

Finally, a continuous negative trend observed in the region is the increasing number of GONGOs or PONGOs, especially in Serbia and Bosnia and Herzegovina. In addition to their activities related to the promotion of government or political entities, they are significant threats to CSOs due to illegal actions between governments and political governing structures and non-transparently direct funds to these organizations. The latter could be observed through the reduction of funds originally approved in full amount as published in a public call, in non-cooperation with organizations that have complained on a procedure of allocation of funds, while special pressures are observed on news agencies, individual activists, journalists, and research and advocacy organizations that criticize governing structures.

## Securing Financial Resources

Access to various sources of funding continues to be limited in the region. CSOs are allowed to secure income from grants, donations, membership fees, international funding, as well as income from economic activities although the legislative frameworks continue to limit CSOs' opportunity to generate income from economic activities. Private domestic donors' support continues to be marginal, and in all the countries CSOs rely on international funding as their primary source of funding. No changes within the legal framework have been noted across the countries from the region. The process of amending the Law on Donations and Sponsorships in Public Activities in North Macedonia should have begun in 2018 but it still did not start, although the Strategy has been foreseeing amendments for quite some time.

As the year before, 2021 continued to be problematic due to the impact of COVID-19 on the financial resources of CSOs. The overall funding remained reduced and the states provided limited to no support measures for CSOs to overcome the crisis. For example, in North Macedonia the entire funding to the civil society sector was reduced and there have been no state support measures for CSOs as there were for the business sector. The situation is similar in Bosnia and Herzegovina and other countries from the region as hundreds of jobs and acquired skills have been put in jeopardy. Despite the regulations on support measures and certain decisions on tax exemptions in place, CSOs were not eligible to apply in most instances.

In practice, the challenges and issues from 2020 remained also in 2021, such as the requirement to register with a state body to obtain foreign funds as well as complex procedures for VAT exemption for foreign funds. In Serbia for instance, some CSO representatives have reported certain administrative obstacles related to receiving foreign funds (such as requests for additional documentation), related to AML/CFT regulations, but none have ultimately been prevented from receiving payments. In North Macedonia too, the project registration procedures at the Secretariat for European Affairs – a necessary precondition to obtain VAT exemption – continued to be long despite short legally stipulated deadlines.

## Sub-area 1.2. Related-freedoms

### Freedom of Peaceful Assembly

The right to peaceful assembly continues to be legally guaranteed throughout the countries in the region, but still, the majority of the countries' laws do impose various restrictions particularly related to the eligibility of the organizers, notification for the assemblies and their location. Introduction of changes to the legal framework on peaceful assemblies, specific measures or changes to related laws have been observed in some of the countries. A positive development toward guaranteeing freedom of peaceful assembly was noted in Albania with the amendment of the Penal Code, article 262: "Organization and participation in illegal assemblies", in response to the decision of the Albanian Constitutional Court issued on 5th May 2021, in that the Court ruled in favor of amending article 262,

which deemed assemblies without police permission as illegal. Moderately positive changes in assembly laws occurred in Bosnia and Herzegovina, particularly in Brčko District, whereby the Law on Peaceful Assembly has been standardized with European Union acts. Still, limited progress has been made in addressing the Opinion key priority on ensuring an enabling environment for civil society. A new Law on Referendum and People's Initiative was also adopted in late 2021 in Serbia, then expressly amended after a public outcry and mass environmental protests demanding abolishment of fees related to verification of signatures necessary to launch a people's initiative or referendum, possibility to call a referendum on the very same issue in less than four years, as well as when a referendum is launched at the request of voters, they can nominate representatives in the electoral commission and polling boards. At the same time, a new Law on Protection from Noise in the Environment that is not in accordance with the Public Assembly Act and international standards was adopted. There are many concerning provisions within this law such as that local self-government units must approve public gatherings that may lead to exceeding noise limits in a given area, that the deadline for registration of such gatherings is 20 days, that local self-government are mandated to determine the locations where gatherings may take place, and other additional obligations for assembly organizers. In Kosovo on the other hand, the amendment process initiated in 2019 to the Law 03/L-118 on Public Gatherings has still not concluded, although in the second half of the year a draft was made publicly available for comments via the online platform.

In practice, freedom of peaceful assembly remained affected due to measures stemming from the COVID-19 disease (Kosovo), and some of the countries introducing specific acts to limit peaceful assembly. In Albania for example, the Ministry of Health and Social Protection issued 19 acts, amending the Order no. 633, dated 17.11.2020 "On the prohibition of gathering in open and closed spaces", as a preventive measure in the pandemic situation of COVID-19, imposing restriction to the right of peaceful assemblies. The situation is similar in Bosnia and Herzegovina. In Republic Srpska for instance, and based on the Conclusion on the implementation of measures to respond to the occurrence of diseases caused by the new Coronavirus, measures ordering prohibition of all public gatherings in groups of more than 120 persons, all private gatherings that are not held in a public place in groups of more than 70 people have been introduced. On top of entity level restrictions, measures were also issued on cantonal level where in spring 2021 movement from one to another canton was forbidden.

Although the Coronavirus COVID-19 led to the overall drop of the number of assemblies organized in the countries from the region, citizens still organized or participated in protests on various issues throughout the year. For example, according to the Ministry of Internal Affairs, there have been 333 in 2021 compared to 496 announced and 129 in 2021 compared to 108 unannounced public gatherings in North Macedonia. Most were held in the capital city and positively, no limitations or complaints were detected by the police. In Kosovo on the contrary, there appears to be a slight increase in the number of public assemblies for which a permission was issued. In fact, 164 assemblies have been held in 2021 compared to 152 assemblies in 2020, out of which most were protests, and fewer were marches. In addition, according to the data provided by the Kosovo Police

out of 16 restricted public assemblies; written explanation was issued for 11 of them. Finally, there is still no publicly available statistics on the state at play with assemblies in Montenegro, nor on the number of persons who were detained or arrested during public gatherings in the reporting period.

As during the previous year, there continued to be numerous restrictions and rejections during 2021, as well as a significant number of detentions and arrests of participants, with the environment for exercising freedom of peaceful assembly deteriorating drastically in Serbia. On top of new forms of restrictions being recorded, such as police intimidation prior to announced protests, and retaliatory misdemeanor charges for protest participants, there have been dozens of breaches of the digital rights of activists and CSOs, including numerous cases of police harassment of individuals sharing information on protests on their social networks.

Civic Initiatives have identified 32 cases of violations of the right to peaceful assembly. Worrisome is the practice that started following the adoption of the Law on Referendum and People's Initiative and the Law on Expropriation and took place in a dozen cities whereby police officers visited participants at home or at their workplaces, and issued verbal warnings that they would be prosecuted and punished if attending an upcoming protest. Equally concerning is the mass issuance of misdemeanor warrants to protesters for alleged violations of traffic laws. According to data obtained by the Information Commissioner the total number of issued misdemeanor warrants for participation in environmental protests is 1993. To illustrate, misdemeanor charges were filed against a woman in Topola for sharing information about an upcoming protest on her CSO's Facebook page, which led her to being treated as a protest organizer and threatened with a fine of 150,000 RSD (1,273 EUR). Furthermore, safety of protest participants has been put to test due to unprofessional conduct of police officers. The most radical incident of such kind took place in Šabac, whereby during a blockade of a local bridge with cars and citizens, a group of men armed with batons and hammers got out of several cars that turned out to be official vehicles of the city of Šabac, and attacked the citizens, whereas the police cordon withdrew right before the arrival of the group of armed men.

The practice of banning gatherings in Serbia due to the Ministry of the Interior's alleged inability to ensure the safety of assembly participants however continued. Such is the case for the assembly for removing the mural of convicted war criminal Ratko Mladić, which did not take place. In Kosovo, there were at least two reported cases of police brutality against organizers or attendees of public gatherings against political activists who were detained while performing actions and protests. In the Republika Srpska entity, members of the 'Justice for David' movement have been subjected to intimidation and judicial prosecution, and where a new crime of offense to the reputation of the Republika Srpska entity and its peoples was introduced in August 2021. At the same time, activists and the Memić family, who, like activists and the Dragičević family organized protests, stated on several occasions that they are under political and mafia pressure to fight for justice for young men. Despite restrictions, as in previous years, informal grassroots organizations and movements featured heavily as a form of organizing in Serbian civil society in 2021, and were especially active on



environmental issues and combatting investor urbanism. More so, residents of Belgrade district Blok 37, who have been protesting against the planned development of a high-rise in their area reported being intimidated by uniformed police officers as a means to dissuade them from further protests. Local activists protesting against the environmental impact of a quarry near Paraćin were faced with significant police harassment, with police being filmed using excessive force in detaining an activist.

## Freedom of Expression

Freedom of expression is a constitutional right, legally protected in all aspects across the whole region. Limitations to the freedom of expression are legally prescribed and valid and particularly focused on the prohibition of hate speech. Libel is decriminalized in all of the countries, with the exception of Albania and Kosovo. In Albania, defamation is a criminal offense, punishable by fines ranging from 440 EUR to 12 500 EUR. When committed in public and to the detriment of several persons or more than once, the fine ranges from 440 EUR to 25 000 EUR. In Kosovo, libel is considered a misdemeanor rendered as a mere civil wrong through the Civil Law Against Defamation and Insult.

Steps towards changes in the legislative framework on freedom of expression or related laws have been noted in a number of countries. . In Kosovo, the Law on Protection of Whistleblowers has been updated with the Regulation no. 03/2021 on Determining the Procedure for Receiving and Handling the Cases of Whistleblowing, establishing rules and procedures for dealing with whistleblowers, and defining responsibilities of public officials that deal with such reporting.

In Albania in June 2021, the government adopted several resolutions to safeguard freedom of expression, protecting journalists and ensuring that COVID-19 does not impede access to information and media. In addition, the Albanian government promised to create and enact a national action plan dedicated solely to ensuring the safety of journalists, adding that civil society, academics, journalists, and professional associations will be a part of the process. Furthermore, the Presidency of the Assembly of Albania decided to change the regulation for media accreditation and the audio-visual system to transmit the meetings of the parliamentary commissions. Based on the changes, the journalists are no longer able to attend the meetings of parliamentary commissions, rather, they are able to watch them via an audio-video system in a designated room for media. Following the reactions by the Union of Albanian Journalists and international journalists' associations considering it as a restriction to media freedom, as well as the journalists' protests, the Assembly withdrew this decision. In Serbia on the other hand, amendments to the Criminal Code have been prepared, ostensibly to increase protection for journalists, yet proposing introduction of a prison sentence of up to a year in prison for "gross insults" directed at persons who publish information of public importance or state their opinions in registered media outlets.

Positive legislative changes have been noted in some of the countries. In 2021, the Law on Amendments to the Criminal Code in Montenegro entered into force. The law aiming to safeguard a

stronger protection of journalists introduced new categories of criminal offenses against persons performing public information work such as "Endangering Security", "Aggravated Murder", "Serious Bodily Injury" and "Coercion". In North Macedonia, when it comes to the Law on Civil Liability for Insult and Defamation, a new draft law was prepared intervening in a third of the current law, introducing significant reduction of the maximum amounts that the court can award as compensation for non-pecuniary damage, caused by insult or defamation by a journalist in the journalistic profession, by an editor or the person replacing him or by a legal entity. The law is in parliamentary procedure, but was not published on ENER in accordance with the governmental procedure. Attempt to improve the state at play with preventing hate speech was also made in Bosnia and Herzegovina whereby Denis Zvizdić, Member of the Parliament of Bosnia and Herzegovina, submitted a proposal for amending the Criminal Code so as to expand the punishment of hate speech.

Despite generally strong legal protection of the freedom of expression, major violations of the legal guarantees were reported in practice. Albeit legal limitations of hate speech in Kosovo, there have been reports on hate speech presence in media especially towards RAE and LGBTIQ communities. More so, during local elections, the language used by political actors has many times crossed the legal boundaries. In fact, Kosovo has fallen eight places on the Freedom Index of Reporters without Borders, and few of the reasons are physical and verbal attacks against journalists as well as cyber-attacks. In that manner, the Association of Journalists of Kosovo issued a public statement expressing concerns on prolonged cases against journalists. For example, it took the Court of Appeals more than six years to proceed a case of assault against two journalists. Online hate speech and violence against journalists also increased in Bosnia and Herzegovina. Gender based violence rose for over 53%, with two thirds being over journalism management, over 40% of journalists have been attacked or threatened, and 75% have experienced it from a politician or public official. The state at play in Bosnia and Herzegovina in practice shows that journalists and activists face continuous interference in their work, such as censorship, self-censorship, contactless work, blackmail, pressure on the family, challenging basic human rights, financial depletion. Furthermore, 35 cases of violations of journalists' rights have been recorded by Helpline for Journalists, in the form of threats, online attacks, pressure, censorship, denial of access to information, defamation lawsuits, labor disputes and other forms of pressure on media work. To illustrate, CSOs strongly condemned sexist insults and attacked the director of the Aarhus Center, Emina Veljović, during a public debate in Mostar on the environmental impact of small hydropower plants.

Freedom of expression saw a number of unfortunate setbacks in Montenegro too. It seems that the number of attacks on journalists rose for 50% compared to 2020 according to Montenegrin Media Union, with higher figures of death threats against journalists particularly highlighted. To illustrate, a news journalist received death threats during his investigation of illegal gravel exploitation activities in Botun city. Another journalist reporting on the same issue also received death threats. The director of the Center for Investigative Reporting in Montenegro has been verbally abused and threatened too, while the journalist and editor-in-chief of the magazine Monitor Esad Kočan has been

even physically attacked. Freedom of expression trends alarmingly downwards in Serbia. Civic Initiatives have identified 93 cases of violations of the right to freedom of expression, with CSOs and activists mainly being targeted by high-ranking state officials, including ruling party MPs. While the most severe insults went to CSO CRTA and the research portal KRIK, environmental and peace activists were particularly targeted in the context of mass protests that marked the second half of the year. For example, the "Women in Black" activists were exposed to attacks, and their banner with the inscription "We will never forget the genocide in Srebrenica" was forcibly stolen after a protest, and then publicly burned. A particularly dangerous threat to freedom of expression that arose in 2021 was the flood of so-called "SLAPP lawsuits" (Strategic Lawsuits Against Public Participation) used to target local media and civic activists. Millennium Team filed lawsuits against 11 media in April 2021, demanding damages of 100 and 200 thousand EUR per case, for reporting from the press conference of the opposition People's Party, where officials of this party stated that the government enabled this company to attain several facilities in Vranjska Banja below market price. The acting Director of the General Hospital in Novi Pazar filed 37 private lawsuits for reputational damage against activists and fellow doctors who criticized his actions during the pandemic. Equally concerning are the lawsuits filed by private investors against the "Let's Defend the Forests of Fruška Gora" and "Fruškać" activists fighting against illegal construction in protected areas, with demanded compensation of 2,000,000 RSD (16,989 EUR) for damages to their reputation, but also a one-year prison sentence for the CSO representative for the criminal offense of "damaging of business reputation and credit rating".

## Access to Information

In all countries of the region, there are legal guarantees to protect the right to safely receive and impart information through any media, including certain guarantees against illegal monitoring of communication channels. Changes in the legal framework have been reported in half of the countries from the region.

Upon the proposal of the Prime Minister of Albania on 18 September, the Council of Ministers decided to establish a new agency to centralize control over public relations and government information. The Agency for Media and Information was established to seemingly "ensure transparency", unify communications of government activities, as well as monitor national and foreign media as well as social media to track public opinion on government activities. Following strong dissatisfaction with the delay in changing the Law on Free Access to Information in Montenegro regarding the provision stating that public officials can determine which information is of public interest, due to COVID-19 and parliamentary election, a new draft was adopted by the government on 29 December and is currently in parliamentary procedure. Several positive novelties have been introduced such as specification of the restrictions related to business secrets, which have been largely used to hide data, expansion of reasons related to the overriding public interest, removing charges for information that by law shall be proactively published. This version however did not encapsulate the main disputable provisions, one of them being its entering into force in 2023. In Serbia, a new Law on Free Access to Information of Public Importance was also adopted in a procedure that was

insufficiently transparent and participatory. A new Law on Freedom of Access to Information has been introduced in Bosnia and Herzegovina at state level, which has regulated the issue of access to information for two decades, still points to the need for its harmonization with international standards and elimination of shortcomings arising from its practical application.

Cases of restrictions in accessing sources of information have been reported in Bosnia and Herzegovina and Serbia. In Bosnia and Herzegovina, CSOs working on research stated that institutions have not sufficiently strengthened their capacities, so the practice of accessing information is uneven. Applicants, who in most cases are media, news agencies and CSOs, face unfounded denial of access to information, silence of the administration, violation of deadlines for deciding on requests, which ultimately leads to information of public interest remaining hidden. In Serbia, SHARE Foundation's Privacy Violation Database recorded 2 cases of CSOs' social media or websites being blocked, attacked or otherwise made unavailable in 2021. The violations include both algorithmic blocking and making content inaccessible through technical methods. For example, the environmental protection organization "Eco Guard" announced that its site went down by a technical attack. According to the organization's announcement on Facebook, the website was taken down due to 600,000 requests for access to one page. Furthermore, the database recorded 43 cases of privacy violations in 2021, 21 of which were perpetrated by state authorities.

In terms of internet accessibility, internet penetration in Albania stood at 69.6% and there are 2 million internet users. According to the State Statistical Office of North Macedonia, in the first quarter of 2021, 83.7% of households had Internet access from home. The share of households by type of settlement with broadband internet in the total number of households is 87.1% in 2021. In addition, in the first quarter of 2021, of the total population aged 15 to 74, 86.4% used the Internet, and 80.5% used it every day or almost every day. Also, 46.3% of people ordered/bought goods or services online in the last 12 months. The Agency for Electronic Communications and Postal Activities of Montenegro reported 182.172 internet connections, which is an increase of 2.25% compared to 2020. Out of these connections 91.63% are physical entities and 8.37% are legal entities. A major drawback in these data is that they show connection only via cable and not wifi. According to the Digital Report for Montenegro on the other hand, there were 521,200 users in 2021 which is an increase of 2%, ultimately meaning that 83% of the population has internet access.

### Box 1: EU Guidelines assessment – Result 1.1.

The freedoms of association, assembly, and expression continue to be legally guaranteed in all of the countries. No changes to the main laws were noted related to freedom of association except for Albania, whereby the law is still problematic. The legislation on AML/CT is considered greatly problematic for CSOs as it does not reflect the nature of the sector, may cause registration difficulties, and can be misused, threatening the legitimate work of CSOs. Registration processes, with the exception of Albania, are considered generally clear, easy and inexpensive, but could be further improved when done online. Guarantees against state interference exist across the region, and changes in the legal framework to the main or related laws have been noted in Albania and North Macedonia. That notwithstanding, severe violations of the laws have been reported in Serbia. With respect to freedom of peaceful assembly, many countries introduced new laws, specific measures restricting public gatherings or having draft laws. What is of particular concern is that despite the decrease in the number of public gatherings, numerous detentions and arrests of participants, as well as cases of excessive use of force by the police, and even police brutality, have been recorded, most severely in Serbia. The issue of GONGOs and PONGOs remains in Bosnia and Herzegovina and Serbia. With regards to freedom of expression, attacks on media and journalists continued, while disinformation and hate speech increased during the COVID-19 pandemic. Changes or proposed drafts to the countries' Criminal Codes' have been made in Bosnia and Herzegovina, Montenegro, North Macedonia, and Serbia. In practice, restrictions to freedom of expression remain to be especially severe in Serbia.

## Area 2: Framework for CSO Financial Viability and Sustainability

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

#### Tax Benefits

CSOs and donors in the countries from the region continue to face challenges when it comes to the legislative and tax framework. Legislation in all of the countries offers CSOs benefits relating to their economic activities. Only one country – Albania - seems to have made legislative changes and these are a huge step towards improving the legal regulation on VAT refund, ultimately reflecting the advocacy efforts of the sector.

In Albania, new invoicing and monitoring system of trading activities of all registered taxpayers, including CSOs, started to be implemented by the tax authorities leading to the fiscalization of the sector. The system allows flexibility in invoicing for CSOs that are not subject to VAT, do not have any violation regarding the non-issuance of the invoice in the last three years, have no more than one premise to exercise their activity, and have only one-person employed/self-employed. Furthermore, the Ministry of Finance and Economy issued an instruction on VAT refund procedure for foreign donors' funds to CSOs. With this regulation in place, all bilateral and multilateral agreements ratified by the Albanian Parliament or grant agreements approved by the Council of Ministers, qualify for the VAT refund. Also, the subject of VAT reimbursement are sub-granting schemes implemented through intermediary organizations. Progress was also noted with regard to the implementation of this instruction. According to the information received from the GTD, 34 CSOs registered their projects for VAT refund, and four of them have already been refunded in 2021, the very first-time CSOs have been successful in being refunded since the very first instruction was introduced. That notwithstanding, the interpretation of tax authorities is different, and CSOs are required to submit additional types of documents in different formats compared to the ones stipulated in the instruction, primarily due to the fact that tax authorities are not fully aware of rules and procedures governing the relationship between the CSOs and their donors and high level of mistrust.

Despite the planned amendments to the Law on Personal Income and the Law on Value Added Tax related to tax and fiscal treatment of CSOs in Kosovo, the Government decided to postpone it for the following year. Similarly in Montenegro, the amendments to the Law on Personal Income Tax for Physical Entities, foreseen with the Strategy on Improving Enabling Environment for the work of CSOs in Montenegro 2018-2020, have been postponed, except for a few meetings with CSOs. Positively, the amendments to the Law on Value Added Tax in North Macedonia made in 2020 to implement the necessary changes for the fight against COVID-19, which include VAT exemption to sales of goods and services that are donated to a budget user and to turnover of goods and services performed to

a budget user in order to deal with the coronavirus, which is paid with funds from received donations to a budget user remain, to be force in 2021.

Practice only partially meets standards regarding tax/fiscal treatment of CSOs in the region. In Bosnia and Herzegovina, albeit the Ministry of Justice obligation to collect financial reports of CSOs registered at the state level according to the Law on Associations and Foundations from 2016 and in accordance with the requirements and recommendations of the Committee of Experts for Evaluation of Measures against Money Laundering and Terrorist Financing (MONEYVAL) and the Financial Action Task Force (FATF), it has showed inability to adequately report on this issue because lower-level laws are not in line with the requirements and recommendations of MONEYVAL and FATF, and therefore the FIA and APIF are not linked to the Ministry of Justice. Furthermore, CSOs were not adequately informed about the obligation, in addition to submitting the financial report prepared by the certified public accountant to the competent tax authority, to submit a copy to the Ministry. CSOs continue to be able to request return of VAT on goods and services they paid on projects that were funded by the US Government and the EU Instrument for Pre-Accession (IPA) programs. In North Macedonia, long and burdensome project registration procedures at the Secretariat for European Affairs (a precondition for VAT exemption on foreign grants and donations) continued to be a problem for CSOs.

*Table 1 presents a regional overview of the legal framework on exemptions of VAT, corporate profit tax, and tax of mission-relation economic activity.*

	VAT exemptions	Corporate profit tax	Tax exemption of mission related economic activity
<b>Albania</b>	<ul style="list-style-type: none"> <li>- Exemption of social, cultural-educational, or sport CSO activities;</li> <li>- Not applied to services and goods purchased by CSOs as part of its economic activity, but applied on imported goods for CSOs' nonprofit activity</li> <li>- Instruction no. 34/2019 on VAT refund procedure for foreign donors' funds to CSOs</li> </ul>	<ul style="list-style-type: none"> <li>- Exemptions for grants, donations and membership fees - Organizations that conduct not-profit activities of religious, humanitarian, benevolent, educational or scientific nature are exempt;</li> <li>- Specific agreements for exemption for international organizations, agencies for technical cooperation and their representatives</li> </ul>	<ul style="list-style-type: none"> <li>Tax-free, except when income is not used for activities for which the organization is registered;</li> <li>- The total income from economic activity, as a secondary activity of the foundation, should not be higher than 20% of the total annual income;</li> <li>- VAT reimbursement for CSOs' economic activity, in case of VAT surplus for 3 consecutive months and VAT amount exceeding 400,000 ALL (approx. 3,300 EUR).</li> </ul>
<b>Bosnia and Herzegovina</b>	<ul style="list-style-type: none"> <li>- Donations in goods and services are subject to VAT (and customs), while cash donations are not;</li> <li>- Exemption for CSOs with humanitarian status (upon application);</li> <li>- Reimbursement for VAT on goods and services paid on the US and EU IPA-funded projects.</li> </ul>	<ul style="list-style-type: none"> <li>- Exemptions for nonprofit activities and revenues received through public funds, donations, sponsorships, membership fees and sale of goods and services on a non-market basis (for revenue up to 25.000 EUR).</li> </ul>	<ul style="list-style-type: none"> <li>- Tax-free up to 25,000 EUR annual income;</li> <li>- Economic activity that is not mission-related is limited to a profit of approx. 5,000 EUR or a maximum of one-third of the total annual budget (whichever is higher).</li> </ul>

<b>Kosovo</b>	- Exemptions on grants, donations and subventions.	- 20% exemption for youth and culture related activities; - 10% deductions of the taxable income on donations intended for humanitarian, health, education, religious, scientific, cultural, environmental protection and sport purposes. - 10% tax deductions of the corporate and income, only for a limited number of publicly beneficial activities	- Economic/commercial activities of PBOs are exempt if the income destination is solely for the public benefit purpose and up to a “reasonable level” of income; - There is legal ambiguity if economic/commercial activities of all CSOs are tax exempted or it applies only to PBOs.
<b>Montenegro</b>	- Exemption of projects funded by the EU (total contract amount, incl. co-funding, but not applied on salaries and other HR fees).	- Organizations founded only for conducting nonprofit activities are exempt and are not obliged to report it.	- Not tax-free; - Maximum annual income from economic activity is 4.000 EUR or up to 20% of the total income for the previous year.
<b>North Macedonia</b>	Exemption on foreign grants and donations, with the precondition of registering the project; - CSOs with a turnover of less than 2.000.000 MKD (approx. 32.000 EUR) are exempt	- CSOs are not subjected to the Law on Profit Tax; - non-taxable revenues: membership fees, charitable contributions, donations, grants, gifts, wills, legates, revenues from the Budget and dividends from trade companies established with the CSO funds.	- Tax-Free Up To 1.000.000 MKD (Approx. 16.000 EUR) Per Year– 1% Tax On The Amount Exceeding The Threshold.
<b>Serbia</b>	- Exemption on foreign funds.	- Exemptions for grants, donations, membership fees and non-economic sources of income; - Tax deductions for expenditures related to health care, cultural, educational, scientific, humanitarian, religious, environmental protection and sport related purposes.	- Tax-free up to 3.400 EUR, with a tax rate of 15% (same as other legal entities).

## Incentives for Individual/Corporate Giving

Individual and corporate giving is poorly practiced in the region, especially in the civil sector. While the legal frameworks in all the countries from the region remained generally unchanged, amendments to existing laws have been noted in Montenegro.

Amendments to the Law on Personal Income Tax in the area of philanthropy, including harmonization of the provision for tax exemptions with the Law on Personal Income Tax. More so, expenditure on health, social, educational, scientific, religious, cultural, sports and humanitarian purposes, reduction of poverty, environmental protection, protection of persons with disabilities,



social care for children and young people, assistance to the elderly persons, protection and promotion of human and minority rights, rule of law, development of civil society and volunteerism, Euro-Atlantic and European integration of Montenegro, art, technical culture, promotion agriculture and rural development, sustainable development, consumer protection, gender equality, the fight against corruption and organized crime and the fight against addiction - are recognized as expenditures up to 3% of the total income. At the same time, amendments to the Law on Corporate Income Tax have also been adopted nevertheless, no major changes have been made. Whereas expenditures in all areas of public interest, as defined in the Law on Personal Income Tax, up to 3.5% of the total income of the taxpayer are recognized, the law fails to regulate the tax status of institutional grants for CSOs operating in areas of public interest.

In North Macedonia on the other hand, the planned changes as of 2019 to the Law on Donations and Sponsorships in the Public Activities as the main law for individual/corporate giving and tax incentives have not started even in 2021. In Serbia too, despite repeated advocacy efforts, no changes were made to the legislative framework for tax deductions for individual and corporate donations in 2021.

*Table 2 below presents a regional overview of the percentage of tax-exempt income for individual and corporate donors.*

	Individual tax incentives	Corporate tax incentives
<b>Albania</b>	/	- Up to 5% deduction of profit before tax for the press publishers and publication of literature, scientific and encyclopedia, as well as cultural, and artistic; - Up to 3% of profit before tax, for all other taxpayer's subject to corporate income tax.
<b>Bosnia and Herzegovina</b>	- Up to 0.5% in FBiH and up to 2% in Republika Srpska of the income in the previous year for donations given for cultural, educational, scientific, health, humanitarian, sports and religious purposes only to specially registered associations and other legal entities.	- Up to 3% deduction for donations made for humanitarian, cultural, educational, scientific, and sport purposes (FBiH and Republika Srpska); - Up to 3% in Federation BiH and up to 2% in Republika Srpska for expenditures that support social events or projects that are not directly related to their business activities, with or without reciprocity in advertising.
<b>Kosovo</b>	- 10% deductions of the taxable income, if those donations aim at humanitarian, health, education, religious, scientific, cultural, environmental protection and sport purposes	- 10% deductions of the taxable income, if those donations aim at humanitarian, health, education, religious, scientific, cultural, environmental protection and sport purposes.
<b>Montenegro</b>	- Expenditures recognized in the areas of health, education, sport, cultural purposes and environmental protection.	- Expenditures in all 21 areas of public interest are recognized as up to 3.5% of the total income of the taxpayer.
<b>North Macedonia</b>	- Individuals can deduct the calculated personal income tax, or claim a return of the paid income tax determined in their annual tax return in the amount of the donation, but no more than 20% of the donor's annual tax debt, or no more than 390 EUR.	- Up to 5% of the total income for donations and 3% for sponsorships.

Serbia	/	- Up to 5% of the total revenue for expenditures on health care, cultural, educational, scientific, humanitarian, religious, environmental protection and sport-related purposes.
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The development of the concept of philanthropic responsibility both on individual and corporate level remains to be generally low. Such is the case in Montenegro, whereby philanthropy is mainly constrained due to lack of trust in Montenegrin society and the limited awareness of its importance. In North Macedonia to the contrary, there is a growing trend in the number of companies that have appeared as sponsors and donors in recent years and there is room for further stimulation of donations in the country by expanding the provisions for tax incentives in the regulation. An initiative to establish a Philanthropic Forum that would bring together philanthropists throughout Bosnia and Herzegovina but also intensify the process of regulating the law on philanthropy and thus stimulate giving, volunteering, humanitarian actions and promoting positive values in society, promotion of science, culture and education was launched in Bosnia and Herzegovina.

According to the Catalyst Balkans’s Annual Report on the State of Philanthropy – Giving Kosovo, 7.7 million EUR were collected in 2020, according to the report published in 2021), which is almost two times higher than the year before, with individuals being the most generous givers (37.2%) mostly for education, whereas the corporate sector incorporated more than a quarter of all donation instances, mainly from small and medium corporations and mostly in order to respond to COVID-19. The same report on North Macedonia finds that donations were mainly in the health sector and support to marginalized groups, coming mainly from companies (363 donations) and a third from individuals (147 donations). Catalyst Balkans reports that in Bosnia and Herzegovina however the institutions were the most supported recipients of donations. Positively, 32 CSOs are recorded as donors and 152 CSOs are recorded as users of donations. According to the Monitoring on Philanthropic Activity through Media and Online Platforms conducted by Partners Albania, 579 fundraising campaigns, as well as individual and corporate donations have been identified during 2021, amounting to approximately 2.1 million EUR, of which, 21% were channeled through CSOs..

Despite being legally recognized, corporate social responsibility (CSR) remains to be practiced very poorly in the region. In North Macedonia for instance, CSR is understood as potentially encouraging for corporate giving, and of interest to the Government. The Ministry of Economy adopted a Mid-Term strategy for CSR (2019-2023) aiming to define and implement a comprehensive approach towards the promotion and advancement of the CSR with a focus on businesses whereas 54 CSOs are listed as implementers of some of the measures/activities in the action plan of the Strategy. That notwithstanding, same as in 2020, the progress in 2021 was slow on this issue and not many CSOs were part of the CSR process. Recognition of CSOs as state partners in promoting CSR is not favorable in Serbia. The Forum for Responsible Business presents the largest national network dedicated to promoting and furthering the concept of CSR. Together with the Charity Coalition issued a proposal to abolish VAT on food donations, but there is still no response from the government. Furthermore,

it launched the initiative "Save Food, Save Humaneness", which has raised awareness on this issue and gathered more than 69.717 kg of food to be donated to disadvantaged citizens. A significant impetus in this area is the adoption of the National Strategy for Development of Social Enterprises in the Republic of North Macedonia (2021-2027). The Strategy and Action Plan envisages an assessment of the need for legal regulation of social entrepreneurship.

Public benefit/interest status still exists in Bosnia and Herzegovina, Kosovo and North Macedonia. In Albania, it remains to be replaced with the application for VAT exemption, whereas in Serbia it is still not recognized in the legislative framework. In practice however, in all the countries of the region the status is used by a rather small number of CSOs, as it is either difficult to access or has marginal practical implications. In Bosnia and Herzegovina, it continues to be granted to politically selected CSOs.

#### **Box 1: EU Guidelines assessment – Result 2.2. & 2.3.**

Even though some tax incentives are provided to donors in all countries of the region, they are scarce and do not encourage sufficient private giving. CSOs are exempt from income tax on grants and donations. A degree of ambiguity exists with regard to economic activities and legislation needs to be improved. Currently, in the majority of countries, tax benefits related to economic activities are only provided if they contribute to the mission of the organization. Positive changes in the legal framework were reported in Montenegro with regards to the Law on Personal Income Tax and the Law on Corporate Income Tax. In practice too, a positive trend of increase in donations has been recorded in Kosovo, almost two times higher than the year before.

## Sub area 2.2. State support

### Public Funding Availability

During 2021, laws and national-level mechanisms related to public funding remained unchanged in the majority of the countries.

Even in 2021, public funding continues to be one of the biggest challenges for CSOs. In Albania, one of the measures under Priority 8: Establishment of a public funding framework in support of CSOs' programs in compliance with EU best practices is: Revision of the existing legislation for the financing of CSOs initiatives from local and central government institutions based on the analysis of shortcomings, including the specification of procedures for call for proposals. No analyses were carried out and reported for 2021, and as a result no changes were made to the legislative framework. In North Macedonia too, the legal framework regarding public funding for CSOs was not improved and still does not provide: institutional support, prepayments, multi-annual contracts, and (co)financing EU and other projects. Furthermore, the creation of a comprehensive public funding reform as foreseen in the Strategy did not start even in 2021, except that on the very last day of the year, a Working Group following an open call for participation of CSOs members by the Council for Cooperation with and Development of CSOs was established. In Serbia too, there is a lack of a single comprehensive document that would regulate state support for institutional development for CSOs, project-based financing and EU project co-financing, as well as some elements of the existing framework for open calls. Furthermore, the main civil society laws and other documents contain direct references to project-based financing of sectoral CSOs in some areas. The procedure for project co-financing in the youth sector does not allow participants in the open call to lodge appeals. The established procedure for CSO participation in all phases of the public funding cycle shows that legislation is not in line with standards. A positive novelty has been introduced in Kosovo whereby in 2021, all ministers appointed a public funds coordinator for cooperation with the Office of Prime Minister/Office of Good Governance, with the aim of improving implementation of regulation on the distribution of public funds to CSOs.

In all of the countries, public funding continues to be almost a non-recognizable source of income for CSOs and only available for a limited number of organizations. For instance, for the last three years in North Macedonia, the share of state funding from the central level in the total revenues of CSOs remains around 5%, despite the provisions of the Government Strategy for Cooperation with CSOs that this percentage should gradually rise up to 30%. Furthermore, there is still lack of institutional support for the development of CSOs as well as support for co-financing that should be provided for projects funded by other donors, which have a positive impact on citizens and local communities. Unfortunately, in North Macedonia, it seems that the efforts to change the system and establish accountable and transparent funding processes are only declarative.

The amount of public funding in the countries of the region varied throughout the reporting period. In Albania, the Agency for the Support of Civil Society (ASCS) remains the main public body that provides financial support to CSOs. For this monitoring exercise, Partners Albania filed requests for information on state support to CSOs to 13 line ministries and the ASCS. Responses have been received from 7 institutions only – the ASCS, Ministry of Culture, National Lottery Fund, Agency of the Administration of Seized and Confiscated Assets, National Youth Agency, Ministry of Tourism and Environment and Ministry of Justice. The ASCS had allocated the largest financial support from the 7 institutions – 744.000 EUR, whereas the Ministry of Culture awarded biggest number of CSOs – 104. Interestingly though, the Ministry of Justice launched a restricted call for proposal to support CSOs licensed by the ministry to provide free legal aid. After the assessment of ten applications received, the Evaluation Committee and the Appeal Commission did not award any grant.

In Serbia, the total amount of funds allocated for CSOs increased by 23.7% compared to 2020, however, returning to pre-pandemic levels in 2021. The largest source of state funding for CSOs are local self-governments followed by the central government (open calls are conducted by individual government ministries). And out of 21 ministries, 14 of them, or 2/3, conduct open calls for funding civil society projects. The Ministry of Labor, Employment, Veterans' Affairs and Social Affairs, the Ministry of Family Care and Demography and the Ministry of Foreign Affairs allocate the most money through these calls. Regarding sectoral open calls, for which data was collected separately, in 2021. 491,002,689 RSD (4,168,745 EUR) was allocated for projects concerning youth, and 688,053,895 RSD (5,841,764 EUR) was provided for projects in the cultural sector. In Montenegro for instance, 3.713.205,40 EUR were planned for CSOs by the state which is 2.778.183,56 EUR less than in 2020. During 2021, 8 ministries announced 27 calls for financing CSO projects, of which 121 CSOs received funds in total amount of 2.213.205,40 EUR, leaving 1.250.000,00 EUR unallocated. When it comes to co-financing of EU funded projects, 928,301.25 EUR were planned and planned, which contrary to financing, is an increase compared to the previous two years. In Kosovo however out of the planned 19 million EUR in Kosovo, only 21% were actually allocated to CSOs, and the remaining distributed to federations, sports clubs, economic operators, marketing services provided to public institutions, services provided by CSOs on behalf of state institutions, religious institutions, and public institutions mistakenly categorized as CSOs. On average, 8,386.33 were allocated per CSO.

Drastic change in planning state funds has been noted in Bosnia and Herzegovina and North Macedonia. In Bosnia and Herzegovina, the trend of reduction and redirection of public funds intended for CSOs during 2020 continued in 2021. For the first time in North Macedonia, the Budget of the Republic of North Macedonia did not allocate funds for CSOs as before, but provided the entire sum to the Red Cross of North Macedonia. A novelty is the distribution of 20 million MKD through the Ministry of Political System and Inter-Community Relations.

Most of the countries neither designed support schemes for the sector nor included CSOs in their crisis help packages. In Kosovo, CSOs were able to receive support as subsidies for their employees' salaries through the Economic Recovery packages for addressing the COVID-19 pandemic,

nonetheless, no schemes have been designed specifically tailored to the needs of the sector. In Serbia too, despite CSOs not being advertised explicitly as beneficiaries, and there is no publicly available statistics on the number of CSOs that took advantage of the measures

## Public Funding Distribution

The legal framework in all of the countries contains provisions that stipulate general and uniform criteria for the process of distribution of public funds and no changes have been registered in any of the countries from the region.

Issues with transparency of public funding distribution have not been overcome even during 2021. In Serbia, although there is a framework for transparent state funding, it still contains certain gaps, which allow for political influence on the final decisions. The state funding for CSOs in Serbia is one of the initial reasons for increasing GONGO activities, and several significant cases of misused funds and non-transparent open calls have been recorded in 2021, leading to the conclusion that practice in this area has worsened markedly. More so, two core national institutions that allocate funding for youth and culture implement other by-laws, which provide for a different procedure. In North Macedonia, the Ministry of Labor and Social Policy and the Agency for Youth and Sport have the largest budgets for distribution to CSOs concerning social protection, sports and youth. Still, there is a non-binding procedural document (Code) that regulates the funds distribution based on best practices. In Bosnia and Herzegovina all levels of government provide and allocate public funding to CSOs. Although legal frameworks, including bylaws, are adopted, their application is rather formal than substantial. This means that public authorities formally respect procedures, open public calls and similar, but make decisions on distribution of these funds rather informally. In fact, a majority of public funds allocated for the civil society ends up in the hands of affiliates of the ruling political parties. Moreover, oftentimes division of funds is beforehand agreed between public officials, politicians and CSOs as is the case in Bosnia and Herzegovina whereby these funds are not negligible, having in mind that public institutions, particularly cities and municipalities, are the largest CSO donors in the country.

Delay in public distribution of funds has been noted in Montenegro. In fact, the budget of Montenegro for 2021 was not adopted until July 2021 due to COVID-19 and elections, pushing the calls for proposals to November and December. Despite the delay, all the ministries respected the procedure stipulated by the Law on NGOs: the call contained the title, the priority area in which it is published, the specific objectives of the call, the supporting documentation required, the total budget of the call, the minimum and the maximum amounts that can be allocated, the deadline for submitting project proposals, and the address to which proposals should be submitted.

Serbian CSOs on the other hand have negative experience when it comes to state institutions' following of procedural rules for public funds distribution. In 2021, the CSO coalition "Openly about Open Calls" (OKO) which monitors open calls for civil society and media, identified at least 10 highly

irregular open calls, through which a total of least 845.5 million RSD (over 7 million EUR) were distributed in an non-transparent or irregular manner. In August 2021, the OKO Coalition requested the annulment of an open call conducted by the Ministry of Environmental Protection, after it was established that over 7 million RSD (59,436 EUR) was awarded to organizations that did not meet the formal criteria of the open call. Additionally, one applicant filed criminal charges in relation to this open call, after they were contacted by someone close to the state administration who implicitly requested a bribe on behalf of the evaluation commission. After significant public pressure, the Ministry revised its decision, and removed some of the irregularities. However, there were no sanctions for those responsible for these abuses. Several controversial open calls were also conducted by the Ministry of Family Care and Demography in 2021, through which 70% of the funds were allocated for the projects of 18 CSOs that had previously also appeared at a 2014 open call by the Ministry of Labor, Employment, Veterans' and Social Affairs, which was annulled due to numerous irregularities. An analysis of the Ministry of Family Care's open call showed that over a million EUR were distributed to 5 connected CSOs in the same suburban neighborhood of Belgrade. Another problematic practice which continued in 2021 is the allocation of money to church communities, religious boards, monasteries and other religious organizations through open calls for civil society projects. At least 107 such cases were identified over the past three years, and their projects are worth over 101.8 million RSD (864,305 EUR).

### **Accountability, Monitoring and Evaluation of Public Funding**

Accountability, monitoring and evaluation of public funding is regulated by legal acts in all the countries from the region, prescribing clear measures for accountability, monitoring and evaluation. It is usually executed through routine and financial visits to ensure compliance with legal requirements. CSOs are required to submit reports, mostly within the project implementation period, as well as one final report as soon as the project is completed.

In North Macedonia, as part of the comprehensive legal framework change, no improvements have been done, although they have been scheduled for 2020. There are legal acts that provide certain measures for accountability, monitoring and evaluation. According to the Law on Budget, every expenditure and transfer from the budget must be corroborated with credible accounting documentation. The grounds why reporting is needed is given in the LAF, according to which, when receiving funds from the Budget, a financial report is to be submitted to the relevant state institution. Finally, various regulations provide an obligation to submit a report within a month following the end of the project. The legislation does not prescribe specific and proportionate sanctions for CSOs that misuse public funds. The Criminal Code considers the legal representatives of CSOs to be public officials, thus the same sanctions apply. The Code of Good Practices does not suggest sanctions, rather regular monitoring of the spending and in case of failure to fulfill the contractual obligations the funds must be returned to the institution.

Practical implementation of accountability, monitoring and evaluation however deviates from the legal framework in most of the countries. For instance, in North Macedonia, monitoring is implemented rarely and for the sake of providing information to the Government. The field visits are also rare. Similarly, in Albania, there are no evaluation reports on the impact of public distribution. In Serbia, too, periodic reports on state funding effects were not published on the websites of any of the main public funds distributors for CSOs during 2021, although when asked for one, they declaratively promised to conduct an analysis of the open call and evaluate the projects after their completion. The situation in Montenegro cannot be assessed due to the fact that the calls were made in the last quarter of the year as a result of elections, and most of the projects started implementation in 2022. Periodical evaluation of state funds in Montenegro was also not conducted since the current Law on NGOs was adopted in 2017, and the evaluation is planned for every 3 to 5 years.

Positive change has been noted only in Bosnia and Herzegovina where the Audit Office of the Institutions of Bosnia and Herzegovina, based on the Law on Audit of Institutions of Bosnia and Herzegovina, prepared a report on its activities for the past year. In 2021, the Office started a new strategic period documented through the Office's Strategic Development Plan 2021-2025, including an annual performance audit plan and identification of socially significant issues CSOs face. 2021 was completed in accordance with the strategic commitments and related operational programs, and the annual financial and performance audit plans have been fully implemented, together with other activities important for fulfilling the legal role and mandate of the Office. The monitoring of the implementation of recommendations for the audit of the performance of Grant Management in the Institutions of Bosnia and Herzegovina, yielded a weaker level of implementation of performance audit. More so, the results indicate that 9% of the recommendations were fully implemented, 48% of the recommendations were partially implemented, for 39% of the recommendations the competent institutions undertook initial activities, and for 4% of the recommendations no activities were undertaken. However, although planning has improved, some institutions still do not have the described performance indicators and units of measure and target values that are clear and measurable. In addition, the analysis of the budget requests of the institutions from the sample showed that the institutions still do not explain the ways in which they determined the amount of requested funds. For example, users with the highest number of points received the highest amounts, users with the same number of points received the same amounts, but it is not clear based on which criteria these amounts were determined.

## Non-Financial Support

Non-financial state support continues to be available to CSOs in the region. The most common means of non-financial state support is the use of public premises, free of charge or for a reduced fee, or the use of movable items. In addition, other types of non-financial state support include capacity building activities training, workshops, and consultations. With the exception of Albania, which has not yet enforced a legal framework or regulations with specific provisions that authorize state authorities to provide non-financial support to CSOs, all other countries have already addressed this



issue. Open calls for non-financial support however are not a norm; thus, distribution and access to these resources is not transparent.

In practical terms, the prevailing opinion is that CSOs are mostly unaware of the opportunities for nonfinancial support extended by the state and rarely use it. In Albania for instance, out of all the institutions asked to provide data on state support to CSOs, of those who responded, the ASCS and the National Youth Agency provided non-financial support in the form of dialogue facilitation with different stakeholders and usage of premises free of charge. whereas the Agency for the Administration of Seized and Confiscated Assets gave one confiscated asset for social reuse from CSOs. In general, the types of support are usually in terms of expertise in specific issues, facilitation of dialogue with different stakeholders and premises. In Montenegro, despite the insufficient number of public premises, the ones made available to CSOs are usually in poor condition.

Positively, the newly established Ministry for Human and Minority Rights and Social Dialogue in Serbia provides different services to CSOs as a form of non-financial assistance. Examples include preparing and announcing publications and brochures, informing on relevant changes in legal framework, establishing dialogue with the public sector, and strengthening CSO capacities. As was the case in 2020, several financial measures that CSOs were eligible for, but which were aimed more broadly at all employers/commercial subjects were enacted, such as the state covering a portion of employees' wages, and the option to delay/defer the payment of taxes and fringe benefits on employee salaries. On the negative side, cases of authorities breaching procedures in providing non-financial assistance have been reported in Serbia. To illustrate, Zaječar Children's Center has been threatened with expulsion from premises they use under a lease agreement concluded with the City of Zaječar. In 2021, they were served with an eviction notice, despite the fact that the city failed to offer alternative premises that would be accessible for the children who require special accommodation in their care. A petition with over 6,000 signatures in support of the Center was submitted to the city administration, but the city went with the eviction nonetheless.

#### **Box 1: EU Guidelines assessment – Result 2.4.**

State support continues to be available to CSOs in the region and the changes to the legislative framework have once again been pushed for the upcoming year. With the current legislation in force, state support is marginal compared to the overall amount of funds provided to CSOs, and the transparency of the distribution process remains rather low. CSOs rarely take part in the cycle of public funding, while effective tools for accountability, monitoring and evaluation are also not part of the normal practice. Non-financial support is also available, mostly through the use of public premises, free of charge or for a reduced fee, or the use of movable items of which availability CSOs are usually unaware, or are insufficient or are in poor condition.

## Sub-area 2.3. Human resources

### Employment in CSOs

In all of the countries, legislation generally permits employment of staff in CSOs. Nevertheless, the laws and policies pertaining to employment continue to be blind to the specific nature of CSO operation and no changes have been observed during 2021. In Kosovo, even though the revision of the Labor Law started in 2014 the process has not been concluded yet. A government's decision announced that in December 2020 the law will enter into force and that it will be merged with the Law on Maternity and Parental Leave, yet none of them happened. The draft law does not contain any specific provisions taking into account the specific nature of employment in CSOs, same as the law in force, which applies the same requirements to CSOs as for the other sectors. For example, provisions on maternity leave are difficult to be implemented by CSOs because of the dominance of project funding, which in most of the cases does not cover such expenses. In a separate process, the Ministry of Labor and Social Welfare started drafting the law on Maternity and Paternity Leave which is still not finished. Employment in CSOs has been a much exploited topic during 2021 in Montenegro, but no changes have been noticed too.

Practically, the legislation in place does not hinder nor stimulate employment in the civil society sector, whereas in some countries a more unequal treatment of CSOs in comparison to other legal entities is noted when it comes to state incentive programs for employment, especially given the COVID-19 crisis. In Serbia, although the main labor laws do not treat CSOs differently than other legal entities, CSOs are regularly not explicitly cited as beneficiaries of employer-oriented labor market policies and incentives. In North Macedonia too, despite the numerous economic measures from the Government for dealing with COVID-19, CSOs were not recognized and only few CSOs used some of them.

Furthermore, according to participants in a focus group in Serbia, their employees had issues in accessing financial services due to the nature of their employer's status as a CSO. They stated that the procedures for obtaining loans took longer, and that CSO employees received loans with very high interest rates, with a short timeframe for repayment. The reasoning given by the financial services provider was that CSOs have no steady income and no founding capital. In North Macedonia, the civil society sector remains non-represented in the employers' unions and it is unclear which collective agreement covers it.

In terms of statistics on the number of employees in the non-profit sector, some of the countries are still lacking systematic collection and publishing of data. In Bosnia and Herzegovina, CSOs are mainly small grass-root organizations without full time employees that operate locally with an aim of protection of interests and gaining social rights of specific social or interest groups. Calculating the number of full-time employees and total employees in this sector remains an issue due to different methodology of data gathering applied by the entity statistics bureaus and the responsible tax

offices. In Serbia too, the Central Registry of Compulsory Social Insurance collects and analyzes data on registered applications for compulsory social insurance for taxpayers who have the status of associations, foundations and endowments, however, they do not publish this information, and neither does any other state body. Data for the number of employees in CSOs in 2021 was also not available in Montenegro during the preparation of this report.

According to official data, there are 9,872 employees working in the non-profit sector in Albania in 2021 with low increase of only 79 employees, compared to the previous year (9,793 employees). Despite this increase, the employees' number shows stagnation although there are 230 new NPOs registered with tax authorities in 2021. In addition, no information was provided by GTD regarding the number of full-time versus part-time employees, although this information is collected on monthly bases through declarations submitted by CSOs. In Kosovo, according to the Kosovo Pension Savings Trust (KPST), 5,120 CSO's employees have paid tax contributions for a longer period than 12 months, a figure slightly higher compared to 2020 (4,412). There is also an increase in the number of employees with more than one occupation and one of occupations is in the civil society sector. In 2021 there were 11,246 such employees compared to 10,261 one year before.

## Volunteering in CSOs

Volunteering continues to be practiced by CSOs in most of the countries in the region, however the lack of clarity in the involvement of volunteers or creating measures for stimulating volunteering have not been addressed in any of the countries' legal frameworks, except for North Macedonia.

In May 2021, North Macedonia authorities adopted changes to the Law on Volunteerism, clarifying the existing provisions regarding organizer of volunteer work, determining the procedure for issuing consent for volunteer work in public institutions, state authorities, municipalities, the rights of volunteers, etc. As envisaged by the law, a National Council for the Promotion and Development of Volunteering has been established voicing the need to provide greater support for CSOs to be able to engage more volunteers and to build infrastructure that will connect CSOs with them.

Three countries are still waiting for the prepared draft laws to be adopted by relevant authorities. In Serbia, a draft Law on Volunteering was put up for public debate in 2021. While over-regulation is still present, the current draft does contain some positive changes, such as introducing an obligation for the competent Ministry to publish statistical information about volunteering on a yearly basis, including the number of volunteer hours and age and gender segregated data about volunteers. The new Draft also introduces the concept of remote volunteering, which would facilitate young people, especially those outside of urban centers, taking part in voluntary work. Additionally, Article 11 of the Draft obliges all levels of government to introduce measures promoting volunteering, which is a further positive step. However, the process of drafting the new Law has been criticized as not sufficiently transparent and participative, with certain solutions being introduced without previous consultation with civil society representatives in the Working Group for Drafting the Law, in order to

hasten the process of the Law's adoption. In Albania too, even though measure 5.2 of the Roadmap stipulated amendment of the law on voluntarism and other sub-acts within 2021, no legal developments took place. As evidenced and regularly reported by CSOs working with volunteers, the law presents a series of uncertainties and lack of clarity that have negatively influenced the engagement of volunteers in CSOs. The National Resource Centre with a group of organizations continued to advocate for amendments to the law, requesting among other issues, the clarification of the contractual relations nature between the volunteer and the hosting entity, and the respective parties' tax obligations. In Montenegro too, the Draft on the Law on Volunteering prepared since 2019 has still not been adopted.

The importance of popularizing the benefits from volunteering did not disappear even in 2021. In Bosnia and Herzegovina, volunteering has been significantly promoted during 2020 and continued in 2021, especially due to many people in need. In terms of actual support to volunteering through public programs, Republika Srpska has made significant efforts in this instance through its Volunteering Service attracting 10.000 members, mostly high school children, and students. The results of the only comprehensive survey on the position and needs of young people conducted in the last 13 years, show that every third young person in Bosnia and Herzegovina is involved in volunteering activities and that young people see volunteering as an effective tool for achieving positive social change. Additionally, 2021 was marked by an economic crisis due to which CSOs and volunteers additionally worked on providing aid in food and other necessities of life.

## Non-Formal Education

CSOs engagement in non-formal education looks promising with room for improvement in most of the countries. Legislation generally allows the organization of educational activities by CSOs, including non-formal ones, in line with their statutes and fields of activities, which in some cases may require the acquiring of licenses or certifications. With regard to formal education, civil society related subjects are moderately included in the official curriculum of the educational system at all levels in almost all countries.

While there have been no legislative changes to the laws related to non-formal education in the countries from the region, in Albania in October 2021, the government approved the National Strategy for Education 2021-2026 and its action plan, which includes non-formal education, and CSOs are considered a partner in the implementation of the strategy. North Macedonia and Kosovo are still waiting for the draft versions of the laws regulating non-formal education to be adopted. The Ministry of Education and Science of North Macedonia published a new Draft Law on Adult Education, aiming to include: validation of non-formal and informal education, improved process of verification of special programs for adults' education, etc. The draft law is still not adopted and there is no information on the next steps in the process. One of the providers of adult education, the Economic Chamber of North Macedonia, continues to express concerns that the procedures of the existing Law on Adult Education are burdensome and rigid, and that the law needs to be changed. There is an

existing Strategy for Adult Education for period 2019-2023 adopted by the Ministry of Education and Science but there is no publicly available information about the process of implementation and the status. The draft Law on Youth Empowerment and Participation in Kosovo, that is the only legal piece containing provisions on this matter, went through the written public consultation phase already in 2020, but there are still no attempts to bring it to adoption despite acknowledging the fact that this area remains to be regulated via secondary legislation. As the previous year, some countries' authorities partially enable CSOs to take part in the informal education system (Bosnia and Herzegovina, North Macedonia), whereas others (mostly Montenegro and to some extent in Serbia) greatly recognize their role. A novelty within the countries from the region has been registered in Serbia whereby the Strategy for the Development of Education in Serbia until 2030, was adopted in 2021, containing several measures aimed at improving the quality and accessibility of non-formal education. Notwithstanding the fact that a CSO representative will take part in the Working Group monitoring its implementation, the role of civil society in achieving the goals set out in the Strategy is not recognized. CSOs' role in encouraging non-formal education is on the other hand recognized by the Law on Youth, as well as policy documents such as the Ex-Ante and Ex-Post Analyses of the National Youth Strategy. Civil society-related subjects are partially included in the official curriculum at all levels of the educational system, however, their importance is not sufficiently recognized. Civic Education or Education for Democracy and Civic Society has been a part of the official education system for more than 20 years. It is implemented as a compulsory optional subject, included in the curriculum of elementary and secondary schools, which covers important social topics, such as human rights, the importance of civic activism and the work of the civil sector.

The Adult Education Strategy for Montenegro 2015-2025 remains to be the main document that emphasizes the role of CSOs in non-formal education, pinpointing to the necessity of usage of CSO knowledge in adult education on democracy, protection of environment, sustainable development, energy efficiency, gender equality, media literacy, etc. The Ministry of Education allocates funds for financing projects and programs of NGOs in these fields annually. Most of the organized non-formal education programs (e.g. schools, forums, workshops, training, etc.) are the ones that are accredited the last. For example, the Center for Civic Education, Prima, Active zone, Association of Youth with Disabilities, Prona, ADPZID, Juventas, etc., organize many schools and trainings for youth and adults on different topics. CRNVO regularly organizes training on writing projects, civil society, strategic planning, public advocacy, etc., which are aimed for smaller and underdeveloped CSOs. Still, in terms of statistics, there is no data on the number of CSOs active in education and learning, although a large portion of CSOs implement programs to strengthen the capacities and skills of different target groups in various fields.

When it comes to data from the field, an evaluation of the civic education program in Serbian schools completed in 2021 by the Institute for the Advancement of Education, showed that only 34% of students opt for civic education, and 77% of teachers agree that the wider public does not recognize or insufficiently recognizes the importance of this subject. The National Resource Center (NRC) continues to provide non-formal education and capacity building to CSOs. In 2021, the NRC provided

189 help desk services in 26 cities and municipalities, 12 TA sessions with over 150 participants, 7 info sessions, and 38 workshops, while local resource centers provided 24 “open door” sessions. According to an in-depth survey on informal education in Bosnia and Herzegovina conducted in 2021, there was a vague definition of the way the fulfillment of the conditions for the work of the educational institutions is checked, as well as the question of whether these activities are carried out by the same expert commissions as during determining the fulfillment of conditions for conducting educational programs.

**Box 1: EU Guidelines assessment – Result 1.2.**

In all the countries from the region, treatment of human resources is somewhat adequate, and attempts to improve the provisions in order to facilitate and stimulate volunteering and employment in CSOs have been registered. Still, official comprehensive statistics on the number of employees and volunteers in CSOs continues to be lacking in the majority of the countries. Positive change has been noted in North Macedonia with the adoption of the new Law on Volunteerism, whereas several other countries are still waiting for their respective drafts to be adopted. CSOs continue to face somewhat unequal treatment compared to other legal entities when it comes to incentives and support programs from state authorities on employment.

## Area 3: Government-CSO Relationship

### Sub-area 3.1. Framework and practices for cooperation

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

State policies and strategies for development of and cooperation with civil society remain to be in place in all countries from the region with the exception of Serbia. Although a document based on official records and statistics collected by state institutions as well as a baseline study about the status of CSOs and cooperation with public institutions has been developed in 2014, a comprehensive strategic document on cooperation between the government and civil society is still not adopted. Elements of a strategic approach for cooperation with civil society can however be found in the Government Regulation on establishing the Office for Cooperation with Civil Society, as well as in the Guidelines for the involvement of CSOs in the decision making processes. Furthermore, the strategy creation process was boycotted by a significant portion of civil society, which represents a worsening in inter-sectoral cooperation. The boycott was initiated by CSOs gathered around the “Three freedoms” platform, who declined to take part in formulating the Strategy until the government took steps to address the increasing attacks on civil society and independent media, including through an institutional resolution to the case of “the List”. In response, the Ministry for Human and Minority Rights and Social Dialogue issued a statement on its website with an invitation to the CSOs to engage in a dialogue on their terms. However, on the same day as this statement, Minister Gordana Čomić stated in a media appearance that the state of the National Assembly has “never been better”, further relativizing attacks on civil society by saying she herself is constantly “attacked by the opposition.” Given these statements, CSOs decided to reject the invitation and restate their demands. Following this, work on the document continued throughout 2021, with involvement from CSOs that did not take part in the boycott.

Adoption of key policy documents has been recorded in two of the countries from the region. In Bosnia and Herzegovina, at its 30th session held on March 17, 2021, the Council of Ministers of BiH adopted the Report on the Implementation of the Action Plan of the CoM of BiH for the Implementation of the "Partnership for Open Government" initiative for the period 2019-2021, enabling the implementation of the activities of institutions and CSOs in the field of proactive transparency as well as results of the work of state-level institutions in respect of proactive disclosure of information. In Kosovo, the Governmental Strategy for Cooperation with Civil Society 2019-2021 entered its fourth year of implementation. In North Macedonia, at the 130th session, held on 28.12.2021, the Government adopted the Strategy of the Government for cooperation with and development of civil society, with Action Plan 2022-2024. The strategy is a result of the recognized need to improve the mechanisms for cooperation with civil society, and the measures taken with this strategy at the institutional level are aimed, inter alia, at maintaining continuity in the work of an

independent, representative, operational and effective Council for cooperation between the Government and civil society and to improve communication and cooperation practices with civil society organizations. Having in mind that the new Strategy was adopted in December 2021 for the period of 2022-2024, 2021 was left without a Strategy for Cooperation with and Development of the Civil Society.

Montenegrin CSOs face a delay in the adoption of a new Strategy on Improving Enabling Environment for the Work of CSOs as the previous one has expired already in 2020. To this date, it was still not adopted. According to the Report on the Realization of the Strategy, 17 measures have been fulfilled, two partially fulfilled, and two are ongoing, while 12 have not been at all implemented. A Working Group for Drafting the New Program of Cooperation of State Bodies and CSOs for the period 2021-2023 was established even in 2020, consisting of eight members out of which two are representatives of CSOs. Since the work of the working group has not started until June 2021, the timeframe of the Strategy has been changed to the period 2022-2026. After the working group started working in 2021, a new cycle of consultations with civil society was conducted through the EU technical support project "Improving cooperation between the Government and NGOs in Montenegro", whereas 7 focus groups were organized in this process, with the participation of 60 CSO representatives. Using a mapping of challenges in the current cooperation between the state and the non-governmental sector as starting point, the following shortcomings have been detected: systematic monitoring of the development of the CSO sector, administratively uneven and non-digitalization of the process of founding NGOs, weaknesses of the existing state funding model, inadequate planning framework for long-term and medium-term planning, too demanding licensing in the field of social protection, lack of systematic measurement of the effects of public funding of NGOs, inconsistent compliance with applicable standards and rules for involving the public and NGOs in drafting regulations and policies, unused e-Petition and e-Participation portals, declining interest integration, lack of coordination of international donor assistance, non-transparent practice of allocating state property for use to NGOs, as well as regionally unbalanced development of NGOs sector, weak professionalization of the NGO sector, insufficient support for capacity building programs of the NGO sector, weak intra-sectoral connectivity and coordination of NGOs in the field of public advocacy, inadequate normative framework for volunteering and lack of incentives for volunteering development.

Delays in implementation of the main policy documents related to the development of and cooperation of the state with civil society have been marked in Albania too. In fact, there is a Roadmap for the Government Policy towards a More Enabling Environment for Civil Society Development for the period 2019-2023. Still, after three years from the approval of the revised Roadmap, most of the actions planned to be accomplished by the end of 2021 have not been implemented, and no monitoring and evaluation report on the progress of the implementation of the Roadmap is produced. In addition, in June 2021, the ACSS organized a meeting with CSOs to discuss the Roadmap, but neither a follow up report was produced, or any action was taken. The Roadmap was also discussed in a meeting of civil society members in the NCCS producing no results.



## Institutions and Mechanisms for Development of and Cooperation with Civil Society

National level mechanisms for development and cooperation with civil society, including cooperation offices, councils or units, exist in all countries of the Western Balkans. In some of the countries, several mechanisms other than the key one are also in place. When it comes to practice however, the functionality of the key mechanisms records a downward trend in most of the countries

In North Macedonia, three main institutions and mechanisms continue to be responsible for facilitation of the cooperation between the Government and the CSOs: the Council for Cooperation with the Civil Society and the Government being the key mechanism, the Unit for Cooperation with NGOs, and the network of public servants for monitoring the Strategy implementation. The first mandate of the Council for Cooperation with and Development of the Civil Sector expired in June 2021, and already in April 2021, an open call for election of 16 members has been issued and the selection that followed was in an open and transparent manner. Throughout 2021, the Council held five sessions, two of them being held by the newly elected Council. More so, the Council published a full Report on its work for the period April 2018- June 2021. In addition, it was also active in collaborating with the EU-funded project Technical Assistance for improving the enabling environment for CSOs in the Republic of North Macedonia in preparing the new Strategy, opening the process for consultations and input from all CSOs. The Advisory Body of the Council of Ministers of BiH for Cooperation with NGOs was also operative during the reporting period. It held two working and several informal sessions with CSOs, at which, among other things, it was agreed to initiate activities to develop a strategy to create an enabling environment for civil society development. The Advisory Body prepared an overview of the basic problems of civil society and drew a plan for the development of the future Strategy.

The national level institutions for cooperation with civil society in two of the countries however have been quite inactive and dysfunctional. Such is the case with the National Council for Civil Society in Albania which held no meetings during 2021, and hardly carried any productive undertaking despite being the main body for institutional collaboration between the state and CSOs. Along the same lines of non-functionality, the mandate of the members of the Council for Cooperation between State Bodies and NGOs in Montenegro, which was formed in 2018, with the main task to facilitate cooperation between the government and CSOs, especially with respect to the implementation of the Program of Cooperation as of 2021, expired in July 2021 and there has been no activity ever since so as to elect new members. In addition, there has been no report being made publicly available on the work of the Council for the reporting year.

In Kosovo, there are several mechanisms for cooperation in place. The Council for implementation of the Government Strategy for Civil Society Cooperation is the joint body mandated to monitor and report on the implementation of the Strategy's activities. The Office for Good Governance within the Office of the Prime Minister is the Secretariat of the Council, serving as the focal unit of the government for civil society cooperation. The Ministry of Local Government is a mechanism for

cooperation with civil society organizations on the local level. A setback was noted with the Office for Donors Coordination and Civil Society relations of the Parliament, as it was merged with the department for Media and Mass Communication. The Forum for Parliamentary Transparency is yet another parliamentary mechanism with the goal to support parliamentary openness. In Serbia, the Ministry of Human and Minority Rights and Social Dialogue was established by adopting the Law on Ministries on October 26, 2020. The establishment of the Ministry resulted in both the Office for Cooperation with Civil Society and the Office of Human and Minority Rights being abolished and the Ministry taking over their competences. As a result, the Ministry's activities for the first half of 2021 were limited, as it took time to establish its internal organization and procedures. Through an interview with representatives of the Ministry, it was established that, by April 2021, the Ministry had not adopted an act on job systematization, nor established a website. In terms of government-CSO cooperation, the Ministry of Human and Minority Rights and Social Dialogue has organized a series of "social dialogues" on various issues with civil society. However, despite the fact that the dialogues were meant to produce binding recommendations for all parties, their results so far have been unclear. Other relevant activities of the Ministry were mentioned throughout the report, including the creation of a new electronic application in order to facilitate the collection of data from public administration bodies for the purposes of the eCalendar on public calls, providing non-financial assistance to CSOs, and work on the development of the Strategy for an Enabling Environment for Civil Society.

Additional consultative bodies dealing with the European integration processes are in place in Albania, Kosovo and Serbia, nevertheless there seems to be a lot of room for improvement. Positive experience was noticed when it comes to the National Council for European Integration of Albania, which has held four meetings and three awareness raising activities during the reporting period. More so, it elected 14 CSO members in 2021. Established by Prime Minister's order No.113, dated 30.08.2019, information sharing, consultations, communication and involvement of civil society in the process of European Union accession negotiations and in the Stabilization and Association process is also done through the Partnership Platform for European Integration in two forms: Steering Board and 33 Discussion and Consultation Tables. Nonetheless, there is no information for whether these structures have been established, although some ministries published information on meetings such as table for Chapter 23 and Table for Chapter 10. In Kosovo on the other hand, the Office of the President's National Council for European Integration, set to aid consensual national policies on European integration is inactive and with no activities for several years. There is also the Ministry of European Integration's Guidelines on involvement of civil society in Stabilization and Association Agreement Structures however CSOs' participation level remains quite low due to them not being aware of this opportunity. Attacks on the work of the National Convention on the European Union in Serbia as mechanism dealing with EU integration process have been reported. The Working Group on Chapter 23 of the National Convention on the European Union did not attend a meeting with the Prime Minister and the President of the National Assembly on the upcoming constitutional referendum as it would breach the provisions of the new Law on Referendum and People's Initiative regarding the referendum campaign, and would jeopardize the legitimacy of the

referendum. Thereafter, the Prime Minister publicly attacked the Convention with the narrative that it was a “shame for civil society” and “a slap to the face of democracy the likes of which Serbia has never seen”. In addition, the Philanthropy Council in Serbia established with the Prime Minister’s Decision in 2018 with the aim to propose policies and changes to the legal framework in the field of philanthropy, developing cooperation of relevant actors in the field, as well as promoting philanthropy and CSR, and consisting of six CSO representatives among others, is still not functional.

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

### Standards for CSO Involvement

CSO involvement in policy and decision-making processes on national level is subject to clearly defined standards, which are generally aligned with the best practices in meeting minimum requirements. State policies somewhat provide for educational programs for civil servants on CSO involvement in the work of public institutions, and there are certain internal regulations that are tasked to coordinate, monitor and report on CSO involvement in their work.

During 2021, there have been changes in the legislation frameworks in two of the countries from the region. Positive developments have been noted in Albania whereby the Parliament approved the Law 107/2021 on Co-governance in November 2021. The Law aims to expand public participation in decision-making and increase accountability through an agency held accountable by the Prime Minister’s Office and coordinators at each government institution tasked with investigating complaints and ensuring compliance, as well as an online platform that citizens and stakeholders can visit to receive information, leave feedback, and file complaints. The agency will answer to the Prime Minister and coordinators at each government institution tasked with investigating complaints and ensuring compliance. In Serbia on the contrary, a new Law on Referendum and People’s Initiative that was adopted, containing provisions that impose undue restrictions on citizens’ involvement in decision-making, through instituting the obligation to authenticate signatures for launching a people’s initiative, but falling short to provide for an effective means to sanction inaction on the part of the National Assembly, has been amended after mass environmental protests.

Challenges emerge in the stage of implementation of the standards for CSO involvement in all the countries from the region. The most disadvantageous is the situation with CSOs in Bosnia and Herzegovina. In continuation to the previous year, CSOs are still not effectively and routinely included in policy and decision-making processes, but rather inconsistently, non-substantially and sporadically, and for the very same key reasons as in 2020, namely, complex societal organization and thereafter a large number of institutions, decision-making bodies, strategies, and policies, non-consideration of CSOs are not considered as serious actors, oftentimes their comments and feedback

to legislative proposals is disregarded, and meaningless formal decision-making processes takes place since the genuine policy and decision-making is done through rather informal communication between political parties.

While the state at play regarding CSO involvement does not provide for a fully enabling environment in this regard in the remaining countries, it is nonetheless somewhat better. In general, the standards for public participation in decision-making processes are still not respected by the implementing authorities and they still do not invite interested CSOs to comment on policy and legislative initiatives from the early stages. What is more, in North Macedonia there is not even an annual report by the Ministry of Information Society and Administration on the conducted consultations based on the inputs provided by different institutions with the mandate to propose laws. In Montenegro, similar to North Macedonia, there is no publicly available information on the work of the parliament during 2021. The only publicly available data are contained in the Information on legislative and supervisory activities of the Parliament of Montenegro, January 1 - July 31<sup>[1]</sup>, and in that period, 22 laws, 3 decisions, 21 decisions on election, appointment and dismissal, 1 resolution and 13 conclusions were adopted, and five financial plans of independent regulatory bodies were considered. In Kosovo on the contrary, there is an available Annual Report on Public Consultations on the Central Level of Governance 2020 (published in 2021). Accordingly, out of 184 policy documents adopted, 181 have undergone the written consultation process through the Online Platform. The report does not however provide detailed information if other methods besides written consultations were used to ensure a wider outreach to organizations and citizens. According to the data available on the website of the National Assembly of Serbia, 189 laws, 83 decisions, 2 authentic interpretations and 18 conclusions have been adopted during 2021, and of these, 19 laws have been adopted in urgent procedure. According to the 2021 report on the implementation of the Strategy for Public Administration Reform 2021-2030 consultations were conducted regarding 44.4% of the total number of adopted laws and 21.4% of the total number of issued regulations.

Utilization of a centralized online platform remains to be the norm for publishing draft laws, policies and strategies for consultations in all the countries. A positive step forwards was made in Serbia whereby the “eConsultations” portal was launched in December 2021, with the aim to improve citizen participation in decision-making processes, through enabling them to access all documents that are up for public debate, leave comments and suggestions, and view written feedback on consultation results. Despite being officially launched, it is still not functional.

Written feedback on the results of consultations is still not made publicly available in a routine manner by public institutions in all of the countries, let alone including reasons why some recommendations were not included. Despite the recent introduction of an online platform in Serbia, the downside appears to be that there are issues in the functioning of the portal, and no comments or written feedback are available on any of the listed documents. Furthermore, despite the numerous laws proposed and heavily criticized by CSOs during 2021, no feedback on their comments has been provided to CSOs in any form. To illustrate, the public debate on the Law on Referendum and People’s

Initiative was concluded, following procedural omissions such as providing an incorrect email address for comments, a summary report was published not containing feedback on CSOs comments. On top of that, the Ministry of Public Administration and Local Self-Government sent the draft law for an opinion to the Venice Commission unchanged, right after the debate without considering the input from CSOs nor providing feedback for why their proposals were not taken into consideration.

Kosovo marks a positive regard with respect to the provision of written feedback. There appears to be an increase in the presence of consultation documents on the appropriate website in Kosovo, although they rarely contain all the necessary parts as specified by the relevant regulations. In fact, consultation documents on project policies were published in 95% of the cases, yet only in 12% of them had a brief description of the problem, whereas the list of the main issues part of the document is published in 64% of the cases.

In terms of providing educational programs and training for civil servants on CSO involvement in state policies, generally, these continue to be held rarely and irregularly in most of the countries from the region. Serbia sets a positive example for the reporting period, since a total of 275 contact points in public administration bodies, which is a 43% increase from 2020 have undergone such training. Another positive example comes from Kosovo whereby each public institution appointed public consultation's coordinators, while during the year 48 public officials were trained on the public consultation process.

## Public Access to Draft Policies and Laws

All of the countries have valid policies and laws on access to public information, which are generally aligned with international practice. During the reporting period, changes in the legal framework have been noted in two of the countries from the region, both in positive and negative direction.

A new Law on Amendments to the Law on Free Access to Information of Public Importance was adopted in Serbia in November 2021, despite numerous well-argued criticisms by civil society that opportunities were missed to make additional improvements to the text in order to resolve long-standing issues. While the law provides the Information Commissioner with the competence to fine state authorities that do not comply with information requests, no practical impact will be achieved since the fines are planned to be paid out of public funds. In addition, the obligation for the Government to develop a procedure for directly enforcing the Commissioner's decisions was again left out of the Law. On the positive side, the orders issued by the Commissioner for the Right to Information and Protection of Personal Data in 2020 in Albania, that is the Order no. 187, dated 18/12/2020 "For the Approval of the Revised Transparency Program" and the Order no.188, dated 18/12/2020 "For the Approval of the Revised Register of Request and Responses" entered into force in June 2021. These orders provide improvements in terms of the date of the registration of the

request, the date of the response and the types of response provided (complete answer, limited answer, refused or delegated).

A positive development has been noted in Kosovo whereby the Head Commissioner of the Information and Privacy Agency was appointed, following several years of vacancy of this post. Although the request by CSOs to reverse his appointment was not taken into account, a new candidate was decided upon at the very end.

Practice indicates that the procedures for accessing public information have not been quite optimally implemented across the countries from the region. As a matter of fact, despite the legal obligation for public authorities to make the drafts and adopted laws and policies publicly available on their websites or the centralized online platforms, there appears to be a lot of room for improvement in all of the countries. Albeit generally transparent information provided by the Assembly in Kosovo through its Electronic Legislation Monitoring System on each phase of the policy drafting process, as well as free access to all adopted legislation from all levels of government through the official gazette, there have been certain drawbacks during the reporting period. In fact, even though public institutions are obligated to publish draft-proposals for consultations on their web-sites in addition to the Online Platform, 15.3% have not been published, compared to 65% that have been published. In addition, none of the concept documents were published on respective web-sites whereas half of them were published on the online platform for public consultation. Similar percentages apply also for the monitored concept documents. Furthermore, during the last year, a case of public institution not granting access to public documents was made public - the Kosova Prosecutorial Council did not allow access of CSOs to the investigative panel's files on the murder of the 11 year old boy Kujtim Veseli. The situation is similar in North Macedonia. According to the data gathered from monitoring ENER and the Parliament sessions in 2021, 117 laws that were drafted by the Government were reviewed in the Parliament. Out of them, 48 (41%) draft-laws were published on ENER for public consultations which is an improvement in comparison to 2020 (34.3%).

Data on how the legislative framework on providing for public access to draft policies and laws is implemented indicate that there appear to be differences among institutions. For instance, in North Macedonia just a part of the institutions continued to invite and involve CSOs in the process from an early stage.

According to survey results, 44% of CSOs agree that CSOs are involved in the early stage of law preparation and creation of policies, although just a marginal portion of CSO's proposals are fully taken into account. Based on the response received by the Parliament of Albania, 73 CSOs have participated in consultations, and thereafter, 43 laws out of 129 legal initiatives were approved with consultation with CSOs. In Montenegro too, based on available information, there were 60 calls for public debates in 2021, whereas the draft document was published in 30 cases. Only 30 reports on the public debate were published. At the same time, there were 35 calls for consultations, whereas 7 draft documents and 23 reports on the consultations were published.

According to the Annual Report for 2021 of the Commissioner for Information of Public Importance and Personal Data Protection in Serbia, 7.244 requests for free access to information were received. At the same time, the Commissioner received 5.181 complaints in 2021, which is an increase of 36.58% compared to the number of complaints received in 2020. In most cases, complainants were citizens, lawyers, CSOs and other associations and media. An overall of 5.246 complaint cases were closed in 2021 (including both complaints received in 2021 and those transferred from 2020). According to the Annual Report for the work of the Agency for Protection of the Right to Free Access to the Right to Public Information in North Macedonia, it acted upon all the 798 cases submitted to it. In 2021 the right to free access to public information, according to the number of initiated appeal procedures before the Agency, was mostly used by CSOs (608 times or 76.19%), as a tool for achieving goals related to the realization of their own work programs. In Montenegro, there is no publicly available data on the number of complaints submitted, adopted, denied, suspended or ongoing during the reporting period.

Majority of the countries from the region also provide for the legal basis of monetary sanctions for civil servants and institutions breaching the legal requirements. Non-sanctioning of cases of violations remains the norm in practice across the region. In Serbia, The Commissioner for Information of Public Importance and Personal Data Protection noted that the problem of administrative enforcement of his decisions persisted in 2021. In the last year, the Commissioner received 178 requests for administrative enforcement of his decisions, but was unable to enforce them through issuing fines, as the provisions of the new Law had not entered into force. These proceedings were completed by sending requests to the Government for it to directly enforce the decisions, but 82 of those requests were completely ignored.

### CSOs' Representation in Cross-Sector Bodies

CSO representation in cross-sector bodies in all of the countries in the region has not been properly regulated and is practiced on an ad-hoc basis. Only Montenegro has a Decree on the Election of CSO Representatives into the Working Bodies of the State Administration that regulates the obligation of state bodies to include representatives of NGOs into their working and advisory bodies. This is done by publishing a public call on their websites and the e-administration portal. As soon as the call is opened, organizations are free to suggest a CSO representative for the respective body. Each consultative body must include at least one CSO representative. At the same time, Albania remains to be the only country that has no specific legal framework that regulates CSOs' involvement in these structures, but different legal acts regulate the establishment of cross-sector bodies and CSOs involvement in these bodies. In Bosnia and Herzegovina, Kosovo, North Macedonia and Serbia the respective legislative pieces still allow but do not oblige the government to invite CSO representatives in these bodies.

Generally, CSOs representation in cross-sector bodies is still not conducted in a fully transparent manner, with CSOs being left without the possibility to express their opinions freely. The very same issues as reported in practice during 2020, have remained unaddressed during the reporting year too. To provide a few examples, participation of CSOs in a working group on the Draft Law on Civil Procedure in Serbia, containing provisions on covering court fees to citizens unable to afford them, did not invite CSOs to participate despite the fact that the changes would affect the position of marginalized communities, their access to justice and the provision of free legal aid, and pertains directly to EU Acquis Chapter 23. Along the same lines, although the Main Body for Crisis Management in North Macedonia included CSOs in their work, their presence did not have much impact as these two members were without the right to vote.

Specified procedures for participation, including transparent selection through a public call, however exist in a certain form in some bodies in the countries across the region, but still, they take place sporadically. To illustrate, according to survey data, CSOs in North Macedonia provided ample amount of examples on different institutions inviting interested CSOs to join an established working group on laws or other legal acts to specific cross-sector bodies.

Despite there not being standardized mechanisms for the selection of representatives in cross-sector bodies, there are different legal acts that require establishment of councils, committees, working groups, etc., which require CSOs participation. In North Macedonia, for instance the Council for Cooperation with Civil Society is mainly used as a body asked to nominate CSOs' representatives in cross-sector bodies. During 2021, it nominated two Council members, as observers, in the Commission for distribution of funds for CSOs from the state budget, one CSOs' representative in the working group on monitoring the progress of the implementation of the Strategy on Government transparency (2019-2021), three members of the National Coordination body for implementation of the Convention of the Council of Europe for prevention and combating violence against women and domestic violence, CSOs' representatives in the working group for drafting changes and amendments to the Law on Associations and Foundations, CSOs' representatives in the working group on reform of the system of state funding for CSOs, and one representative in the Operational coordinative group on the project "Improvement of the quality of education".

Furthermore, as a continuation to the Council for Coordination and Monitoring of the Open Government Partnership process in North Macedonia and the National Action Plan for OGP 2018-2020, established in 2020, in December 2021 there was an open call for selection of CSOs' representatives in the Council for coordination and monitoring the National Action Plan for OGP 2021-2023. Similar is the experience of CSOs in Bosnia and Herzegovina whereby CSOs are part of the Council for the Open Government Partnership Initiative, represented by equal members of CSOs and public institutions. At its 30th session held on March 17, 2021, the Council adopted the Report on the Implementation of the Action Plan of the CoM of BiH for the Implementation of the "Partnership for Open Government" initiative for the period 2019-2021. The Action Plan of the Council of Ministers for the implementation of the initiative "Partnership for Open Government" for the



period 2021 - 2023, which was submitted to the Council of Ministers of BiH in January 2022 for adoption, after being prepared in accordance with the principles of the Open Government Partnership and as a joint effort of CSOs and public administration bodies in the process of defining priority areas and creating measures to improve the accountability of administrative bodies to citizens.

As is the case with the legislative framework, Montenegro remains to be the brightest case when it comes to practical implementation of its provisions on CSO involvement in cross-sector bodies. During the reporting period, there were no recorded cases of non-transparent selection of CSO representatives. As a matter of fact, 11 ministries provided data either on the central website or their own website on the number of public calls for participation of CSO representatives.

#### **Box 1: EU Guidelines assessment – Result 3.1.**

CSOs continue to report problems with their involvement in decision and policy-making processes both at national and local level. National standards for CSO involvement exist in all of the countries. CSOs report that the draft laws/policies are not always published well in advance as it is required by the legal regulation. Online platforms for consultations are still not effectively used, and CSOs generally do not participate in the processes from an early stage. State authorities often neglect the provisions on the publication of calls for consultations. Representatives of civil society in the decision-making/advisory bodies are selected outside of clear and transparent mechanisms. Selection procedures continue to be regarded as biased and based on personal acquaintances. Montenegro remains to be the only positive example both in terms of legal framework and practice when it comes to CSO participation in cross-sector bodies.

### **Sub-area 3.3. Collaboration in social provision**

#### **CSO Engagement in Service Provision and Competition for State Contracts**

In all of the countries, CSOs are allowed to provide services, but are rarely engaged in the provision of anything other than social services. Legislation in countries across the region allows CSOs to provide services in various areas by signing administrative contracts for providing social services for which they are provided state funding. Generally, CSOs must obtain a license or register at a responsible institution.

The legislative frameworks remained mainly unchanged in all the countries. In Albania, a series of Decrees of the Council of Ministers for the implementation of the new Law on Public Procurement, including Decree No. 768 dated 15.12.2021 “For defining the types of social services and other specified services, for which the right to participation of organizations in the procurement procedures can be reserved and the detailed rules for procurement” have been approved. Furthermore, the minimal standards for social care for LGBTQI persons in public and nonpublic residual centers in May 2021. In Serbia, a new Law on Consumer Protection was adopted in September 2021, aimed at enhancing transparency in the work of CSOs dealing with consumer protection. Accordingly, CSOs are allowed to provide innovative services, and they are not subject to stricter requirements when compared to other service providers. CSOs may provide activities in the field of social protection, precisely individual social protection services. In Kosovo nonetheless, the legal framework on public service provision is still in the amending process. The draft law on Social and Family Services has finished the phase of written public consultation in 2021, and its objectives include improving the quality of social services, increasing transparency of social services, and building a sustainable financing system.

In practice, CSOs remain largely disregarded in the complete cycle of development and provision of services and are rarely seen on the implementing side of state contracts.

Throughout the region, CSOs continue to be key actors in the provision of a wide range of social services, as well as in providing free legal aid, consumer protection, assistance to vulnerable groups, education, healthcare, and other services in the public interest. In Albania for instance, 493 social services are provided by 399 service providers, out of which 46% are public institutions, 42% are non-public institutions and 12% of services are provided by joint institutions (public and nonpublic) .

Most of the non-institutional services are also provided by CSOs. In North Macedonia, there is a significant increase in the number of registered licensed service providers in 2021 - there were 21 newly registered licensed service providers in 2021 compared to 10 in 2020. Six out of these 21 service providers are associations registered in line with the Law on Associations and Foundations. An increase in the number of registered licensed service providers throughout the reporting period is also registered in Kosovo. According to the data from its Ministry of Finance, Labor and Transfers, 48 CSOs and 189 professionals of social service provision were licensed in 2021. Similar upward trend of CSO provision of social services was observed in Serbia. According to the most recent findings from the Republic Institute for Social Protection, CSOs are the main providers of social services, followed by local self-governments. Comparing data from 2016 and 2020, it seems that the situation was reversed - in 2016, the public sector provided services to the majority of users (57.5%), whereas in 2020 58.8% of users utilized the services of general sector providers, the majority of which are CSOs. In addition, According to data from the public procurement portal, in 2021 a total of 68 public procurement contracts were concluded with associations, 7 with foundations, and none with endowments out of a total of 6,889 (1.08% of all public procurement contracts were concluded with

CSOs) In Bosnia and Herzegovina, the practice of open calls for public interest status and funding for provision of social services by CSOs is still sporadic and it is the ones closely affiliated to the ruling political parties that receive majority of the funding through this scheme. In Montenegro, there is no official data on the number of CSOs across different areas that received contracts for service provision, per different policy fields and per different legal forms.

With regards to free legal aid, the Law on Free Legal Aid in North Macedonia stipulates a possibility for the involvement of CSOs in providing pre-trial legal aid. According to the Register of associations that provide free legal aid, there are four new associations registered in 2021 and now the total number is 15 registered associations for providing pre-trial legal aid, being granted by the Ministry of Justice. In Albania on the contrary, the Ministry of Justice, launched a restricted call for proposal to support CSOs that are licensed by the ministry to provide free legal aid. After the assessment of ten (10) applications received, the Evaluation Committee and the Appeal Commission did not award any grant. In Serbia, local self-governments continue not to refer citizens that come to them for free legal assistance to CSO providers through official channels, and it is usually that citizens come to CSOs that provide services through reference of social protection agencies, police, or other CSOs.

Regarding social enterprises, the legal framework is still unfavorable in Albania, but significant development has been noted in North Macedonia. Thus, in September 2021 the National Strategy for Development of Social Entrepreneurship in the Republic of North Macedonia 2021 – 2027 was adopted by the Government. The drafting of a new Law on Social Entrepreneurship is in progress and planned to be adopted in 2022. In November 2021, the National Centre for Support of Social Enterprises was established in Skopje. While a new Law on Social Entrepreneurship in Serbia was not adopted in 2021, significant progress was made in its drafting, in a consultative process which included active CSO involvement. While previous drafts of the Law did not recognize the specific legal nature of social enterprises established by CSOs, the final draft represents a significant improvement in this regard.

## State Funding for CSO-Provided Services

CSOs in all of the countries are entitled to receiving partial funding for the provision of services. Specific budget lines for financing various types of services provided by CSOs exist only in Serbia, and to a certain extent in North Macedonia and Kosovo.

State funding for CSO-provided service is usually provided every year through public calls or tender procedures through ministries or municipalities in majority of the countries (Kosovo, BiH, Serbia, North Macedonia) In Kosovo, funds are allocated usually for a four to twelve-month period, and long-term agreements are not allowed. Similarly, the legal framework in North Macedonia does not allow for long-term service contracts, even though the same CSOs are supported each year, and required to go through the process of application and signing new contracts all the time. In Serbia, the

normative framework allows for multi-year contracts, but in practice, contracts are only signed for the ongoing year.

In practice, service-providing CSOs continue to receive funds, although they appear to be insufficient. State funding for CSO provided services remained a main shortcoming in Montenegro in the reporting period too. Although the state provides funding for projects and programs of CSOs under which services can be provided, there are no specific funds planned for these services. This issue that arose in 2020 due to the COVID-19 disease, when many CSOs were forced to terminate their services due to the measures introduced, continued in 2021, given that the largest number of calls for financial support to CSOs projects were announced only in November and December 2021.

In North Macedonia, the Ministry of Labor and Social Policy awarded five contracts for providing social services based on an open call in January 2021. Furthermore, during the same month, the Government passed a Decision for distribution of the funds from games of chance and entertainment games (70 million MKD or approx. 1.133.000 EUR) to support the annual program of the Red Cross, National Council of Disability Organizations of Macedonia, national disability organizations, the national coordination body for equal rights of persons with disabilities, as well as associations that help victims of family violence. In Serbia, the total amount of funds planned to be allocated in the 2021 budget from line 472 was 1.020.665.367 EUR, marking an increase of 0.77% compared to 2020. The total amount of funds planned for CSO support from the budget line 481 in 2021 was 74.262.457 EUR.

## Procedures for Contracting Services

The procedures for contracting services in all of the countries are governed by the laws on public procurement. The legislation generally stipulates provisions that ensure clear and transparent procedures, and equal treatment of all legal entities participating in public tenders, including CSOs. The Decree of the Council of Ministers in Albania No. 768 dated 15.12.2021 "For defining the types of social services and other specified services, for which the right to participation of organizations in the procurement procedures can be reserved and the detailed rules for procurement" stipulated a simplified procedure for social and other specific services for which the participation of CSOs in procurement procedures is granted, in line with EU Directives.

Online platforms for public procurement continue to exist in some countries such as Bosnia and Herzegovina, Kosovo and Serbia. In Kosovo, the Law on Public Procurement and the Law on Social and Family Services remain ambiguous, particularly with regard to the selection procedures for service providers. In all countries, there are specific provisions and procedures for addressing conflict of interest. Finally, laws in all countries provide the right to appeal against competition results.

In practice, the procedures for contracting services are considered somewhat unfair and lacking transparency. In Bosnia and Herzegovina for instance, according to the current practice,

procurements handled through direct contracts, which are contracts of low financial value below 6.000.00 KM (3.000.00 EUR), are not managed through the e-platform. However, based on some estimates, direct contracts take up to 40% of the entire public procurement in BiH and have been used for fraud schemes.

The lowest price is still a lead criterion for the selection of service providers in most of the countries, such as Kosovo and North Macedonia, despite the fact that the legal framework replaced the lowest price with the best value offer. In Albania, quality of the services, accessibility, effectiveness, cost, availability, and inclusiveness in services, specific needs for people in risk and vulnerable groups, and innovation are considered as criteria during selection of a service provider. In Montenegro and Serbia too, other criteria are also considered, such as service quality or financial stability of the providers in order to select the most economically beneficial tender bid, applying a cost-effective approach. That notwithstanding, public procurement contracts in Serbia are mainly led by the lowest price. When it comes to contracting social services, this approach not in line with international conventions on the rights of persons with disabilities and other international standards. More so, project co-financing allows for funds to be distributed based on more appropriate criteria, but the current legal framework mandates that this funding mechanism can only be used to fund individual projects, and using this model for funding social services would not be able to provide for the continuous funding of necessary services.

### **Accountability, Monitoring and Evaluation of Service Provision**

The legislation in the countries of the region stipulates certain standards and monitoring procedures regarding service provision. During the reporting period, there have been no changes in the legislative framework to overcome the ambiguous legal provisions. Montenegro remains the sole country whereby accountability, monitoring and evaluation of service provision is simply implied within the procedure for license suspension only if the competent state authority determines that the service provider no longer meets the prescribed conditions. In practice, thorough accountability, monitoring and evaluation of service delivery is barely implemented.

In Albania, public authorities can exercise monitoring and assessment of service provision both in terms of quality of the services and the expenditure of funding. They have the right to inspect the premises in which services are provided. After the inspection, a report is prepared by the inspecting authority and shared with the service provider, including recommendations for improvements. In Bosnia and Herzegovina, reports on implemented activities should be submitted by CSOs to the relevant ministry, but even when prepared these reports describe activities in general and cannot be regarded as a proper accountability and evaluation instrument. In Serbia, the control procedure is foreseen in the Law on Public Procurement and The Rulebook on the Close Regulation of the Public Procurement Procedure. In Serbia, the Law on Free Legal Aid prescribes control over the conscientiousness and professionalism of the provision of these services. Legislation contains clear quality standards and monitoring procedures for services, which is in line with standards. The Law

on Social Protection prescribes the obligation to determine the minimum standards for social protection services, continuous professional development of social care providers and accreditation of training and service programs. Similar provisions exist for providing consumer protection services, as well as free legal aid, with clear criteria which envisages the possibility for CSOs to be deleted from the relevant register if they fail to act with due diligence, or if they fail to comply with reporting obligations. There have been no recorded cases of CSOs being subjected to excessive control, which is in line with standards. Furthermore, CSOs report that control carried out by relevant state authority during service provision is lacking.

Positive development has been noted in Serbia where the Government established a Council for Monitoring the System of Free Legal Aid and Free Legal Support in 2021, which includes representatives of service providers. Following their successful advocacy efforts for the City of Novi Sad to amend their Rulebook on exercising the right to financing the service of personal assistance for PWDs, in 2021, the CSO "Center for Living Upright" sent a proposal to the Republic Inspectorate for Social Protection to issue all cities and municipalities with an official interpretation of the term "minimum standard" when it comes to providing social protection services.

# Conclusions and recommendations

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

**Recommendation 1:** Legal guarantees for freedom of association, freedom of assembly and other related freedoms should be enforced, whereas the implementation of the existing legislative framework should be secured in practice. Despite the generally enabling laws regulating these freedoms, shrinking of the civic space has been pronounced given the prolonged COVID-19 pandemic, especially in Serbia and Bosnia and Herzegovina. Numerous cases of state interference, harassment, threats and inappropriate measures aimed at curtailing these fundamental civil liberties have been recorded. In addition, regular monitoring of the fulfillment of the standards pertaining to these freedoms should be exercised and illegal breaches of the legal frameworks by the state authorities sanctioned.

**Recommendation 2:** Fiscal treatment of CSOs and donors in the countries throughout the region needs to become more enabling towards CSOs corresponding to their non-profit character and provide genuine incentives for larger individual and corporate giving. Individual and corporate giving is slowly becoming more popular than the years before, however insufficiently practiced when it comes to donations towards civil society. The tax laws need to ensure the existence of applicable benefits to CSOs with public benefit status, and that there are incentives for organizations to use. Philanthropic responsibility is still nascent and thereafter state authorities need to provide a more supportive environment for boosting engagement in philanthropic activities.

**Recommendation 3:** Financial and non-financial state support needs serious revision and a comprehensive reform of the existing legislative frameworks in the countries across the region needs to be performed and to introduce institutional grants, co-financing, statistics and minimum financial resources so as to contribute to CSOs financial sustainability. At the same time, precise, transparent and clear rules for distribution of public funds, as well as for accountability, monitoring and evaluation need to be ensured both in legislation and in practice. Furthermore, sufficient funds as well as economic measures for CSO beneficiaries in the situation of state of emergency need to

be non-discriminatory. Non-financial support should also receive attention and be approached in an earnest manner.

**Recommendation 4:** The approach to human resources gravitating in the civil society sector both in the form of employment and volunteering, should become more strategic. The legislative frameworks of the countries in the region need to improve in order to regulate, facilitate and stimulate both employment and volunteering in CSOs, and recognize the specific nature of CSO operation. Furthermore, state authorities need to provide economic measures to support CSOs human resources in times of crisis in a non-discriminatory manner. Finally, statistics pertaining to the number of employees, type of employment, number of volunteers, etc., should become the norm and made publicly available in a timely, transparent and regular manner.

**Recommendation 5:** Mechanisms for CSO-state cooperation need to be further enhanced, and effective involvement of CSOs in policy and decision-making processes on national level needs to be secured in practice. Implementation of policy documents for CSO-state cooperation needs to be ensured in practice through genuine political commitment, clearly outlined responsibilities, allotted sufficient financial support and viable human resources. Simultaneously, minimum standards for CSO involvement in the decision-making processes at all levels starting from the very early stages of the processes need to be guaranteed in practice.

**Recommendation 6:** CSO engagement in service provision needs to be further enhanced and expanded in response to the already increasing provision of high quality state services provided by them. The legal frameworks pertaining to service provision in the countries from the region need to be revised in order to become more stimulating and supportive of CSOs as service providers. CSOs should be involved in the annual needs assessment when services for the upcoming year are planned. In addition, selection procedures for service providers should include special criteria that do not take price as lead criterion in practice despite legislative opportunities for other criteria. Planned and specific budget lines need to be introduced and thereafter practiced. Furthermore, procedures for contracting services need to be practiced in a clear and transparent manner. Finally, regular accountability, monitoring and evaluation of service provision need to be practiced.



# Recommendations for Other Stakeholders

The key recommendations stemming from this report are mainly aimed at national governments, as the only actors able to directly enforce legal frameworks and secure its implementation in order to provide for a more enabling environment in which CSOs operate. Civil society themselves and donors are other stakeholders of crucial importance whose endeavors have an outstanding role in setting, improving and sustaining the enabling environment for civil society operations and development. Furthermore, since all of the countries from the region are strategically committed to gaining full membership in the European Union, it is still an influential and democratic partner to civil society in the countries from the region in ensuring the viability and sustainability of the civil sector. All these stakeholders immensely influence the shape of the state at play with the civil society in the countries from the region, and thereafter, the following recommendations aim to enhance their contribution.

## Recommendations for CIVIL SOCIETY

- The configuration of the civil society along with its substantial undertakings primarily and directly contributes to the environment being more conducive or restrictive for their operations and further development. Unity and solidarity of the sector are the cornerstone for advancing the existing into a more healthy and conducive environment for their work and development. Strengthening the sectoral infrastructure, networking and cooperation within the sector for taking concrete steps and joint advocacy under unanimous voice both on a national and regional level is the single most powerful tool civil society can employ to stimulate its operating environment.
- For civil society to be able to serve as both a short-term partner in implementing development solutions and a long-term actor in ensuring that development outcomes are sustained, it is important that CSOs strengthen their internal accountability, community outreach and public imagery. Furthermore, having an invaluable experience in operating under state of emergency, CSOs need to become more creative in efficiently carrying out activities that contribute to a more enabling civic space.

## Recommendations for DONORS

- Amplify the role of donors as partners and collaborators to civil society both in ensuring CSOs' sustainability and in supporting the CSOs' efforts and shifted priorities by providing flexible operational support to CSO.
- Ensure involvement of CSOs in long-term planning of donor strategies and efficient utilization of their support in practice.
- Reaffirm the role of donors as supporters to civil society in their quest for accelerating societal changes, providing sectoral development and sustainability, and safeguarding liberal democracies.

## Recommendation for the EU INTEGRATION PROCESS

- With the EU integration process facing a stalemate for quite some time, and euroscepticism being on the rise among the citizens in the countries from the region, the EU needs to demonstrate clear political commitment to effective involvement of civil society in the European Integration process, translated into adequate mechanisms and dialogue processes.
- The EU needs to reinforce and demonstrate a common understanding of the enabling environment for CSOs through the adoption of official European Commission document that holds enough political weight and leverage to ensure that governments in the enlargement countries take appropriate action.
- The EU needs to support diversification of CSO financial resources, by highlighting to the state authorities the importance of a comprehensive public funding system and sufficient public funding for CSO activities related to the implementation of public policies, creating a more enabling environment for philanthropy, social entrepreneurship and other alternative sources of funding, and also to support CSO projects towards this goal.

# Bibliography

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

Country report of Albania, Partners Albania for Change and Development

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

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

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

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

Country report of Serbia, Civic Initiatives (CI)

# Annexes

## 1. Monitoring matrix methodology

### Regional report

The 2020 Regional Report was primarily compiled using the six Monitoring Matrix Country Reports as its main source of information, data and analytical overview. Furthermore, the authors used their expertise and previous research to deepen the analysis, draw parallels and give overall regionally relevant conclusions and/or recommendations, where applicable. The 2020 Regional Report relates to and builds on previous editions of the Regional Report, especially the most recent one, the 2019 Regional Report.

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

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

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

## Operationalization and data collection for the national reports

The legal indicators are measured by coding the presence or absence of rules, costs, procedures and obligations enshrined in legal regulation (primary and secondary) and policy frameworks enacted in the respective countries. To assure standardization and comparability of the data gathering process in terms of the practice indicators, country researchers follow a methodology plan in which each of the 80 indicators is further operationalized as specific mandatory and additional data types (i.e. operationalized dimensions of a practice indicator) to be reported across the countries. The mandatory data types tap into the core building blocks of a practice indicator as described in the Monitoring Matrix Toolkit. They mandate the reporting of optimal information, without which one would not be able to evaluate the respective indicator. The additional data (operationalized dimensions) specified for each practice indicator are reported if country researchers want to deepen and further illustrate specific practice indicators (e.g. via case study; see next section on country-specific notes on methodology).

The data gathering strategy for the practice indicators is tailored to match the mandatory data types specified in the methodology plan. Clear guidance on the data gathering strategy exists for each indicator (instruments and sources) which is observed by country researchers. The specified data gathering instruments and sources follow an implicit hierarchy, in which publicly available factual data (e.g. official statistics) are the most important source of data for assessing practice indicators, followed by survey data from civil society organizations, which in turn are followed by relevant secondary sources (e.g. CSOs reports, the Ombudsman and media). Finally, interview data come at the end of the hierarchy, being a subjective type of data obtained from smaller groups of respondents.

The primary factual and secondary data are gathered through desk research. Following the data gathering strategy, country researchers utilize three core data-gathering instruments: Freedom of Information requests (FoI), a survey questionnaire and interview topic guides. The questions from the data gathering instruments are tailored to match the mandatory data types (operationalized dimensions) of each practice indicator. The Freedom of Information requests (FoI requests) is used by researchers when public information and statistics on the state of civil society and their environment (primary factual data) are not readily and publicly available. The researchers can draw from a detailed bank of FoI questions tailored to match the operationalized practice indicators.

The survey questionnaire collects information on CSOs' experiences and perceptions of key aspects of the enabling environment for civil society for the year 2019. The organizational survey includes 50 questions matching the mandatory data types (operationalized dimensions) relating to basic rights and freedoms, organizational and financial sustainability, and civil society's cooperation with the state. The questionnaire dominantly consists of closed questions and fewer follow-up open questions that require the respondents to elaborate on their experience. The same questionnaire is implemented across all countries, although the phrasing of a few items is slightly adapted to the specific country context to ensure that questions are readily understood by the respondents. The survey is sent to a list of formal CSOs compiled and updated by country researchers based on available registers or other alternative lists of active CSOs in the country (for more information see the country-specific notes on methodology). The data collected from the survey are confidential and used completely anonymously. Individual responses cannot be traced back to the organizations that answered the survey and are reported in aggregate form only.

The interview topic guides, similar to the survey questionnaire, include questions that match specified mandatory data types and are used in all of the countries. In addition to these core questions, researchers form additional questions that capture contextual developments in the country. The four topic guides are used in semi-structured interviews with the following groups of respondents: representatives of associations of journalists and media professionals; representatives of organizations of volunteers; representatives of the institution or mechanism for CSO cooperation and representatives of informal civil society groups (e.g. citizen initiatives, social movements, online initiatives).

## **Data analysis and interpretation used in the national reports**

To analyse and interpret the data, country researchers use a unified data collection template containing descriptions of the indicators (including the mandatory and additional data types for the practice indicators), as well as descriptions of five categories ranging from fully enabling to disabling environment for each indicator. The descriptions of the five categories for each legal and practice indicator are provided in the Monitoring Matrix Toolkit to enable researchers to choose, based on the reported data, one code (score) that most accurately summarizes the state of the enabling environment with regard to the respective indicator. In the first step, the researcher reports the required data types collected from different sources in the template box. For example, they report factual data from primary sources complemented with descriptive statistics or cross-tabulations based on survey data. In the second step, they choose one of the five category descriptions provided for the respective indicator that best illustrates the reported data. The categories enable a unified comparison of findings at the level of indicators across all country reports.

## 2. Notes on methodology and challenges

Overall, all of the countries experience similar challenges regarding the application of the Monitoring Matrix methodology, also similar to previous years. Namely, the prevailing trend in each of the countries indicates that the use of FoI requests does not provide optimal results. This is due to the fact that institutions take considerable time to respond to the request, fail to respond, or are unable to provide the requested information. The number of received responses to FoI requests is still low compared to the number of requests sent. In some cases, the fact that the staff was inadequately trained to work with CSOs or the lack of a systematization and reliable statistics, made the process of gathering data via FoI requests even more difficult. The COVID-19 outbreak has also been one of the causes for the low responsiveness of institutions in several countries.

The implementation of the online survey as another primary data-gathering source has also faced a common challenge in all of the countries. Namely, the participation rate of CSOs in the survey has been quite low. For example, in Serbia, it was filled out by only 83 organizations, which makes for a rather low response rate given the fact that the survey was sent to over 4,000 organizations and there are over 30,000 registered organizations in the country. A more positive experience was noted in North Macedonia, where 293 associations returned the questionnaire that was sent to over 2,800 associations. As noted by the researchers, running an online survey alongside manual data collection on the local level could be helpful, as it will ensure that small local NGOs participate alongside professional organizations.

In addition to the online survey, interviews were conducted in almost all of the countries. Additional data about CSOs' experience regarding a specific topic or issue were also gathered through focus groups. The national reports were to a great extent also based on secondary data sources, such as existing legislation, domestic and international publications, reports and surveys, strategies, blogs and other relevant literature that was gathered through desk research.





