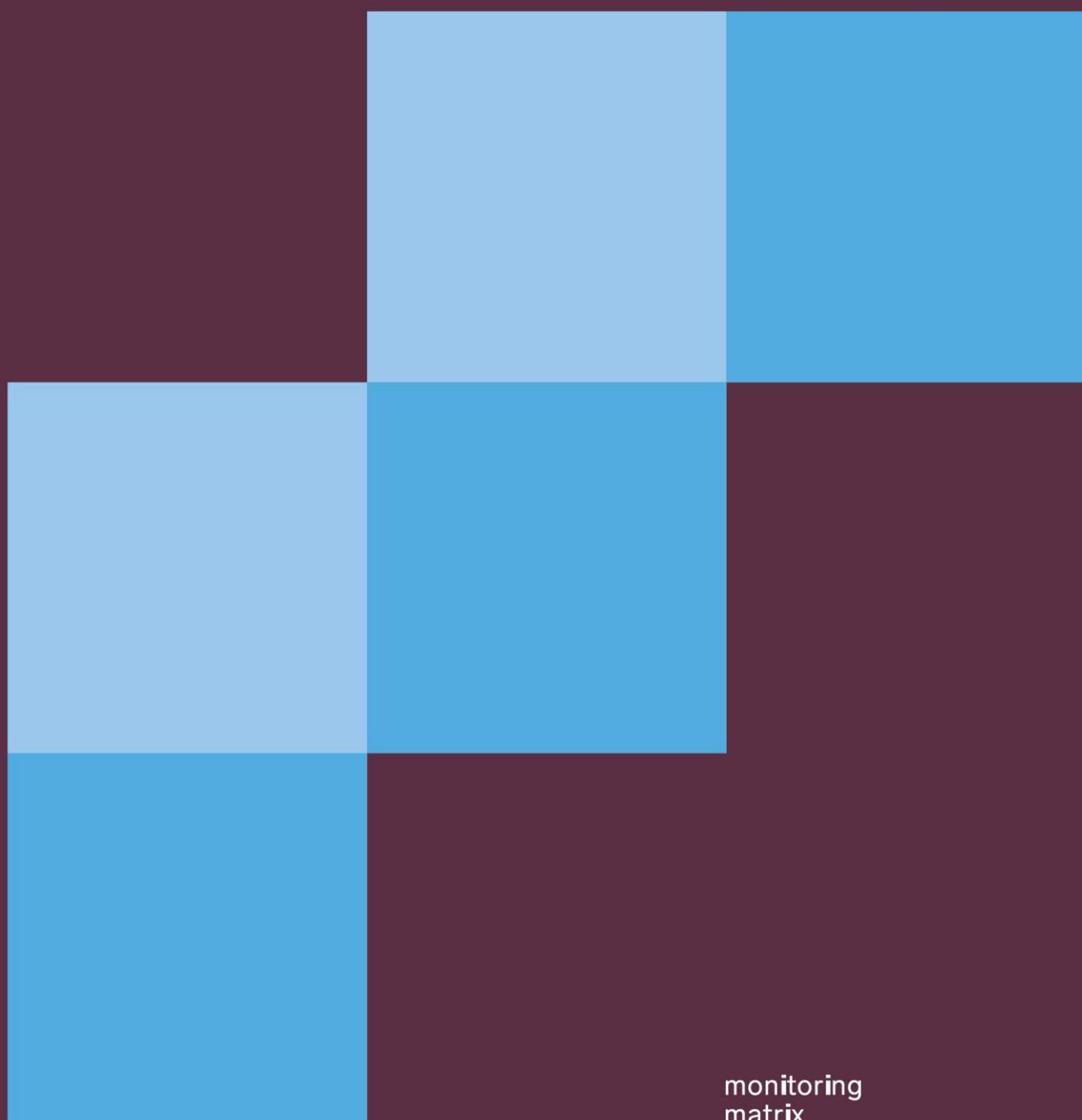


# Monitoring Matrix on Enabling Environment for Civil Society Development

Country Report:  
Serbia  
2019







# ***Monitoring Matrix on Enabling Environment for Civil Society Development***

## ***Country Report for Serbia 2019***

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# List of abbreviations

**ACT** - Program For an Active Civil Society Together  
**BCDN** - Balkan Civil Society Development Network  
**BIRN** - Balkan Investigative Reporting Network  
**CB** - Capacity Building  
**CI** - Civic Initiatives  
**CINS** - Center for Investigative Journalism of Serbia  
**CMR** - Country Monitoring Report  
**CEP** - Center for European Policy  
**CRTA** - Center for Research, Transparency and Accountability  
**CSD** - Civil Society Development  
**CSO(s)** - Civil society organization(s)  
**CSR** - Corporate Social Responsibility  
**ECNL** - European Center for Non-Profit Law  
**EU** - The European Union  
**FATF** - Financial Action Task Force  
**FoI** - Freedom of Information  
**GOCCS** - The Government office for cooperation with civil society (the Office)  
**HJC** - the High Judicial Council  
**KRIK** - Crime and Corruption Reporting Network  
**LoA** - Law on Associations  
**LoE&F** - Law on Endowments and Foundations  
**LoV** - Law on Volunteering  
**LSG** - Local Self-Government  
**MM** - Monitoring Matrix  
**MYS** - Ministry of Youth and Sport  
**MCI** - Ministry of Culture and Information  
**MEI** - Ministry of European Integration  
**MESTD** - Ministry of Education, Science and Technological Development  
**MLEVSP** - Ministry of Labor, Employment, Veteran's and Social Policy  
**MME** - Ministry of Mining and Energy  
**MSALSG** - Ministry of State Administration and Local Self-government  
**MTTT** - Ministry of Trade, Tourism and Telecommunications  
**NCEU** - National Convention on European Union  
**OGP** - Open Government Partnership  
**SBRA** - Serbian Business Registers Agency  
**SCTM** - Standing Conference of Towns and Municipalities  
**SECO** - Sectorial civil society organizations  
**SEIO** - Serbian European Integration Office  
**TA** - Tax Administration  
**TACSO** - Technical Assistance for Civil Society Organizations  
**USAID** - United States Agency for International Development  
**VAT** - Value-added Tax  
**WBT** - West Balkan and Turkey  
**WG** - Working group  
**YUCOM** - The Lawyers' Committee for Human Rights

# Introduction

*Civic Initiatives and the Balkan Civil Society Development Network are pleased to present the fifth edition of the Monitoring Matrix on Enabling Environment for Civil Society Development, covering developments in Serbia in 2019.*

*This report is part of a series of country reports covering seven countries in the Western Balkans and Turkey: Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Montenegro, Serbia and Turkey. A Regional Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country at [www.monitoringmatrix.net](http://www.monitoringmatrix.net).*

*The Monitoring Matrix, developed in 2013 by BCSDN with support of its members, partners, ICNL and ECNL, presents the main principles and standards that have been identified as crucial to exist in order for the legal environment to be considered as supportive and enabling for the operations of CSOs. The Matrix is organized around three areas, each divided by sub-areas<sup>1</sup>:*

- 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 the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries. The Matrix aims to define an optimum situation desired for civil society to function and develop effectively and at the same time, it aims to set a realistic framework that can be followed and implemented by public authorities. Having in mind that the main challenges lay in implementation, the indicators are defined to monitor the situation on level of legal framework and its practical application<sup>2</sup>.*

*In addition to the in-depth and qualitative monitoring, in 2015 an assessment of the enabling environment with categorization ranging from fully disabling to fully enabling environment was introduced. The system was created in order to address the need for 'compressed' and effective visual communication of findings and systematic presentation of changes in the enabling environment for CSDev on the level of standards across countries and years. It does not replace, but complements the qualitative assessment, as the narrative country reports are the basis on which the categorization is conducted.*

*The research conducted under the MM aims to provide for shadow reporting on the enabling environment for CSDev and influence Enlargement policy and funding support towards sustainable and strategic development of the sector.*

*1. As a research tool for measuring the health of the legal, regulatory, and financial environment in which CSOs in WBTE operate, the Matrix aims to respond to the need of CSOs to have evidence-based research products and capacities to advocate for policy changes towards a more enabling civil society environment.*

*2. For these purposes, within the findings part, the report further makes references and correlations to the Guidelines for EU Support to Civil Society in Enlargement Countries, 2014-2020.*

# Acknowledgments

*This National Monitoring Report was developed by Civic Initiatives (CI), member of Balkan Civil Society Development Network (BCSDN). The Research team consisted of several senior and young researches: Bojana Selaković, Dejana Stevkovski, Ivana Teofilović and Pavle Grbović. CI would like to thank BCSDN for the support provided.*

*Civic Initiatives are immensely grateful to the Office for Cooperation with Civil Society of the Government of the Republic of Serbia and the Business Registers Agency who shared relevant data on registered CSOs in 2019. Also, we would like to thank all other representatives and experts from numerous civil society organizations (Trag foundation, Catalyst foundation, Center for Social Policy, Narodni Parlament, Smart Kolektiv, European Policy Center, Young Researches of Serbia, AIESEC Serba, NCEU, Association Duga, Center for Education Policy) and state bodies (Ministry of State Government and Local Self-Government, the Office for Information Technologies and eGovernment, the Commissioner for Information of Public Importance and Personal Data Protection, State Secretariat for Public Policies) who have contributed to the development of this report through sharing their data, experiences and knowledge about the way that certain regulations are being implemented in practice. We would like to give special acknowledgment to Ms. Dubravka Velat, recognized expert for civil society development in Serbia and WB countries, who contributed to more objective assessment and enabling environment scoring.*

# Background - Country overview

*Socio-political environment in 2019 in Serbia was significantly unfavorable for the operations and development of civil society organizations. The European integration process has been slow, resulting in the opening of only two negotiation chapters, which is the worst result since 2015. Also, no visible progress was made in the relationship between Belgrade and Pristina and the dialogue did not continue during this year, except for certain technical discussions in an insufficiently transparent procedure without any public insight into the content and results. The international community's attention has largely been directed towards solving this problem while shifting focus to this segment has helped in consolidation of absolute and unfettered power of the ruling party.*

*Internal political life has been marked by a serious crisis of democracy due to further media control and widespread pressure on voters, activists and opposition representatives. The crisis has resulted in a boycott of Parliament by opposition lawmakers, as well as an announced boycott of the elections by most of the opposition parties. Civil society organizations have played a significant role in trying to overcome the crisis by establishing a formal dialogue between the authorities and the opposition in order to reach an agreement on fair electoral conditions, but with a lack of results.*

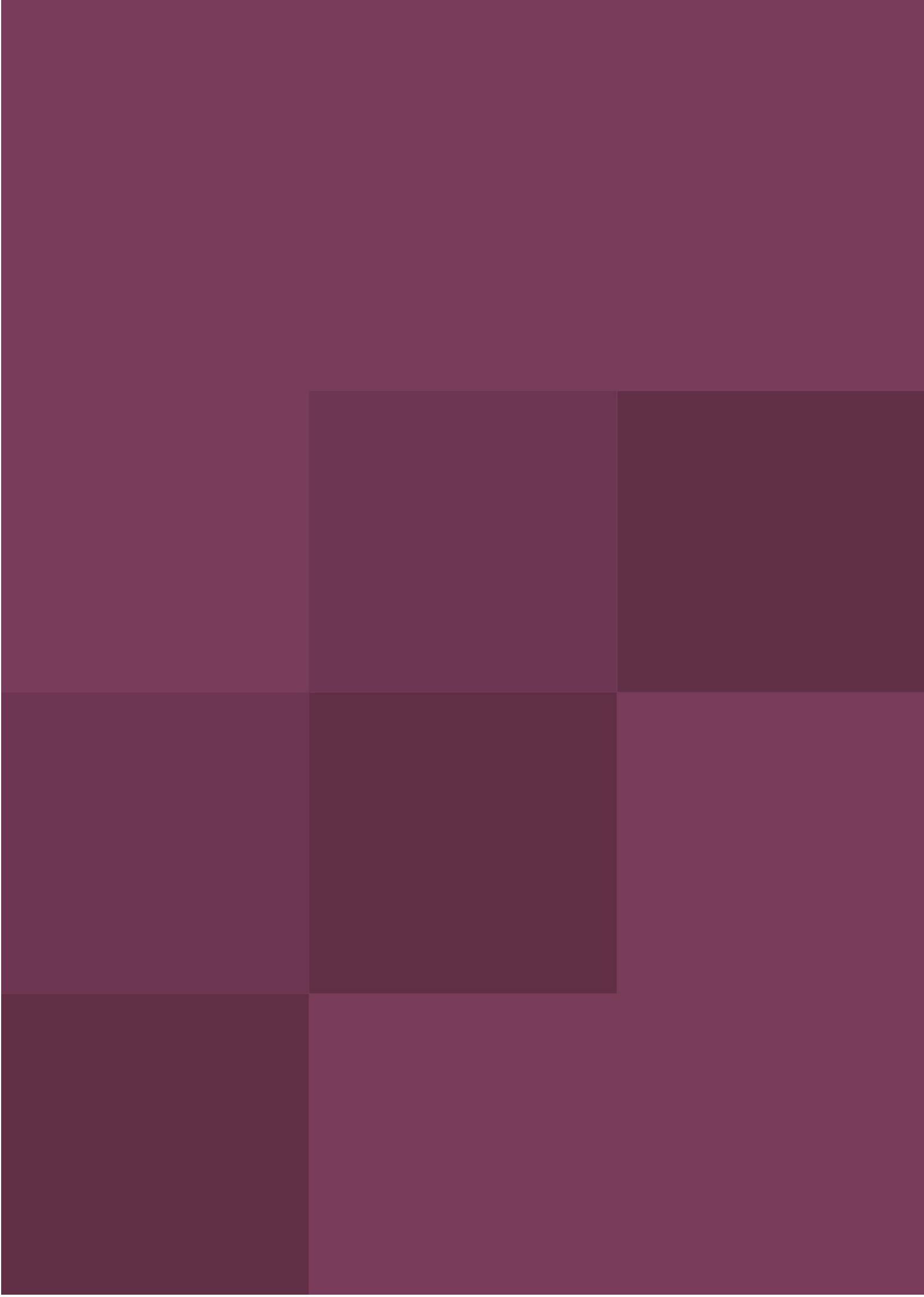
*CSOs efforts have not been recognized as corrective activities in this case. Moreover, they have been characterized as a political opponent to the ruling regime and enemies of the state of Serbia in most of media close to Government or ruling party. Such narrative has been deeply rooted in the Serbian public for decades, but has additionally increased in importance and intensity by the frequent formation of GONGO organizations that, on one hand, receive financial assistance from the state and, on the other, use the space given to them in pro-government media to discredit CSOs with a long tradition and strong expertise. Also, one of the main roles of GONGO organizations is to take the role of "constructive partner" in decision making processes as it is evident that there is no adequate dialogue even in the case of key legal decisions. Although public hearings were formally held, CSOs proposals were not only taken seriously, but they almost never received feedback on why their proposals did not become part of the adopted documents.*

*Similar to other European countries, Serbia faces a more severe migrant crisis than in previous years. Inadequate public awareness and the absence of reactions from responsible institutions have resulted in the exuberance of nationalist and extremist groups who have initiated violence and threats as legitimate behaviors, with wide space for presenting such views in the mainstream media.*

*The position of CSOs has also not been improved in terms of financial sustainability or service delivery. On the contrary, with the adoption of the new law on free legal aid, certain CSOs who have been performing these activities for almost 20 years are now prevented from doing so. There has also been no announced amendment to the Law on Volunteering or further recognition of social entrepreneurship as a social value.*

*Finally, the best account of the state's disinterest in the work of the civil sector is reflected in the*

*failure to adopt the National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia. At the same time, there were some activities aimed to establishing Council for Cooperation with Civil Society, as response to a strong message from the Progress Report in May 2019. However, the most of liberal and pro-EU CSOs thought that forming such a body at this time would only be a check of boxes and another mechanism for maintaining parallel reality.*



# Executive summary

## Civil Society Overview

	2018	2019
<i>Number of registered organizations (per type) (+ how many have registered in 2019)</i>	<i>31.894 citizens' associations 839 endowments and foundations (2254 associations, 1 endowment and 52 foundations newly registered in 2018)</i>	<i>33.463 citizens' associations 911 endowments and foundations (2090 associations, 4 endowments and 70 foundations newly registered in 2019)</i>
<i>Main civil society laws</i>	<i>Law on Associations; Law on Endowments and Foundations; Public Assembly Act; Law on central Record of the Beneficial Owners; Government Regulation (by-law) on financing programs of public interest (Regulation); Law on Volunteering; Adult Education Law; Law on Youth; Government Regulation on establishing the Office for Cooperation with Civil Society; Law on Local Self Government; Law on the Planning System; Law on Free Access to Information of Public Importance; Law on social Protection; Law on Consumer Protection; Law on Public procurement</i>	<i>Law on Associations; Law on Endowments and Foundations; Public Assembly Act; Law on central Record of the Beneficial Owners; Government Regulation (by-law) on financing programs of public interest (Regulation); Law on Volunteering; Adult Education Law; Law on Youth; Government Regulation on establishing the Office for Cooperation with Civil Society; Law on Local Self Government; Law on the Planning System; Law on Free Access to Information of Public Importance; Law on social Protection; Law on the Consumer Protection; Law on Public procurement</i>
<i>Relevant changes in legal framework</i>	<i>Adoption of the Law on central Record of the Beneficial Owners which prescribes the obligation of the registration of the beneficial owners in the register of the Business Registers Agency. This obligation is a consequence of the FATF recommendations. According to MONEYVAL report on Serbia states, FATF Recommendation No. 8 is only partially fulfilled and highlights the weaknesses in NGO monitoring, including the absence of a separate state monitoring body.</i>	<i>The Law on Free Legal aid - With its adoption, certain CSOs that have performed these activities for years are now prevented from doing it. The adopted solutions virtually prevent CSOs from continuing to provide free legal aid, except in cases from Article 9 of the Law which prescribes that CSOs may provide free legal aid only to the basic law governing asylum law, domestic violence and non-discrimination. It also provides that certain CSOs, within the objectives for which they were established, may provide general legal information and complete legal forms.</i>

<p><i>State funding (key bodies and amounts)</i></p>	<p><i>According to the Budget law for 2018, total amount of funds planned for CSOs support was 61.444.201 EUR. Key bodies for funds' distribution were Ministry of Youth and Sport – 17,6 million of EUR, Ministry of Labor, Employment, Veterans' and Social Policy – more than 9 million of EUR and Ministry of Finance – 8,7 million of EUR</i></p>	<p><i>According to the Budget Law of RS for 2019, total amount of funds planned for CSOs support was 66.982.856 EUR. Key bodies for funds' distribution were Ministry of Youth and Sport – more than 19,5 million of EUR, Ministry of Labor, Employment, Veterans' and Social Policy - 10,7 million of EUR and Ministry of Finance – almost 9,5 million of EUR</i></p>
<p><i>Human resources (employees and volunteers)</i></p>	<p><i>According to SBRA and OCCS data, by the end of 2018, CSOs employed a total of 7945 people (Associations of citizens employed 7071 people and domestic endowments and foundations 874. There is no systematic, comprehensive data on number of volunteers. Some data is being collected by the Ministry of Labor, Employment, Veterans' and Social Affairs, in accordance with the Law on volunteering, which registers only organizers of volunteering, but number of volunteers wasn't evidenced.</i></p>	<p><i>No available data.</i></p>
<p><i>CSO-Government Cooperation (relevant and new body: consultation mechanism)</i></p>	<p><i>Government Office for Cooperation with Civil Society; Contact points for cooperation with civil society in certain ministries and LSGs; NCEU; SEKO</i></p>	<p><i>Government Office for Cooperation with Civil Society Contact points for cooperation with civil society in certain ministries and LSGs; NCEU; SEKO</i></p>
<p><i>Other key challenges</i></p>	<p><i>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.</i></p>	<p><i>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.</i></p>

## Key findings

<b>Key findings of the report</b>	
1.	<i>Violation of fundamental freedoms is one of the strongest findings of this report. Numerous recorded cases of violations of freedom of association, expression and assembly are recorded within Area 1.</i>
2.	<i>Establishing GONGOs and PONGOs is one of the main trends in Serbia during 2019 in the public space and the media. Their role is visible in decision-making processes, distribution of state money, and the initiation and campaigning of critically oriented actors.</i>
3.	<i>Different domestic and international reports assess non-favorable framework for individual and corporate giving. There are no proper tax benefits underlying the further growth of giving. Implementation of existing incentives is not unique and different practices of the competent authorities in this regard are present. The definition of public interest is inconsistent in Law on Associations law and tax laws. There is no system for collecting data on donations from citizens and businesses.</i>
4.	<i>Although there is a framework for transparent state funding, it still contains certain gaps, which allow for the prescribed procedures, and in particular the political influence on the final decisions. The state funding for CSOs in Serbia is one of the initial reasons for increasing GONGO activities and a number of such cases have been reported.</i>
5.	<i>The legal framework still does not stimulate volunteering, no acknowledges the value of volunteer engagement and does not enables the collection and analysis of data on volunteers and volunteer hours.</i>
6.	<i>Although certain changes in the legal framework have been observed, they are not qualitative and do not address the problem of limited influence in the decision-making process. Due to the focus of the EU on quantitative criteria, a trend of faking public participation and debates was observed, with strong GONGOs activities.</i>

## Key recommendations

<b>Key recommendations from the report</b>	
1.	<i>Consistent implementation laws and by-laws in the area of freedom of association, freedom of assembly and freedom of expression at all state levels in order to defend achieved standards in the legal framework, as well as strengthening the accountability of all relevant institutions responsible for the protection of fundamental rights.</i>
2.	<i>Stop using GONGOs and PONGOs for the purpose of legitimizing decisions and proposals of institutions of government, faking public debates as well as misuse of state funds for all associations established and operating in areas of public interest.</i>
3.	<i>Providing stronger political label for the philanthropy with stronger incentives for corporative giving, introducing incentives for individual giving, and harmonization of public interest between different laws as well as establishing system for collecting data.</i>
4.	<i>Developing additional qualitative criteria for participating in distribution of state funds on a basis of expertise and public interest contribution as well as establishing a system for effective regular collecting data on all types of state finding.</i>
5.	<i>Adopt a new Volunteering Act to treat volunteering as an activity of public interest, not as unpaid work as well as by-laws that will make it possible monitoring the effects of its application.</i>
6.	<i>Developing additional qualitative criteria for participating in decision making processes on a basis of expertise and public interest contribution as well establishing a system for effective regular collecting data.</i>

# Findings

## Area 1: Basic Legal Guarantees of Freedoms

### Sub-area 1.1. Freedom of association

#### 1.1.1. Establishment of and Participation in CSOs

**Legislation is fully in line with the standards in this area. There is a possibility for any person to establish associations, foundations and other types of non-profit, non-governmental entities for any purpose as well as for both individual and legal persons to exercise the right of freedom of association without discrimination.** Article 55 of the [Constitution](#) stipulates freedom of association, as well as freedom to stay out of any association. Associations shall be formed without prior approval but shall be entered in the register kept by a state body. [The Law on Associations](#) stipulates that an association shall be established and organized freely, and shall be independent in the pursuit of its goals. Article 19 of this Law stipulates that anyone may become the association's member under equal terms laid down by its statute. An individual may be a member of the association irrespective of his age and in accordance with this Law and its statute. Article 10 of the [Law on Endowments and Foundations](#) stipulates that endowments and foundations may be established by one or more domestic or foreign natural or legal persons having business capacity, they may also be established by a will and if the testator did not specify the name of the executor of the will, competent court for probate proceedings shall determine the executor.

**Registration is not mandatory, and in cases when organizations decide to register, the registration rules are clearly prescribed and allow for easy, timely and inexpensive registration and appeal process.** Law on Associations envisages that Entry in the Association Register shall be made on a voluntary basis and the association shall acquire the status of a legal entity at the date of its entry in the Register. Law on Endowments and Foundations states that endowments and foundations shall acquire a legal person capacity on the day of entry in the Register and that they may not engage in activities before entered into the Register. However, The [Law on the Procedure of Registration with the Serbian Business Registers Agency](#) stipulates the procedure of registration of an association, the contents of the application and the form in which it was submitted.

**The legislation allows for networking among organizations in the country and abroad without prior notification, while there are no legal provisions related to blocking social networks.**

**Practice is partially harmonized with standards when it comes to possibility for every individual or legal entity to form associations, foundations or other non-profit, non-governmental organizations offline or online.** According to the information received upon the FOI request from the Agency for Business Registers, in the past 12 months, registration applications, due to procedural reasons, was denied to 283 associations (due to formal deficiencies), while the number of endowments and foundations was 11. The Agency for Business Registers does not impose bans on the work of civil society organizations, the Constitutional Court does it. In the requested period, it did not have any decision on the ban of the work of associations, foundations and endowments, which the Agency for Business Registers was obliged to enter in the Register of Associations. According to the information received upon the FOI request, the High-Tech Crime Prosecutor's Office does not have information on deleted online groups, as they have no technical capabilities.

According to a survey on civil society conducted by Helvetas and Civic Initiatives for the purpose of the program „Together for an Active Civil Society" in April 2019 (ACT study)<sup>3</sup>, 13% of CSOs have elected, appointed and/or representatives of public administration on their Managing Boards and/or among employees. Looking at the area of work, CSOs dealing with law, public representation and politics (human rights) (23%) have such a person on their Managing Board/as an employee more often than others, while they are least present in CSOs that are active in the area of culture, media and recreation and philanthropic mediation and promotion of volunteerism (10% each). CSOs from Belgrade (18%) and those with budgets exceeding EUR 20,001 (25%) have, more often than others, elected/appointed persons on their Managing Boards or among staff.

**Practice also indicates partially enabling environment in the area of sanctions for non-registering organizations.**

The previous period in Serbia was marked by the formation of a number of grassroots organizations/movements due to the lack of space for public debate. They are particularly active in the fields of ecology and environmental protection and socio-economic rights. One of the most significant results of these local initiatives is that they unite citizens in the fight against corruption, nepotism and negligent dealing with community issues. Without clear operational division, their structure is fluid and depends on personal engagement. Grass roots' key advantage is openness, immediacy and inclusivity, while the key drawback is a lack of clear roles and division of responsibilities. Grassroots have great reach via social networks but with no strategic approach to their work, they react ad hoc. They perceive themselves as well networked with other local grassroots and CSOs but based on personal contacts, while some representatives of formal CSOs identify the lack of strategic connections between these two groups. Due to its unregistered status, the informal group "Defend the rivers of Stara Planina" has been exposed to smear campaigns in the

## BAR ASSOCIATION AGAINST CSOS

The Board of Directors of the Belgrade Bar Association has decided to delete from the directory of lawyers, the lawyer Blazo Nedic because of an alleged conflict of interest. Nedic is a President of the National Association of Mediators of Serbia and one of the registered legal representatives of Partners for Democratic Change Serbia. In an open letter to the public, he stressed that there was no legal basis for such a decision and that it was only part of an orchestrated campaign against him and NGOs. The Bar's decision in the Nedic case is not yet publicly known. Other lawyers who are working in citizens' associations have received similar letters from the Belgrade Bar Association. In March 2019, the President of the Committee of Lawyers for Human Rights, Katarina Golubovic, was warned by letter that she could not represent this association and remain in the status of a lawyer. Faced with such a threat, the Committee of Lawyers for Human Rights changed its representative in April 2019.

<sup>3</sup> [https://act.org.rs/resources/cso-sector-in-serbia-2019\\_full-study-2/](https://act.org.rs/resources/cso-sector-in-serbia-2019_full-study-2/)

previous period. As they are an unregistered group, donations are received through an individual's account. This was used to accuse them of non-transparency and spending of citizens' donations for private purposes<sup>4</sup>.

**The practice is harmonized with standards in the area of forming and participating in networks and coalitions.**

According to available SBRA data, the number of registered associations in 2019. is 2090, while the number of newly registered endowments is 4 and 70 foundations. There are no cases in the survey that CSOs reported that the registration procedure was conducted impartially or that the required registration documents exceeded those stipulated by law.

According to the MM survey, 18 organizations responded that they are member of a home network, 13 that they are a member of two, 13 that they are a member of three or more and 8 of them that they are not a member of them of any. Also, 13 organizations responded that it was a member of one international network, 2 that it was a

member of two, 11 organizations that it was a member of three and more and 26 that it is not a member of any. Among the respondents, none of the organizations members of the network faced any demands from the state.

According to ACT study, when it comes to cooperation with other CSOs, less than 63% of organizations have so far established cooperation with other CSOs, which is significantly less than in 2011 (86%). This is expected, having in mind that number of CSOs has doubled since 2010 and that establishing cooperation requires time, knowledge and contacts with other CSOs. The most common motive for establishing cooperation are common interests and goals (92%), better exploitation of capacities (35%), helping another organization (31%) and better reputation of partner organization (22%), which is similar to 2011. The great majority of CSOs are satisfied with cooperation with other CSOs (82%), which is increase of 6 percent points compared to 2011. 33% of CSOs are members of a CSO network, which is 2 percent point less than in 2011 (35%). In most of the cases, CSOs are members of the national network (20%), and in fewer cases of international (12%), regional (11%) and local (10%). About one third of CSOs (35%) evaluate that there is a strong influence of the network to which they belong, which is significant drop of 16 percent points when compared to 2011 (51%); majority (56%) believe that network influence is weak, while 9% report no influence of the network.

One of the most important activities in the field of networking in Serbia in 2019 is the launch of the Three Freedoms platform. Representatives of 20 civil society organizations signed in Belgrade the Three Freedoms Platform for the Protection of Civic Space in the Republic of Serbia, in order to protect and promote the freedom of association, assembly and information. The launch of the Platform has also been influenced by the fact that CSOs are exposed to more frequent attacks in pro-regime media and attacks on the physical integrity, reputation and honor of their activists.

### 1.1.2. State Interference

**In the area of guarantees against state interference in internal matters of associations, foundations and other types of non-profit entities, legal framework is in line with standards.**

Freedom of association is guaranteed by the Constitution of the Republic of Serbia, and there are limitations only in terms of establishing secret and paramilitary associations. CSOs are autonomous to the state, and self-govern the internal structure and procedures. There is no basis on which the state is to intervene in appointing subjects in organizations. The Law on Associations stipulates that

<sup>4</sup> <https://www.gradjanske.org/en/three-freedoms-under-the-magnifying-glass/>

CSOs shall be run impartially by either a body of members or by elected representatives in the association's bodies. There is no prescribed obligation to previously seek a license for a certain activity. The Law prescribes the obligation of entering activities in the Association's Statute and during the Register Application submission, but leaves freedom in the choice of activity.

**However, when it comes to protection freedom of association, including preventing third parties from violating the freedom of association, legal framework indicates disabling environment.** Although, the Article 3 of the Law on Associations stipulates that an association shall be established and organized freely and shall be independent in pursuit of its goals, there are no specific provisions aimed at direct preventing third parties from the freedom of association. Also, no legal provisions aimed at protection of specific group of CSOs based on its field of operations. Based on civil and criminal laws, they exercise the right of protection as other private and legal entities.

**Partially enabling environment has been assessed in the area of financial reporting (including money laundering regulations) and accounting rules and considering the specific nature of the CSOs and are proportionate to the size of the organization and its type/scope of activities.** The regulations on the annual CSOs financial reporting partially recognized specific nature of CSOs. The Law on associations prescribes that associations shall keep ledgers, draw up financial reports and shall be subject to financial report auditing in line with the accounting and auditing regulations. Law on accounting recognizes a specific nature of the non-profit entities at certain level throughout separated accountancy framework. However, it still contains numerous unnecessary elements that are not relevant for the non-profits operating and make difficulties in recording data.

Article 34 of Law on Associations prescribes that any associations which have received funds from the budgets of the Republic, Autonomous Province or local self-government shall at least once a year make available to the general public the report on their activities and on the scope and method of acquiring and using the financial means and forward it to the provider of such (financial) means. No specific recommendation in regard to this based on different type or size of CSOs. Provisions of the [Law on Central Record of the Beneficial Owners](#) whose Article 2 prescribes that the provisions of the Law refer to, among others associations as well as foundations and endowments are relevant for the work of CSOs. After registration of the real owner, there are no established obligations related to further reporting according to this law neither for CSOs nor other legal entities.

**Legislation is in line with standards when it comes to restrictions and the rules for dissolution and termination meet the standards of international law and are based on objective criteria which restrict arbitrary decision-making.** The Law on Associations allows the association to cease operations at any time, at the discretion of the highest body of the organization. The law also contains some provisions that regulate liquidation of association. Similarly, Law on Endowments and Foundations prescribe terms and procedure of deleting from the Register.

**Additionally, there are no legal provisions related to disproportionate termination due to failing to submit its annual report on time.** This situation is resolving with a paying fine as for other legal entities.

**Practice partially met standards when it comes to sanctions for breaching legal requirements should be based on applicable legislation and follow the principle of proportionality.** Law on associations provides punitive provisions for corporate offences and petty offences. A fine ranging from EUR 2.500 – 7.700 shall be levied for any corporate offence on any association if it performs directly a business or another activity Law on Associations 28 in order to make profit unrelated to its statutory goals, or not stipulated by its statute, or if it performs such an activity although the competent body has established that it does not fulfill the conditions for performing such an activity. A fine ranging from EUR 250 - 700 shall also be imposed on the responsible person at the mentioned

association for the corporate offence.

Concerning the petty offences fine ranging from 300 – 3.300 EUR shall be levied on any association for a petty offence: 1) if it carries out its activities contrary to the law, its statute or its other internal regulations as well as contrary to the rules of the (con)federation of which it is a member 2) if it performs a business or another activity of a larger scope, or of a scope not necessary for achieving the association's goals, paragraph 2, subparagraph 3); 3) if it does not utilize the assets and properties solely for the purpose of achieving its statutory goals); 4) if the foreign association's representative office starts up its activities before it is entered in the Register.

The Law on Endowment and Foundations contains similar provisions with lower fines for both legal and responsible persons. The Law also provides that a fine ranging from EUR 1.100 to 3.000 shall be levied on endowments and foundations if they engage in activities before it is entered into the Registry. When it comes to other laws containing punitive provisions, it is a regular practice to make a difference in terms of the penalty for legal and natural persons, but the laws do not consider whether it is an association, foundation or company.

**Practice indicates disabling environment in the area of the state interference in internal matters of associations, foundations and other types of non-profit entities.** In a parliamentary debate, Aleksandar Martinovic, the chief of the SNS Parliamentary Group, said that reporters, as well as the NGOs, posted security-sensitive questions calling upon the Law on Free Access to Information of Public Importance, and accused them for "tendentious questions aimed at bringing down the security system of the Republic of Serbia." He also accused former Commissioner of Information of Public Importance Rodoljub Sabic of working for foreign security agencies and Serbia's opposition and against the SNS and Serbia. Martinovic said "Serbian citizens should know that we primarily talk about those who mostly demanded (information of public importance), and I say that again, security-sensitive information, like CINS, KRIK, BIRN, BIRODI, Natasa Kandic, Nemanja Nenadic (director of Transparency Serbia) and so on. In this way, Martinovic attacked independent civil society organizations BIRODI, Transparency Serbia, CRTA and the Humanitarian Law Center and editorial offices of independent media CINS, BIRN, Istinomer, TV N1, weekly Vreme, because of their research and analyzes, which are supported by facts "destroying the security system of the Republic of Serbia".

Articles published by websites such as the Istraga and the Patriot contain information that discredits NGOs with critical approach to the Government. The Center for Research, Transparency and Accountability - CRTA, which deals with transparency and free elections, has been their latest target. One article states that the CRTA is influenced by foreign governments and that it is working against Serbia's interests. Also, articles of the same content can be found on similar websites and show a systematic approach to this smear campaign.

The majority of activists of the movement "Do not let Belgrade d(r)own" suffer as a result of orchestrated campaign that can be linked with the ruling arty. Vladimir Djukanovic and Marijan Risticovic (MPs) showed their pictures in the live program and in the Assembly. In the media they were accused of plotting to kill the president. The

In September 2019, Serbian President Aleksandar Vucic called the civil society organizations CRTA (Center for Research, Transparency and Accountability) and CESID (Center for Free Elections and Democracy) "so-called" and stressed that they were "false" organizations. On that occasion, he emphasized that he accepted all five requests they made, although according the Constitution he does not have the authority to decide on these issues (adoption of emergency procedure, public hearings, meaningless amendments in the Assembly, adoption of reports of independent institutions in the Assembly, special debate on the budget). He also pointed out that this was a malicious intention of the opposition and the civil sector, thereby identifying civil society organizations with opposition parties in order to discredit their expertise and disrupt the public image about them.

CI Resource Center was alarmed in 2 cases of the oversight when 2 CSOs connected it with their watchdog activities. Both inspection oversights were conducted according to the Risk Assessment mentioned above and without any notified irregularities in CSOs work. In addition, CI Resource center has been noticed several cases related to the approach among certain banks regarding the implementation of regulations in the field of money laundering. Namely, by applying the Law on real owners, some banks require submitting personal documents of all CSO members instead of just representatives of the management structures, which was the practice so far.

activists of the Initiative were 40 times at the front covers of the *Informer*, daily tabloid close to government, where they were targeted as traitors of Serbia. They are exposed to the smear campaign in the media, pressures on social networks, and pressures on the street.

However, according to the MM survey, from the total number of 52 organizations, 48 organizations responded that they did not experienced threats by government officials and 4 of them responded that they had; 50 organizations did not experience government intrusion into the internal work of the organization (e.g. during board meetings or

events) and 2 of them responded that they did; 50 organizations responded that they haven't experienced unannounced inspections by state authorities and two of them responded that they did.

**Partially enabling environment has been assessed when it comes to cases of invasive oversight which impose burdensome reporting requirements.** No organizations from the MM survey have responded that they experienced invasive oversight (e.g. excessive audit, other burdensome administrative requirements, targeted inspections etc.). However, according to data gathered in the survey for the purpose of the ACT Program excessive supervision of work/frequent inspections was reported by 3% of the CSOs and those are mainly CSOs involved in international cooperation (including European integration).<sup>5</sup>

Based on recommendations of FATF and MONEYVAL expert committee, in June 2018, the Government adopted the [document Money Laundering Risk Assessment and Terrorist Financing Risk Assessment](#) with the accompanying [Action Plan](#) in order to implement the recommendations contained in this document. Based on this, stronger coordination was made between inspections in charge for associations and foundations.<sup>6</sup> In order to exercise effective supervision and coordinate the work of inspectional services, the Coordination Commission for Supervisory Inspection established a Working Group for supervisory inspection of the non-profit sector. The Coordination Commission is an inter-agency coordination body, tasked with aligning and coordinating the work of inspections and enhancing the effectiveness of supervisory inspection through aligning plans of supervisory inspections and training programs, promoting the information exchange and professional and ethical standards of inspectors, monitoring and evaluation of inspections and supervision. The Working Group developed a document called *Procedures and Criteria for Supervising NPOs*. These Procedures introduce steps in preparing and developing a plan for consolidated supervision of NPOs, as well as exercising the consolidate supervision.

**Practice is in line with standards in the area of sanctions applied in rare/extreme cases; they are proportional and are subject to a judicial review.** According to the MM survey just 2 organizations responded they were sanctioned for noncompliance, and 50 of them they were not. One of them responded the sanction was proportional one of them considered that the sanction was excessive for the breach. According to the MM survey two organizations responded they were

<sup>5</sup> [https://act.org.rs/wp-content/uploads/2020/01/CSO-Sector-in-Serbia-2019\\_Full-study\\_FINAL.pdf](https://act.org.rs/wp-content/uploads/2020/01/CSO-Sector-in-Serbia-2019_Full-study_FINAL.pdf)[https://act.org.rs/wp-content/uploads/2020/01/CSO-Sector-in-Serbia-2019\\_Full-study\\_FINAL.pdf](https://act.org.rs/wp-content/uploads/2020/01/CSO-Sector-in-Serbia-2019_Full-study_FINAL.pdf)

<sup>6</sup> According to the information obtained verbally by the members of the Coordination Commission, 40 CSOs were being inspected in 2019 on this basis without significant irregularities or abuses of supervision.

sanctioned for noncompliance, also responded that they used the opportunity to appeal in court. No available data on sanctions from the Working Group for supervisory inspection of the non-profit sector in the area of counter money laundry and financing terrorism.

### 1.1.3. Securing Financial Resources

**When it comes to freely seeking and securing financial resources from various domestic and foreign sources to support CSOs activities, legislation is in line with the standards.** Law of Associations stipulates that the association may perform any activities which help achieve the goals set forth in its statute. The associations, endowments and foundations may directly perform both a business activity and another profit - making activity in accordance with the law regulating the classification of activities, under the certain conditions, mostly in line with standards.

**Similar findings have been identified regarding freely receiving foreign funds, as well as from individuals, corporations and other sources.** There are no limitations in regards to receiving assets from public or private foreign sources and there is no discrimination against the source of financing.

Although the legislation regarding this standard is mostly in place, there are certain problems with **practice**. **When it comes to engaging CSOs in economic activities, standards are partially met.** According to the MM survey, 37% of organizations reported income from economic activities, while 21% experienced administrative obstacles (no further explanations) when engaging in economic activities in practice. The total number of registered associations at the end of 2019 is 33,463 and the number of foundations and endowments is 9,111. The number of registered associations with economic activities is 25, 8% of the total number of registered associations and 3, 5% from the total number of endowments and foundations.

According to the interviewed respondents from the Coalition for developing of solidarity economy, the lack of knowledge, human and other resources represent key barriers to development of business and achievement of a greater social impact for the most of CSOs establishing social enterprises. To allow social enterprises to do their business in the market more successful, be ready for investors and achieve greater impact in the community, they need to be provided with an access to education, structured support programs for different enterprise development phases and linkages with key stakeholders in the state which could facilitate their development. This requires creation of strong, long-lasting and stable support programs in order to enable continuous development of this sector. Improving financing from public funds is also needed including the enhancing transparency of the existing public sector financial instruments and their openness towards different legal forms of business. Raising awareness among the sector representatives about contribution these enterprises

## LAW ON SOCIAL ENTREPRENUERSHIP

The Ministry of Labor, Employment, Veteran and Social Affairs (MLEVSA) issued the Draft Law on Social entrepreneurship in November 2018. However, it does not recognize associations as owners and founders of social enterprises. The draft also predicted financial incentives for registered social enterprises. Legal forms in which a social enterprise can operate can only be companies and entrepreneurs, which is a particularly aggravating circumstance having in mind that associations are most often founders of social enterprises.

After a strong pressure of interested CSOs gathered by the Coalition for Social Entrepreneurship, the process has been stopped by the intervention of the Prime minister cabinet in March 2019. The new working group has been established with expert support of GIZ Serbia and strong involvement of CSOs, but the draft is not published yet. Although, the Government expressed strong willingness for adoption the Law, there was no intention on the part of the state to consider non-financial incentives and to recognize social entrepreneurship as social value within different sectorial policies.

can bring to social services, health care, education, culture, employment of different categories of population and innovation in addressing fundamental social problems. Besides the grants and co-funding, advocate other mechanisms like subsidies, tax reliefs, public procurement, etc.

**Partially enabling environment has been detected during assessment of restrictions of receiving foreign funding as well as receiving funds from individuals, corporations and other sources.** Slightly less than 50% MM survey respondents reported that they have income from foreign sources and less than 25% of them are dominantly financing themselves through foreign funding. Also, No CSOs receiving income from foreign sources reported facing any obstacles. 44% of MM surveyed CSOs reported that they have income from private sources and none of them are dominantly financing themselves through private funding. From the CSOs that reported that they have income from private sources no one responded that they faced any restrictions when receiving funding from private sources.

However, ACT study data indicates shattering the myth of CSOs as organizations that are funded mostly by the international community – namely, only 15% of CSOs reported receiving funding from these sources (including 4% EU funding). EU funds are still a limited source of income for Serbian CSOs; nevertheless, CSOs involved in international cooperation (including European integration) are in the leading position (19%). These data also show that CSOs dealing with development and housing receive 52% of their funding from citizens and 23% from the business sector, which is, in both cases, the biggest share compared to other CSOs. According to the preliminary data obtained from the Catalyst Foundation, 279 organizations received donations from private sources (from citizens and companies) in 2019.<sup>7</sup>

According to [Brodoto Serbia Mapping of the alternative financial mechanisms, opportunities and obstacles in Serbia](#), bearing in mind the general situation regarding crowdfunding and the legislative framework, there are many challenges. Currently, crowdfunding campaigns are possible, but they can be extremely complicated from the point of view of procedures and administration. This demotivates both CSOs and the small and startups and entrepreneurs, especially in early business development, to use this alternative way of financing.<sup>8</sup>

<sup>7</sup> The full research on philanthropy in Serbia for the 2019 will be available in April.

<sup>8</sup> [https://gallery.mailchimp.com/27f14ad1ed232ea5b6a1a1461/files/99d99a2d-69c6-452d-a6d8-b6ee788d622e/Mapiranje\\_alternativnih\\_finansijskih\\_mehanizama\\_prilika\\_i\\_prepreka\\_u\\_Srbiji\\_1\\_.pdf](https://gallery.mailchimp.com/27f14ad1ed232ea5b6a1a1461/files/99d99a2d-69c6-452d-a6d8-b6ee788d622e/Mapiranje_alternativnih_finansijskih_mehanizama_prilika_i_prepreka_u_Srbiji_1_.pdf)

## **EU Guidelines assessment**

**Result 1.1.a** *There was no change in the legislative framework directly governing freedom of association (the Law on Associations and the Law on Endowments and Foundations) during 2019. The Constitution and specific laws guarantee freedom of association to all legal and natural persons, as well as the freedom to act within informal groups. The registration process of CSOs is simple, fast (up to 5 days) and it is relatively not demanding financially, and the only restrictions on the purpose of CSOs are respect for international law and standards. Guarantees against state interference in internal CSO matters are provided by law. The Proposal of the Civil Code contains significant restrictions of freedom of association, but the document itself has not yet been adopted. However, by adopting the Law on Central Records of Real Owners, CSOs have imposed an additional obligation whose effects are questionable. Considering that in practice the concept of ownership is related to the concept of property, the provisions of this Law are not in accordance with the provisions of the Law on Associations and the Law on Endowments and Foundations, which prohibit the division of property among the founders, members of association bodies, directors, employees or related persons.*

**Result 1.1.b.** *Regarding the implementation of regulations in the area of freedom of association, abuses are evident with the purpose of making existing mechanisms senseless and reducing the impact of the critical attitude of civil society. There is a legal framework under which any person can establish a nonprofit entity defined by law. Thus, it also allows a potential undisclosed conflict of interest in cases where the association is founded by a political party or the individuals closed to Government. This becomes concerning especially because of the growing trend of establishing GONGOs. Though it is possible to finish part of the registration process online, the official application for registration must be submitted only in hard copy.*

**Result 1.3.a.** *Having in mind that registration of informal (grassroots) movements/initiatives is not mandatory yet and that they are free in their work, the gathering and activism of grass root movements / initiatives, which mainly sought solutions to the socio- economic issues, or have an environmental message, marked the previous year. They are, in fact, a response to citizens' demands in a situation where there is no public debate and reaction from the authorities.*

**Result 2.1.a.** *Financial and tax rules are demanding in proportion to the revenues generated by CSOs. Since the beginning of 2015, in line with the amendments to the Law on Accounting, 3 different forms of financial reporting have been implemented, depending on the income of CSOs.*

**Result 2.1.b.** *There is a partial support system for implementing financial (including tax) rules. CSOs, as well as other legal entities, have a certain level of support provided by officials of the Tax Administration and the Business Registers Agency, which, however, are not obliged to provide support and are very restrictive in providing additional information. The VAT exemption procedure has been changed by the beginning of 2019 so CSOs now submit their request for exemption exclusively electronically, through the E-Porezi portal.*

## **Sub-area 1.2. Related-freedoms**

### **1.2.1. Freedom of Peaceful Assembly**

**The legal framework in Serbia is based on international standards and provides the right for freedom of assembly for all without any discrimination.** The right to Assembly is explicitly stipulated by the Constitution. Article 54 stipulates Freedom of Assembly held outdoors may be restricted by the law only if necessary to protect public health, morals, rights of others or the security of the Republic of Serbia. Furthermore, Assembly held indoors shall not be subjected to permission or registering unlike Assembly held outdoors. The Public Assembly Act provisions explicitly determining that a public assembly refers to a gathering of 20 or more persons on account of expressing and realizing different viewpoints and goals which are allowed in a democratic society. A necessary precondition for the protection of the right to freedom of assembly specified by the Act is that the assembly must be deemed peaceful. The right to assembly is guaranteed to all persons, as prescribed by Article 2 of the Act.

**However, when it comes to restriction spontaneous, simultaneous and counter-assemblies, legislation partially satisfies standards.** There are no legal limitations in terms of multiple assemblies on the same location at the same time. The only explicit limitation is the nature of the assembly which should be peaceful. The Act does not recognize the category of counter assembly. The Public Assembly Act stipulates a dual obligation of the competent bodies, negative and positive. The negative obligation is contained in the request that competent organs do not, by its actions, jeopardize or limit the right of citizens to public assembly, while the positive obligation implies the obligation to take all steps, primarily with regard to public safety work, so that the assembly passes without incidents. On the other hand, not having a clear legal definition of these concepts may lead to serious problems in the practical application of the Act, which was previously the case, and it was not improved by passing the new Act in 2016.

**Similarly, partially enabling environment has been notified regarding prior authorization of the right by the authorities.** The Public Assembly Act recognizes the system of submitting notification but not the authorization of the public gathering. The organizer, unless it is a spontaneous gathering, shall inform the Ministry of Interior on public assembly. The Act also stipulates that public gathering can be reported and organized as the motion of participants of public assembly in a specific location, provided that it is necessary to emphasize it in the application submitted to the police. Article 6 stipulates certain limitations in terms of the assembly location and states that assemblies cannot be held in front of health institutions, schools, preschool institutions as well as objects of strategic importance to the defense and security of the Republic of Serbia.

**Finally, restrictions of the right based on law and prescribed by regulatory authority can be appealed by organizers, which is in line with standard.** The Act envisages the possibility of complaint in the procedure as well as entering into a dispute, which is stipulated by Article 16 of the Public Assembly Act. The complaint is submitted to the Ministry of the Interior within 24 hours after receiving the decision, and the Ministry has to act within 24 hours of receiving the complaint. A dispute may be lodged against the final decision of the Ministry.

**In practice, there are certain cases of encroachment of the freedom of assembly for all which indicate partially enabling environment,** although the Ministry of Interior did not provide official information. According to the MM survey, 15 organizations responded that they practiced freedom of assembly. 2 of them responded that administrative requirements were not burdensome for the organizers (e.g. prior authorization to hold the event and for one of them they were. One of them

responded that access to the desired venue was not limited. No CSO responded that due to restrictions, participants could not gather at the desired time.

However, CI reports "Three freedoms" record a trend of increasing of public gatherings during 2019. CSOs, informal groups, political parties, both liberal and liberal prominences, appeared as organizers. However, liberal rallies generally occurred in response to liberal group public gatherings. During 2019, the Pride Parade was held in Belgrade and for the first time in Novi Sad with great measures and police protection.

During 2019 additional restrictions in the local legislative have been recorded.<sup>9</sup> Using their legal authorities in the area of governance of the public spaces, certain local-self-governments, occupying the public space needed for organizing public gatherings asked for the local tax payments or to signing commercial contract with local utility company for cleanness (to clean the space after the gathering). This means that if an association wants to set up a stage or a promotional stand during public gathering, it will not get a permit unless it has paid all local taxes imposed by the local government on any basis. Additionally, utility taxes for using public space for this purpose are the same for both profit and non-profit entities and CSOs are not able to pay it in some cases. All mentioned above could be de-motivated for exercising freedom of assembly and indicates hidden legal obstacles below the primary legislation.

A group of right-wingers gathered, on 5th May, in front of "Roma" bakery in Borca, Belgrade, demanding its closure because a former bakery employee was photographed, two years ago, gesturing the Albanian national symbol - the two-headed eagle. Interior Minister Nebojsa Stefanovic said police kept the peace during a gathering of citizens outside a bakery in Borca. Human rights activists and most opposition parties in Serbia condemned the attack on the bakery in Belgrade, while right-wing MP Srdjan Nogo not only attended the attack but also defended its legitimacy. Human rights activists, neighbours and the opposition organized a rally to support the bakery owner, which once again provoked right-wingers to protest. They walked around Borca singing nationalist songs and spreading hate speech against the Albanian minority, two days after the gathering. Police did not prohibit this nationalistic rally, indicating that such behaviour was permissible.

**When it comes to explanations of restrictions of the freedom of assembly, practice also partially satisfies standards.** According to CI bi-weekly reports "Three freedoms", during 2019, there has been an increase in the number of gatherings of illiberal groups, which should be prohibited in relation to the requirements of the Law on Public Meetings.

During the three days of the panel, the [Zone of New Optimism](#) in Sabac, a group of young men tried to disrupt it. On the first day before the start of the event, the assembled young men [shouted and insulted](#) the participants of the panel, but there were no major incidents. The start of the panel was half an hour late. [The same case was repeated](#) for the next two days. Although Sabac television, co-organizer of the five-day event, sent a letter to the Sabac Police Department asking why they were not responding and how is it possible that an unreported rally could interfere with the event for the third day, they have not received the answer yet.<sup>10</sup>

<sup>9</sup> Interview with representative of National Coalition for Decentralization for the purpose of TASC0 3 NA.

<sup>10</sup> <https://www.gradjanske.org/en/three-freedoms-under-the-magnifying-glass/>

**Unfortunately, disabling environment has been identified for exercising simultaneous, spontaneous and counter-assemblies.**

According to the MM survey, only 5 CSOs reported they have participated in spontaneous assemblies and 3 of them in counter assemblies. All respondents stated that they haven't witnessed the lack of police protection during simultaneous and counter-assemblies as well as they weren't involved in assemblies that were banned because of the possibility of counter-protests.

At the Kolarac Endowment building in Belgrade, [20 people wearing shirts with nationalist symbols interrupted a performance](#) named "Srebrenica. When we, the killed rise", which was organized by the Helsinki Committee for Human Rights. This is the same group of young men who was at the counter protest in front of the Presidency earlier that day and the police knew about all this but did nothing about it.

During the event, the right wing activist began yelling that the genocide did not take place in Srebrenica and that Ratko Mladic, one of the masterminds of the 1995 genocide, was a hero and then they began singing nationalist songs and to threaten to throw a smoke bomb.

Selective implementation of the law is evident, as the police did not reacting in this case such as in many other cases, while for example, activists of the Youth Initiative for Human Rights, who [interrupted speech of a convicted war criminal](#) a year ago, were kicked out and sentenced.

From May 29 to June 1, the "Mirëdita, dobar dan!" festival was held, presenting the cultural and social scene of Prishtina to the Belgrade audience. The trend of attacks on festival participants and supporters is increasing every year, and this year it has been noticed that the security services were practicing "over policing". There was an incident when a lit torch was thrown in the space where the event was organized. Right-wingers gathered several times during the festival, making riots. This year, for the first time, hooligans also protested and they clashed with police, but police managed to prevent them from entering the premises of the festival.<sup>11</sup>

The aforementioned cases show a trend of unequal treatment of the police, where in many cases when it comes to holding events or public gatherings with sensitive topics. In many cases, the police, although present, do not respond at all, although the security of people gathered by counter-rally participants is clearly compromised. In other cases, another indicative problem arises regarding "overpolicing".

**Practice indicates partially enabling environment when it comes to cases of freedom of assembly practiced by CSOs without prior authorization** although in the MM survey, all CSOs responded that spontaneous assembly was not dispersed by police due to lack of authorization/ notification. [Dobrica Veselinovic](#), one of the prominent members of the "Don't let Belgrade d(r)own" initiative, received a 20-day prison sentence following a verdict by a misdemeanor court for

Civic Initiatives hosted a [media conference on "Rakita - The Breakdown of the Rule of Law"](#) of the Defend the Stara Planina Rivers movement in the Human Rights House. At the very beginning of the conference, [a group of thugs in t-shirts with the sign "Civil Guard"](#) and posters on which were the lies about the members of the Defend the Stara Planina Rivers (ORSP) movement. This provocation was intended to discredit the work of the ORSP movement and to put the story of SHP aside. This GONGO was supported by the Informer team (pro-regime tabloid known for articles in which they attack and target CSOs) who appeared outside the Human Rights House, although they were told that you did not attend the conference because of their practice of violating the journalistic code and previous disruption of the similar event. After the event, [Informer published a text](#) where they falsely stated that the director of Civic Initiatives had physically assaulted their journalist. A police patrol did not respond to the call.

<sup>11</sup> <https://www.gradjanske.org/en/three-freedoms-under-the-magnifying-glass/>

organizing spontaneous protests after the demolition of the facilities in Savamala, even though he had previously paid a fine. This case is a continuation of attempts at institutional intimidation and pressure on activists, as evidenced by the numerous legal proceedings initiated against civil protest organizers aimed at effectively restricting freedom of assembly. There are more than 30 misdemeanor and criminal proceedings against this initiative and their activists. Such cases have been sporadically recorded and when it comes to other informal groups that have organized public gatherings such as the Local Front, an informal movement against the construction of mini-hydropower plants.<sup>12</sup>

**However, disabling environment has been detected regarding using excessive force.** Although in the MM survey, everyone responded that authorities did not use excessive use of force on participants as well that no one from participants was detained.

Thousands of protesters in Serbia gathered for the 15th week in a row to protest against President Aleksandar Vucic. Up until the last gathering, all the protests were peaceful. The demonstrations escalated on March 18, when protesters stormed the Serbian Radio and Television (RTS) led by opposition leader Bosko Obradovic. They asked the editor-in-chief to allow them to address the public live. The editorial team denied the request, and police started [pushing and dragging out](#) the protesters. Meanwhile, the RTS director addressed the public, saying the protest had lost its legitimacy by entering the building. Police said all protesters who entered the building will be prosecuted.

Opposition leaders announced [another gathering at noon](#) ahead of the Presidency during the presidential press conference on the events of the previous night. One of the protesters was given a 30-day prison sentence for entering the RTS building, while the other was fined 20,000 dinars for assaulting a police officer. Leaders of the Alliance for Serbia and the organizers of the 1 in 5 Million protests said at a media conference on Monday that the young people arrested during the protests in Belgrade must be released. Students of the Languages High School in Belgrade staged a protest over the arrest of their schoolmate accused of participating in protests and incidents at the Serbian state TV (RTS).

There was an incident [on the last "1 in 5 Million" protest](#) in front of the Serbian Presidency building. A delegation of protesters tried to deliver a list of demands to the President but was stopped by security guards who pushed them back across the fence and then prevented others from crossing over. One of the participants of the "1 in 5 million" protest, SrdjanMarkovic, [ended up in the emergency room](#), where he said it was determined that his ribs and head were injured. [He claimed that he did not break the law](#) because the presidency is a public building, not a residence and added that the security detail did not have the right to use force outside the building. [While president said](#) members of the Armed Forces only "protected the Presidency building" and used "minimum force", [experts say there was overuse of force](#) and questioned why communication between the Army and Police (with whom protesters previously agreed on leaving demands in front of the Presidency Building) did not work that evening.

On the occasion of the announced [quest appearance of President Vucic](#) on the national service, students from the association "1 in 5 million" announced that they would wait for him in front of the RTS building to ask him certain questions, and several hundred citizens gathered in front of the building to support them. On the other hand, supporters of the Serbian Progressive Party organized a counter-protest at the same place, which was followed by a series of different incidents. In addition to throwing insults at citizens and certain opposition leaders, several attacks on [students](#), citizens, and [cameramen](#) were reported, and one of the most serious incidents occurred when a group of men

<sup>12</sup> <https://www.gradjanske.org/en/three-freedoms-under-the-magnifying-glass/>

without any official badges prevented free movement of citizens.

**There were no reported cases of violence when it comes to media access to the assembly, which is in line with the standard.**

### 1.2.2. Freedom of Expression

**The legal framework provides freedom of expression for all which is in line with standards.** Freedom of thought and expression are guaranteed by the Constitution. Article 46 prescribes that the freedom to seek, receive and impart information and ideas through speech, writing, and art or in some other manner. Article 47 of the Constitution especially emphasizes the freedom of expressing national affiliation, and that no person shall be obliged to declare his national affiliation. When talking about national minorities, they are provided with the wide scope of guarantees: in relation to freedom expression. No legal provisions aimed to limitations of the right of expression and receiving information, including the internet.

**Restrictions imposed by legislation are clearly prescribed and in line with international law and standards.** Article 46 of the Constitution stipulates that the freedom of thought and expression shall be guaranteed, as well as the freedom to seek, receive and impart information and ideas through speech, writing, art or in some other manner. Freedom of expression may be restricted by the law if necessary to protect rights and reputation of others, to uphold the authority and objectivity of the court and to protect public health, morals of a democratic society and national security of the Republic of Serbia.

**Libel in Serbia was decriminalized in 2012 by the Amendment to the [Criminal Code](#) which is in line with standards.**

**However, when it comes to practice, disabling environment has been assessed regarding the freedom of expression of CSO representatives, especially those from human rights and watchdog organizations on matters they support and they are critical of.**

Numerous domestic international reports (Three freedoms, CI Annual report on shrinking civic space, Freedom House, Civicus Monitor) recognize the permanent practice where human rights and watchdog organizations are the subject of the smear campaigns due to their critical approach to the Government.

Following the appearance of Sonja Stojanovic Gajic, director of the Belgrade Center for Security Policy, on a [television show](#) stating that the announcement of the hunger strike by Defense Minister Aleksandr Vulin is just another reality show, aimed at distracting citizens from thinking about current issues, a GONGO called National Avant-garde [published a video](#) criticizing the work of the BCSP, and its director personally. The BCSP has been targeted lately because of their reports in which they are describing Serbia as a captured state and also calling for introduction of the "Pribe mechanism" in Serbia as an aid in fighting the capture state. [The captured state](#) implies a state of widespread corruption, which allows public resources to be used for private purposes, while control mechanisms are neutralized, either by legal or illegal channels. This situation extends to sectors covered, to a varying extent, in certain negotiating chapters, but also to the political criteria whose fulfillment is more difficult to follow. European Commission ordered independent expert report about the [state of rule of law in Macedonia](#). BCSP stated that if the EC would send experts to Serbia to make a similar report it would make a difference in the rule of law in Serbia. After those claims, GONGOs and pro-government media started targeting BCSP even more.

## POPULISM AGAINST HUMAN RIGHTS DEFENDERS

*Igor Juric, founder of the Tijana Juric Foundation, verbally attacked the Child Rights Centre on Twitter, asking whether they were "putting the wind in the back of the murderers of children" through their actions. This attack was triggered by a joint initiative of several CSOs and representatives of the professional public aimed at the Constitutional Court, demanding that the constitutionality of the adopted amendments to the Criminal Code be questioned. These amendments introduced a sentence of life imprisonment without the possibility of parole. Mr. Juric's guest appearance on Radio Television of Serbia was followed by numerous negative reactions addressed to the Child Rights Centre and other CSOs. Among them, Pavle Bihali, founder of Levijatan movement, known for nationalistic statements and spreading nationalistic hatred and intolerance stood out. The aforementioned public appearances were followed by death threats to individuals from organizations, which forced them to file criminal charges. Threats of death and lynching on social media continued after the appearance of the program director of Civic Initiatives on N1 television with Igor Juric. This only contributes to the ongoing stigmatization of the civil sector, which is often targeted by a section of the public that describes them as traitors and foreign mercenaries.*

However, according to the MM survey, 44 out of 52 CSOs responded that they did not have pressures for critical speech (e.g. intimidation, threats for persecution, censorship) and 8 of them had. 50 organizations did not have pressures for activities targeting state policies and 2 of them had. All MM respondents stated that they did not have their communication tools hacked or blocked.

**Practice also indicates certain cases of encroachment of the right to freedom of expression for all which means that standards are not satisfied.** Through its bi-weekly monitoring reports on the fundamental rights "Three Freedoms under the Magnifying Glass", Civic Initiatives have identified in total of 94 cases of violations of the right to freedom of expression in 2019.

These are just some of the most representative examples of violations of freedom of expression and the media. Cancelling debates, pressuring journalists, underestimating their work, constant campaigning in pro-regime media are just some of the ways in which the right to freedom of expression and the media is violated. Of particular concern is that most of these attacks come from top government officials and close associates.

Through the requested FOI requests, the Ombudsman replied that there were no instituted proceedings initiated through this institution regarding the violation of the right to freedom of expression.

**Similarly, there are also cases where individuals, including CSO representatives are persecuted for critical speech in public or private**

Through the requested FOI requests, the Ombudsman replied that there were no instituted proceedings initiated through this institution regarding the violation of the right to freedom of expression.

The Serbian Parliament, without the presence of a part of the opposition that boycotted the sessions, adopted controversial amendments to the Criminal Code. There was also no public consultation and no experts in the field were consulted. During the parliamentary debate, MPs of the ruling majority attacked Judge Miodrag Majic, who is also a representative of the Center for Judicial Research, who criticized the amendments to the Criminal Code, and according to the representatives of the legal profession and the opposition, these attacks are a new phase in relation to political authorities towards the judiciary and this practice

undermines the country's legal order. The High Judicial Council as the highest legal body condemned the attacks on Judge Majic.

Activist [Milinka Nikolic](#) has been repeatedly questioned by police officers, and the last in a series was a polygraph examination because of "inflammatory speech" held in September in front of the Presidency building in Belgrade to protest the construction of mini hydropower plants. Milinka, who performs the job of secretary general of the Stara Planina Union of Local Communities, was initially questioned in the village where she lives, after which she was summoned to the police station in Pirot. Eventually, she was sent to the Nis police station to have her testimony checked on a polygraph. This case is a continuation of the pressures on the activists in the Stara Planina area that culminated in physical assaults conducted by private security who were hired by the investor to oversee illegal work in those areas.

However, according to the MM survey 50 out of 52 organizations responded that they were not persecuted due to critical speech, in public or private and 2 of them were. 45 respondents stated that they did not succumbed to self-censorship and 7 on them did.

**Disabling environment has also been identified when it comes to sanctions for critical speech, in public or private, under the penal code.** Although the libel is de-criminalized, certain cases of sanction for critical speech under the penal code have been recorded.

The trial of the [Aleksandra Jankovic](#) who was accused of sending threats and insults to President Aleksandar Vucic and his children began in Sabac. This express reaction of those in charge is not an indicator of the efficiency of the judicial system, but of the different standards used to protect the rights of persons in power or those close to them from those which apply when the rights of other citizens are threatened. This is supported by the huge number of unresolved threats against journalists and civil society organizations that are left without a closure. She was in custody and her lawyer pointed out that this case is used as a punishment for political opponents. Her trial is still ongoing.

However, 51 MM respondents stated that they were not sanctioned for critical speech private and 1 of them was. Through the requested FOI requests, the Ombudsman replied that there were no instituted proceedings initiated through this institution regarding the violation of the right to freedom of expression.

### 1.2.3. Access to Information

**Serbian legislation does not contain prohibitions regarding communication and access any source of information, including the Internet and ICT which is in line with standards.**

## ATTACKS ON JOURNALISTS

In December 2018, there was an attempt of murder of a journalist Milan Jovanovic when his house was set on fire in December 2018, and several shots were fired at the front door of his home. Former Grocka mayor Dragoljub Simonovic and a high official of a ruling party has been charged with organizing the attempted murder. A year later, no verdict was rendered in this case, and one of the reasons was the frequent adjournment of the trial due to the alleged absence of the accused Simonovic. This sends an extremely bad message that journalists are not adequately protected and that an attack on their physical integrity can take place without prompt and adequate punishment. Two people who set the journalist Milan Jovanović's house on fire were arrested. The Mayor of Grocka, Dragoljub Simonovic, was arrested on suspicion that he had ordered the burning of the house of journalist of the Žig Info news portal following his reporting on corruption in the municipality.

**When it comes to prohibition unjustified monitoring of communication channels, including Internet and ICT, or collecting users' information by the authorities, legal framework indicates partially enabling environment.** Interception of communication in criminal proceedings without a warrant issued by the competent court is forbidden. Covert Interception of Communications is ordered in the case where grounds for suspicion exist for a certain person who committed the criminal offense, and for a criminal procedure where evidence cannot be gathered in another manner, or where gathering would be significantly aggravated, as well as where grounds of suspicion exist for the person preparing to commit a criminal offense which cannot be prevented or proved in any other manner that enters into the domain of privacy to a lesser extent.

An employee at the Krusik Factory, who [leaked information](#) to the Arms Watch portal that Serbia's Interior Minister Nebojsa Stefanovic's father was involved in the arms trade, was arrested on charges of disclosing business secrets. The whistleblower, Aleksandar Obradovic was initially sentenced to house arrest, but under alleged political pressure the judge later decided to order a 30-day stint in jail. While Serbia's Special Prosecution for High-Tech Crime claimed that the [investigation](#) and proceedings against the Obradovic were in accordance with the law, former Commissioner for Information of Public Importance, Rodoljub Sabic, noted that the public remained deprived of key facts regarding the case. A petition calling for Aleksandar Obradovic's release amassed over 30,000 signatures in December 2019. At the end of December, Obradovic was released from house arrest, but no decision has been taken on his return to work and criminal proceedings against him have not been completed.

Article 167 of the [Criminal Procedure Code](#) prescribes that the special evidentiary action referred to in Article 166 of this Code is ordered by the judge for preliminary proceedings by a reasoned order. The order is executed by the police, Security Information Agency or Military Security Agency. Legal entities, companies and other enterprises registered for transmission of information are required to cooperate with competent bodies and enable the implementation of this evidentiary action.

**There are certain cases in practice where restrictions are imposed on accessing any source of information, including the Internet or ICT which means that standards are partially met.**

According to the MM survey, 49 organizations responded their channels of communication were not blocked and 3 of them responded their channels of communication were blocked. 50 organizations responded that they did not have restrictions to access to information online or offline and 2 of them had.

Facebook prevented the [Autonomous Women's Centre](#) from sharing the link with a statement by the Autonomous Women's Centre the Court of Appeal's verdict in the case of the rape of a Roma girl, as the link allegedly violated Facebook's standards. This case was recorded by the Share Foundation as the algorithmic blocking and suspension of content.<sup>13</sup> When she pointed to nationalist attacks on an Albanian bakery in Borca, [activist Sofia Todorovic](#) faced the blocking of her Twitter account. This case was recorded by the Share Foundation Content as manipulation and organized logging in to social networks and blocking accounts.

In Serbia the internet is widely accessible and affordable. 72.9% of households have an internet connection according to 2018 data (data for 2019 are not yet available<sup>14</sup>). Data also shows Internet is

<sup>13</sup> <http://monitoring.labs.rs/>

<sup>14</sup> <https://www.stat.gov.rs/sr-Latn/oblasti/trziste-rada/zarade>

affordable in Serbia because 1GB of data is priced at 0,85% of average income.<sup>15</sup> **All this indicates fully enabling environment.**

**However, there are some cases of unjustified monitoring by the authorities of communication channels, including the Internet or ICT, or of collecting users' information which is partially in line with standards.**

After KRIK (the Crime and Corruption Investigation Network) published [the story of a corruption affair](#), whose main actor is the brother of Finance Minister Sinisa Mali, Predrag Mali, [orchestrated attacks on KRIK in pro-regime tabloids have begun](#). Pro-regime tabloids, known for constantly presenting lies and defamation against anyone who dares to criticize the ruling party reported that KRIK journalists chased an unmarried wife and child of Predrag Mali, what KRIK sharply denied. KRIK has explicitly stated that he is not their journalist or associate. Police announced the reward for anyone who knows the person who followed Predrag Mali's wife. Fifteen days later, police arrested the suspect, who was soon released. For now, it remains unclear whether the man surrendered himself or was identified and arrested by police according to someone's information. A journalist for the KRIK investigative journalism portal said that [there are indications that the portal and its staff are being monitored](#) by the authorities.

A report from the Belgrade Centre for Security Policy „A Case Study - Threats and Pressures on Activists”, states that almost all of their interviewees are sure that their electronic communications have been monitored, although most of them point out that there is no solid evidence for this. This is mainly conclusion from interference with their cell phone calls, or "a crystal clear signal, even in places where the signal is weak to others." Also, some of the respondents pointed out that their batteries in the phone get unusually low in the small period of time and that their phones are "hot"<sup>16</sup>.

**It is similar with cases of police harassment of members of social networking groups.** Through the FOI request sent to Ombudsman, this institution stated they had no reported cases of police persecution/harassment of members of online initiatives and groups recorded by your institution in the past 12 months.

According to the MM survey, 49 CSOs and informal groups responded that they did not face persecution for activity in an online network/ initiative and 3 of them did.

Previously mentioned case of [Aleksandra Jankovic](#) who was accused of sending threats and insults to President Aleksandar Vucic and his children, was also assessed within this indicator. This express reaction of those in charge is not an indicator of the efficiency of the judicial system, but of the different standards used to protect the rights of persons in power or those close to them from those that apply when other citizens' rights are threatened. This is supported by the huge number of unresolved threats against journalists and civil society organizations that are left without a closure. She was in custody and her lawyer pointed out that this case is used as a punishment for political opponents. Her trial is still ongoing.

<sup>16</sup> [http://bezbednost.org/upload/document/studija\\_slucaja\\_pretnje\\_i\\_pritisici\\_na\\_aktiviste\\_i\\_.pdf](http://bezbednost.org/upload/document/studija_slucaja_pretnje_i_pritisici_na_aktiviste_i_.pdf)

## **EU Guidelines assessment**

**Result 1.2.a** *Although guaranteed by the Constitution, freedom of assembly has not been adequately regulated for a long time, given that for a long time (since 1992) a very restrictive law was enacted, which was declared unconstitutional in 2015 by a Constitutional Court decision. The Public Assembly Act has been in force since 2016, but neither does it adequately protect this important human right. Numerous restrictions on freedom of assembly are set broadly and give too much space for arbitrary decisions by the Ministry of the Interior. The law provides for a similar possibility for LSGs, which themselves determine public spaces that are not suitable for public assemblies and thus reduce the size of places for possible public assembling or do not specify places suitable for public assembling. Although the law acknowledged spontaneous, peaceful assemblies that were exempt from its implementation, they were at the same time unjustifiably limited by the provision that in this case there should be no organizer or person inviting such a gathering. This is the opposite to the essence of spontaneous assemblies, i.e. prompt reactions to an event when there are objectively no conditions for registering a meeting. In addition, the Act does not provide for an effective mechanism for appealing against a ban on public assemblies (neither administrative court proceedings nor constitutional appeals provide timely compensation).*

*Freedom of expression is explicitly guaranteed by the Constitution, primary and secondary legislation. All individuals and legal entities are free to express themselves. Restrictions on the right to freedom of expression, such as the restriction of hate speech, provided for by law, are clearly prescribed in accordance with international law and standards.*

**Result 1.2.b.** *The practice of selective implementation of the Public Assembly Act and unclear reactions of the competent authorities, depending on who organizes the public assembly, continued throughout 2019. This is above all evident during the organization of opposition protests, protest gatherings of informal groups about environmental protection (Let's Defend the Rivers of Stara Planina), events dealing with topics that usually gather right-wing organizations (Festival Miridita - Good Day) and assemblies organized by movements for reconciliation and humanitarian law, groups of citizens affected by the implementation of the particular legal solutions.*

*Freedom of expression is one of the most endangered human rights in Serbia. The overarching environment still does not allow this right to be fulfilled. Cases of threats, intimidation and violence against journalists remain a concern, while investigations and final sentence are still rare. The two most famous indexes in the world that measure freedom of expression are Reporters Without Borders and Freedom House have announced that Serbia has recorded one of the biggest falls on their lists (by 10, or 4 places). The practice of shrinking the space for the work of journalists, activists and CSOs continues through pressure and verbal threats, physical attacks on them and/ or their property, media campaigns, obstruction of events and activities.*

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

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

#### 2.1.1. Tax Benefits

**Legal system in Serbia provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs which indicates enabling environment.** According to [the Corporate profit tax law](#) CSO are exempted from taxation on grants, donations, membership fees and non-economic sources of income. Likewise, profit generated by CSO is exempt from income tax under certain conditions. The same law provides tax deductions for expenditures on health care, cultural, educational, scientific, humanitarian, religious, environmental protection and sport-related purposes, providing that payments were made to the persons registered for such purposes in accordance with special regulations. The same applies to humanitarian assistance and the elimination of extraordinary results they have done to the Republic, the Autonomous Province or the Local Government Unit, as well as to cultural issues.

**However, the law partially provides tax benefits for economic activities of CSOs.** Article 37 of the Law on Associations provides that associations may directly perform both a business activity and another profit-making activity in accordance with the law regulating the classification of activities, under the certain conditions. This activity shall be entered in the Register of Business Entities and shall be carried out in line with the regulations governing the sector where the activities are being performed. The association may only start performing these activities directly upon entry of such an activity in the Register.

Corporate profit tax law CSO provides that income earned by CSO is exempt from profit taxation if the income is up to 3.400 EUR. In the case of taxation, profit tax rate is the same as for other legal entities-15%.

**Legislation is fully in line with standards when it comes to tax benefits for passive investments of CSOs.** Both article 36 of the Law on Associations and article 44 of the Law on Endowments and Foundations provide that Serbian CSOs among others may acquire assets from interest rates on deposits, rental fees, dividends and in other ways permitted by the law.

**Similarly, enabling environment has been identified regarding establishment and providing tax benefits for endowments.** The Law on Endowments and Foundation in Article 10 provides that endowments and foundations may be established by one or more domestic or foreign natural or legal persons having business capacity. Article 44 provides that endowment and foundation shall acquire assets through donations, gifts, grants, financial subsidies, wills, investment interests, rents, copyrights, dividends as well as any other legitimate source, but on the other hand Article 47 provides that the capital assets of endowments may not be reduced below the minimum value of capital assets (30 000 EUR). Incentives are regulated by Article 7, which provides that the means (donations, gifts, financial subventions and inheritance and similar) of endowment, which is established with a view to achieve general public interest, and foundation shall be exempt from taxes.

**Practice partially met standards when it comes to direct or indirect (hidden) tax on grants reported.** None of CSOs from MM Survey reported they paid fees for the receipt of grants to the authorities. Only 1 CSO stated it paid bank fees where the grant is received (fees for transfer donated

According to study conducted by Trag Foundation 50% of banks in Serbia (as many as 7 of the top 10 banks with the highest balance sheet and success), does not have at all the category of payments for humanitarian purposes listed in its tariff. This means that they treat donations of any type as any other payment to natural or legal persons. Bank fees are determined by the general conditions. The amount depends on the bank, moving an average of 0.6% of amounts paid up to 2% of the amount paid, the minimum amount of commission in dinars is in an average of slightly less than 1 EUR, while the maximum commission is even almost 100 EUR. The study considers these practices as a non-favorable for donations in particularly from the individuals.

funds from one bank account (temporary, opened by donor) to its account in commercial bank). 1 CSO stated it paid indirect fees for the receipt of grants (payment to authorities to access grants) – tax on certification that CSO isn't blocked was paid to the National Bank of Serbia before receiving funds based on the Ministry of Culture public call.

**Similar findings have been assessed in the area of tax benefits for economic activities of CSOs.** According to Serbian Business Registers Agency (SBRA), in 2019

8662 associations (25,8% of the total number of registered associations) and 317 endowments and foundations (34,7% of the total number of registered foundations and endowments) were registered for economic activity.

Only 2 CSOs that participated in MM survey reported they used tax benefits for economic activities (e.g. full exemption of tax or up to a certain amount on income from sales and services), and they assessed administrative requirements for accessing tax benefits for economic activities as very burdensome (scored with 8, as level of burdensomeness). 19 from the total number of CSO stated they had some income from engaging in economic activity – most of them less than 20% of total budget, and only 4 CSOs stated the income from economic activity was higher (from 24% to 65%). Key challenges they faced with were related to extensive administrative requirements to be able to engage in economic activities targeting CSOs only (8 CSOs), 1 CSOs reported complicated accountability rules (e.g. reporting and monitoring) and 2 CSOs experienced other challenges.

**When it comes to establishing endowments without major procedural difficulties and freely operations, without administrative burden or high financial cost, practice indicates enabling environment.** Total number of registered endowments and foundations is 911; during 2019 70 foundations and 4 endowments were registered at Serbian Business Register. None from CSOs participated in MM Survey has established the endowment, so eventual complicated procedures for establishing endowments weren't reported.

### 2.1.2. Incentives for Individual/Corporate Giving

**Legal framework for tax deductions for individual and corporate donations to CSOs, legislation is not in line with standards.** The Corporate profit tax provides expenditures on several public interest areas shall be recognized as expenditure amounting to not more than 5% of the total revenue. This list is narrow comparing with the areas listed in both Law on Associations and Law on endowments and foundations. However, this means that both public institutions and CSOs could receive the funds recognized as expenditure. The Law stipulates only maximum % of the total revenue, no minimum as well as clear indicators for its final determining in each individual case. However, the Individual Income Tax Law still does not provide any incentives for individual donations.

**Partially enabling environment has been identified regarding clear requirements and conditions for receiving deductible donations.** Article 15 of the Corporate profit tax provides that

expenditures on health care, cultural, educational, scientific, humanitarian, religious, environmental protection, culture and sport-related purposes shall be recognized as expenditure amounting to not more than 5% of the total revenue.

After many years of lacking more detailed instructions for this opportunity and non-harmonized practice among different regional Tax Administration departments due to flexible legal opportunity, in October 2019, Serbian Tax Administration issued a unique [Guide](#) in order to harmonize practices and provide clear guidelines for the procedure of recognizing expenditures aimed on public benefit areas. Data collection on implementation of the guidelines is ongoing.

**However, legislation is not in line with standards when it comes to recognizing CSOs and their needs in state policies regarding corporate social responsibility.**

Corporate Social Responsibility (CSR) entered the public policy documents in 2008, with the National Sustainable Development Strategy, which in several places speaks of CSR. According to the Strategy, CSR is one of the results of steady economic growth, which is a prerequisite for the long-term concept of sustainable development. In order to achieve the Strategy, it was foreseen as necessary, among other things, to encourage social dialogue, socially responsible business and public-private partnerships. Two years later, the Government adopted a [Strategy for CSR Development and Promotion for the period from 2010 to 2015](#). There is no information on whether the Council and the Team for implementation of strategy have been formed, or reports on their work, as well as reports on the implementation of the Strategy, although the timeframe for the implementation of the Action Plan has expired at the end of 2013. Policies implicitly regarding corporate social responsibility has not been on the list of priorities for years. On the other side, according to data provided by the [Serbian Philanthropy forum certain](#) companies devoted to CSR and its development have very concrete strategies which recognize and actively involve CSOs among other beneficiaries.

**Practice regarding functional procedure to claim tax deductions for individual and corporate donations indicates partially enabling environment.** 44,2% of CSOs (23) from MM Survey agreed (strongly agree or agree) that individual donors face difficulties with access to tax deductions (e.g. the procedure is complicated; burdensome administrative requirements

Incentive prescribed by the Corporate Income Tax Law - tax benefit for to 5% of gross income for above mentioned purposes- isn't incentive in real sense of the word. 5% of companies donated income for this purpose is recognized as an expense (regular expense) and is not taxed. If they donated for the same purpose, for example 10% of total income, a difference of 5% is not recognized and is included in the tax calculation.

Answering on submitted FoI request on number of corporate donors which claimed tax deductions for their donations (for medical, educational, scientific, humanitarian, religious, environmental and sport purposes, as well as giving to social welfare institutions established under the law regulating social welfare) Tax Administration stated it doesn't have the requested information. 24 CSOs answered they agree (strongly agree or agree) that corporate donors face difficulties with access to tax deductions (e.g. the procedure is complicated; burdensome administrative requirements).

According to Catalyst foundation research's on giving preliminary results the recorded donation amount to non-profit organizations in 2019 was EUR 7,432,844.30. An increase of as much as 61.2% compared to 2018 was evidenced. However, the reason for this growth is the increased donations to humanitarian campaigns, primarily in the field of health, by citizens. From total number of recorded actions (902), more than 59% (481) were aimed to domestic association, followed by private foundations (408). Almost 1,5 million EUR was donated to associations, but mayor amount was donated to foundations – more than 5,7 million EUR. Although there is no any incentives for

individual donation, citizens donated significant amount to CSOs – more than 5,3 million EUR (72,5%) thorough mass giving and more than 52 thousands EUR by individuals. Business sector donated more than 1,1 million EUR (14.9%) in spite of lack of real incentives or tax deductions for corporate giving. Legally prescribed 5% of gross income for medical, educational, scientific, humanitarian, religious, environmental and sports purposes, and giving to institutions of social protection is non-taxable, but is recognized as a regular company cost. It means that companies which would donate above that limit would be additionally taxed.

**Same is with recognizing CSOs as state partners in promoting CSR.** [The Forum for Responsible Business](#) presents the largest national network dedicated to promoting and furthering the concept of corporate social responsibility (CSR). In the previous year it was dedicated to the goals in relation to the development of innovative philanthropy and community engagement promoting and CSR promoting through the involvement of SMEs' representatives, social enterprises and large companies.

From October 2019 for the first time in Serbia it will be possible to donate food with a single click, thanks to a new digital platform that will help increase the amount of food donated, and therefore the number of Belgrade Food Bank customers receiving their meals. Crated digital platform was supported by Delhaize Company Serbia.

In 2019, [Council for Philanthropy](#) addressed few topics in correlation with CSR activities of the companies to the Working groups which also demanded strong multi-sectorial approach are: 1) regulation of food surplus donations; 2) encouraging fiscal policy for providing scholarships for students. In both, CSOs were actively included either as members of Working groups or by surveys and events. For example, Food Bank, CSO and Delhaize, big retailer were actively cooperating

within the Working group to overcome the regulatory obstacles related to food surplus donations, but also continue with their joint activities (which are in compliance with the current regulatory framework) on donating food to those in need. As a result of the Council's Working Group, as a first step, it is expected to adopt the Rulebook which will define the ways of manipulation with food close before the expiry date. Since the only option according to the current regulations for such food is to be destroyed.

**Practice also partially met standards when it comes to the level of CSOs engagement in the main areas of public interest, including human rights and watchdog organizations, effectively enjoy tax deductible donations.** In this regard, it important to highlight that legal framework in Serbia doesn't recognize PBO status. Law on Association and Law on Endowments and Foundation recognize public interest concept. However, harmonized and unique definition of the concept of public interest is still missing and the definition is different in these 2 laws. Incentives prescribed by the Corporate Income Tax Law are also based on different areas of public interest. This results in unequal tax treatment of receivers of funds from various donors and donors themselves (organizations and companies) which donate funds to CSOs working in different areas and registered by different legal documents.

According to the ACT study on CSO sector in Serbia in 2019, half (50%) of the organizations are involved in culture, media and recreation, 32% of CSOs deal with education and research, 24% with environmental issues, 23% with social services, 13% of them with human rights and 11% with healthcare. According to the same study 29% CSOs explicitly stated that donations are one of their main financing sources, while 8% stated that they are receiving gifts.

At the same time 13% of respondents reported support from the business sector.

### **EU Guidelines assessment**

**Result 2.2.a** The tax treatment of CSOs and their donors has not changed during 2019, although the group of CSOs has initiated the establishment of a Philanthropy Council to advance this framework. The status of individual and corporate giving has remained unchanged - individual tax benefits have not yet been recognized by the Individual Income Tax Law, while corporate benefits are regulated by the Corporate Income Tax Law as a tax benefit of up to 5% for clearly defined purposes.

**Result 2.3.a** There are no changes in tax benefits for the operational and economic activities of CSOs. The Law on Associations recognizes only economic activity associated with the mission of the association, so there is no benefit for economic activities that are not related to the mission of the association. Income from tax-exempt mission-related economic activities of CSOs is up to € 3,400 EUR. Tax benefit is still not incentive for CSOs to carry out an economic activity, having in mind that the same percentage of civil society organizations has been engaged in economic activity in recent years (about 25%) of the total.

## **Sub-area 2.2. State support**

### **2.2.1. Public Funding Availability**

**Legislation partially satisfies standards when it comes to policy (document) that regulates state support for institutional development for CSOs, project support and co-financing of EU funded projects.** There is no such comprehensive document in Serbia, but some elements are recognized in the area of the project basis financial support.

Law on Associations (Article 38) provides the (financial) means for promoting programs or the missing share of the (financial) means for funding programs (hereinafter referred to as the program) that the associations are carrying out and are of public interest shall be secured out of the Republic of Serbia budget. The Government or the ministry responsible for the association's area of work assigns the funds on the basis of the completed open competition and shall conclude contracts for the implementation of the approved programs.

On a basis of this article, [Government Regulation \(by-law\) on financing programs of public interest \(Regulation\)](#) addresses the issue of allocation of funds on the basis of a public invitation issued by the competent authority and published on the official website and E-Government portal, as well as the criteria, conditions, area, method, distribution process, and manner and process of reimbursement.

However, there are also several other laws and regulations directly referring to the project based financing sectorial CSOs such as youth, culture, persons with disabilities (including institutional support), criminal law in the part on distribution of money raised through the institute of deferral of

prosecution etc. Distribution of the funds mentioned above is being conducted out of Government Regulation.

**Partially enabling environment is also recognized regarding national-level mechanism for distribution of public funds to CSOs.** Serbia has not set up a special mechanism for the allocation of funds. Article 38 of the Law on Associations provides that the Government shall specify the criteria, conditions, scope, method, allocation procedure as well as the method and procedure of restitution of the means. These provisions shall also apply accordingly to the (financial) means allocated to the associations out of the budgets of the Autonomous Province Vojvodina and local self-government units. Regulation provides that funds are allocated in the budget line 481 on the basis on public competition managed by the commission established by the state administration body in charge of public interest area.

**Same is with public funds for CSOs which are partially clearly planned within the state budget.** Government Regulation only applies to appropriations under the budget line 481 - Donations to NGOs but there is no specific percentage for distribution. However, payments to other legal entities are also made from this budget line without applying the provisions of the Regulation. Outside the regulation, CSOs are also receiving funds from several other budget lines: 472 – Compensations for social protection, 451 – Subventions to public non-financial corporations, 423 – Contract services, 424 – Specialized services, 462 – Grants for international organizations.

Also, the Law on games on chance provides that 40% of the funds collected under this law, shall be used for funding the Serbian Red Cross and other social organizations and associations of persons involved in programs aimed at protecting and improving the general position of organizations, sports and local self-management without further instructions for its delivering.

**However, when it comes to clear procedures for CSO participation in all phases of the public funding cycle, legislation is not in line with standards.** Article 8 of the Regulation provides that competent institutions will form a commission for the implementation of the competition and appoint persons who will feel in their work. Members of the commission have to sign conflict of interest statement. Article 10 establishes a framework for participation of the experts in the work of the commission, as well as in the preparation of the analysis on the success, quality and achievement of the goals of the programs being implemented. **There are no other specific legal provisions aimed to requirement for consultations with CSOs in this regard.**

**Partially enabling environment has been notified when it comes to responding CSOs needs within available public funding.** According to [the Budget Law of RS for 2019](#), total amount of funds planned for CSOs support was 64.431.679,49 EUR from the budget line 481 (grants to NGOs) Data gathered through FoI requests showed that sum of all known contracted projects is 3,9 million of EUR, which is significantly less than it was planned to be. Having in mind that total number of registered CSOs was almost 33.500 average amounts per CSOs was 1914 EUR. However, all registered CSO aren't active and don't apply for state funds. On the other side, Budget execution law wasn't announced in the last few years and there are no official data on funds spent for those purposes.

In 2018 this amount was 61.444.201,31 EUR and 61.840.465,42 EUR in 2017, which indicates an increase of about 5% compared to both previous years.

Total amount of funds planned to be allocated in 2019 budget from line 472 (social protection fees from state budget) was 963.721.137 EUR. That is less amount than it was planned in 2018 (965.729.101 EUR) and 2017 when it was planned more than a billion EUR for this purpose, which indicates a decrease of around 3,5% for both previous years. However, this amount is envisaged for financing a wide range of services/giving: child protection, veterans' and PWD's protection, social protection, transition fund, pupils' standards, students' standards, - Young Talent Fund, sports

Answering to FoI request, Ministry for innovation and technologic development stated that 6 projects implemented by associations were supported in 2019 economical classification 423 – Contract services in total amount of 162.653 EUR. Ministry of Culture and Information reported that around 1,2 million EUR were allocated from economical classification 481; Ministry of Education, Science and technological development allocated nearly 199 thousands EUR from economical classification 424 to CSOs and more than 75.000 EUR from economical classification 481 through public call. Additional documentation sent to us indicates that more than 556.000 EUR were allocated to CSOs by direct giving. Ministry of Sport and Youth allocated 1,3 million EUR to CSOs; Ministry of Trade, Tourism and Telecommunications allocated bit a more than 1 million EUR. Ministry of Economy allocated more than 85 thousand EUR to only one CSO for one project, based on Contract service in entrepreneurship education area. It could be seen as example of illegal procedure, bearing in mind there is separate economical classification for this type of contracting. MSALSG reported that more than 49.000 EUR were allocated to CSOs from the budget line 424 and almost 203.000 EUR from budget line 481.

scholarships, awards and honors, refugees and displaced persons, other social protection fees from the budget. At the same time, from this amount different CSOs licensed to providing social services had right to apply for part of this funds intended for provision of social service. Totally 558 organizations were licensed for providing social services till the end of 2019 and 111 of them (nearly 20%) are CSOs.

Only 2 state bodies allocated funds for co-financing of EU and other projects were Government Office for cooperation with Civil Society (GOCCS) and the Ministry of Youth and Sport (MYS). In the 2019 GOCCS allocated bit a more than 38.000 EUR for co-financing 6 CSOs' projects, supported by EU within EIDHR program; MYS allocated almost 29.000 EUR for co-financing 4 CSOs' programs and projects in the youth sector areas approved by the European Commission through the Erasmus + EU program and cross-border cooperation programs. Most of other state bodies (Ministries, Offices, and Agencies) allocated funds only for project /program support to CSOs, but not for their institutional development. All answers gathered from state bodies via FoI request indicate that they supported only CSOs project' and program's activities.

According to the MM Survey, 23 out of 52 CSOs reported they used state financial support for concrete project or activity; only 1 CSO reported that used grant for co-financing of EU projects or other projects; 6 CSOs reported they used Government programs and benefits for stimulating employment in CSOs; 2 CSOs reported they used Government programs and benefits for stimulating volunteering in CSOs; 10 CSOs used non-financial state support; 8 CSOs were contracted for service delivery. 8 CSOs reported they used institutional support grants. From 30 CSOs that reported use of state funds, only 3 expressed agreement that available public funding meets the needs of civil society organizations. Only 4 CSOs reported that majority of its annual budget (more than 50%) comes from state bodies' funds, 17 CSOs stated that share was less than 50%, in the fact 10 of them had less than 20%. 26 CSOs (50%) reported on share from LSG funds in their budgets – only 1 was 100% financed by LSG, 3 CSOs were 90% financed by LSGs, 13 CSOs' received less than 30% of annual budget from LSGs, 14 CSOs received less than 50% of annual budget from LSGs.

According to ACT Study on CSOs sector in Serbia in 2019 while 33% of them stated they were financed by local self-government, 10% of them by different Ministries, 75 by Regional government. Almost 1/3

(29 %) was financed by the Ministry of Labor, Employment, Veteran and Social Affairs (MLEVS); the same as by the Ministry of Culture and Information (28%). When asked directly about LG funding, the majority of the CSOs from ACT Study (72%) responded that LGs do not finance their work. CSOs that provide social services (41%), those from Eastern (46%) and Western Serbia (43%), those established prior to 1990 (41%) and those with small to medium-sized budgets (37%-38%) are most often funded by LG.

There is no clearly established list of areas of public interest by the Regulation. However, there is variety of policy areas for which funds are available to CSOs (employment, social issues and services, support to PwD, human rights protection, culture, environmental protection, agriculture, education and science, youth and sports, health, socio-economic development, etc.).

**However, practice is not in line with standards regarding government bodies with a clear mandate for distribution and/or monitoring of the distribution of state funding.** There is no state institution with a mandate to allocate the biggest share of state funding. All state bodies and local self-government have mandate to allocate state funds to CSOs. Data gathered through FoI requests show that biggest amount of funds was allocated by Ministry of Youth and Sport. However, according to the Budget law 2019 the biggest amount for donations to CSOs (budget line/economical classification 481) was planned to be allocated by Ministry of Youth and Sport - almost 468 thousand of EUR and that amount was planned for sports associations and federations' programs.

According to ACT Study, funding of CSOs that are financed by the ministries most often comes from the Ministry of Labour, Employment, Veteran and Social Affairs (MLEVSA) (29%), followed by the Ministry of Culture and Information (28%), and the Ministry of Environmental Protection (10%). Funds are distributed in line with the CSO area of work (for example, most of the funding from MLEVSA goes to CSOs that provide social services - 54%).

There is no state body for monitoring the implementation of state funded projects. Monitoring process should be done by each body which allocated fund for CSOs' programs/projects, but clear definition and unique monitoring methodology is missing, as well as obligation to individual evaluations and summary evaluation of the effects of the competition in relation to the strategic document of the body in a particular area of public interest be done, and the evaluation reports (individual and summary one) published on the website of the competent authority body and on the eGovernment portal.

**Practice partially met standards when it comes to predictability of funding and easiness to identify it within the state budget.** Funds from budget line 481 (grants for civil society organizations) and 472 (financing services of social protection) are used for financing sport clubs, churches and religious communities, public institutions, the Red Cross, which already have their own line defined within the budget. Comparing to 2017 and 2018, an increase of about 5% for funds planned from budget line 481 and decrease of around 3,5% for funds planned from budget line 472 were recorded.

According to the Law on Budget for 2019, MYS (11,3 million EUR), Ministry of Finance (9,5 million EUR) and MLEVSA (almost 816.000 EUR) were planned to distribute the biggest amount funds from two mentioned lines. MYS and MLEVSA regularly announced public calls during the 2019 on their web pages. However, any public call wasn't announced at Ministry of Economy web page although they were distributing funds for CSOs.

**Partially enabling environment has also been identified regarding CSO participation in the public funding.** Government Regulation provides only possibility for representatives of the expert public, including CSOs representatives, to participate in commissions for public calls' implementation.

Ministry of Culture and Information reported that calls for election of CSO representatives in decision-making/advisory bodies of public foundations/ institutions allocating state funding weren't announced. Ministry of Youth and Sport answered that representatives of Serbian Olympic Committee, Serbian Para-Olympic Committee, Serbian Sport Federation and Serbian Institute for Sports and Sport Medicine participated in public funding cycle. MYS didn't report on youth CSOs representatives' participation in decision-making/advisory bodies. Ministry of Education, Science and Technological development reported that there is no body gathering CSOs representatives with mandate to decide on public fund allocation. However, MESTD reported that an opinion of National Councils of national minorities should be obtained when funds need to be allocated to CSOs' for project related to national minorities. MTTT reported there were no CSOs representatives among members of Commissions that decided on ranking and selection of submitted applications.

All CSOs participated in MM survey stated they disagree (or strongly disagree) that CSOs are contributing in setting public funding priorities.

From the 2019 the Government Office for cooperation with civil society (GOCCS) is responsible for creation an E-calendar of the public calls for financing projects and programs of civil society organizations from the budget funds of public administration bodies. E-calendar presents an application through which competent authorities from all levels of government are publishing: data on planned public calls intended for financing CSOs in the current year at the beginning of the year; announced calls with the documentation (or a link to a site on the Internet where they can be found); results of published calls, including basic information on supported projects/programs and their users. Till the end of July, the calendar of the public calls currently contains data on 781 planned calls of 175 public administration bodies, or about 90% of all calls.

### 2.2.2. Public Funding Distribution

**Legislation partially met standards when it comes to procedure for distribution of public funds is transparent and legally binding.** Government Regulation prescribe obligation to publish annual plan for announcing public tenders by competent authority no later than 31 January (only funds for the budget line 481). The plan contains information on the grantor, the area, the name and the planned period of announcement of the public competition. Allocation of funds is made on the basis of the competition to which the participants apply by submitting the application within a specified period, which must not be less than 15 days. Government Regulation is a legal binding document for local, province and national authorities. However, there are no clear sanctions for violation of its provisions.

**Same is with the criteria for selection.** The Regulation provides, in a very general way, criteria for the selection of the program, resulting in increasing the possibility for arbitrary decision-making. The public interest criterion has not been defined so far. The applicants have the right to review the submitted applications and the enclosed documentation. They also shall be entitled to file a complaint to the list of evaluation and ranking of the submitted programs within 8 days of its publication, and the competent authority must decide on the complaint within 15 days. Distribution of funds for youth and culture does not recognize the appeal mechanism. If some CSOs are not satisfied with decision, they can submit the appeals to the Administrative Court according to the provisions of the Law on general administrative procedure.

According to Independent Cultural Scene of Serbia (ICSS) Analysis, Secretariat's of Culture of the City of Belgrade public call announced in spring 2019, as in previous years, showed very bad results in respecting procedure prescribed and high level of non-transparency of the work of commissions. Names of Commissions' member were not published even after the ICSS's request, list of rejected projects and justifications for supported projects weren't published, a large number of "suspicious" programs implemented by CSOs established after calls for applications ended or implemented by legal entities which weren't registered to act in cultural area were supported.

**When it comes to clear procedures addressing issues of conflict of interest in decision-making, there is also a partially enabling environment.** The Regulation stipulates that representatives of the expert public may be appointed to the commission without clear criteria for their selection. The Regulation also stipulates that the members of the commission are obliged to sign a statement that they have no private interest in the work and decision-making of the commission without further explanation or clear definition of it. In the case of finding out about the conflict of interest, a member of the commission is obliged to inform the other members about it and to withdraw from further work of the commission.

**Practice partially met standards when it comes to information relating to the procedures for funding and information on funded projects is publicly available.** The GOCCS created and regularly maintains [electronic Calendar of public calls](#) as an application through which competent authorities from all levels of government need to publish: data on planned public calls intended for financing CSOs in the current year, in accordance with the provisions of the Regulation and before their announcement, at the beginning of the year; announced calls with the documentation (or a link to a site on the Internet where they can be found) and results of published calls, including basic information on supported projects/programs and their users. The Calendar presents Commitment's from [current Action plan for OGP initiative implementation](#) fulfillment, but not legally binding mechanism for public administration bodies. However, at the end of 2019 calendar contained data on 781 planned calls of 175 public administration bodies, or about 90% of all calls published.

**Practice indicates also partially enabling environment when it comes to respecting procedural rules.** Data gathered through FoI requests show small number of cases of formal complaints by CSOs related to inadequate procedure for funding: 7 complaints were sent to MESTD and 4 complaints to MTTT MSALSG reported 4 complaints were sent to the Ranking list of applied projects and programs for financing from Budget found for national minorities. MCI reported that complaint to its decisions can't be submitted, but there is a possibility for an administrative appeal to the Administrative court.

8 of the surveyed CSOs stated they don't agree that state bodies in their area of work follow the legally prescribed procedure for funding allocation.

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**However, practice indicates disabling environment regarding the application requirements.** 16 (30,7%) CSOs participated in MM Survey stated they agree that application requirements are burdensome (e.g. high costs, many documents; difficult to access documents). 15 (28,8%) surveyed CSOs agree that application criteria are clear. The most of respondents in focus groups stated that the most of public calls are being tailor made for GONGOs and the significant number of CSOs self-excluding themselves from the distribution of the state funds. CI reports Three freedoms and the Annual report on shrinking civic space in Serbia also detected this area as one of the most important areas for the GONGOs intervention.

Analyzing public calls announced in 2019 by the MLEVSP, MYS and MCI it was evidenced that clear, i.e. more precise eligibility criteria weren't stated. Respecting the criteria on applicants, it was only stated it had to be associations registered in concrete area at relevant Register, but without stipulating how long they had to be registered (i.e. at least 3 -5 years). In addition, according to criteria in public call announced by MLEVSP for support to projects in area of family, child and social protection it was allowed to all registered associations to apply; none of specific criteria was stated.

**Disabling environment has been detected also for decisions on tenders as well as conflict of interest situations.** [Anti-Corruption Agency announces official Opinions](#) on cases of public officials' conflict of interest. However, none of announced Opinions is referred to conflict of interest in a public funding allocation. Only 2 CSOs from MM Survey agreed that decisions on public funding allocation are fair. The majority of surveyed CSOs from ACT Survey stated that the State should allocate funds in a transparent way (68%).

Based on RCs regular communication with numerous CSOs around the Serbia it's clear that cases of no-transparent financing of CSOs are increased. It is more often happened that funds are allocated to newly registered CSOs (connected to or funded by LSG /party's structures – GONGO/PONGO) and also that the amounts for representative and respective CSOs have been reduced several times (comparing to GONGO that also got the funds).

### 2.2.3. Accountability, Monitoring and Evaluation of Public Funding

**The procedure for distribution of public funds partially prescribes clear measures for accountability, monitoring and evaluation which are in line with standards.** The approved funds are treated as earmarked funds that can be used exclusively for the implementation of a specific program, in accordance with the contract signed between the competent authority and the CSOs. CSOs are required to produce periodic and final both narrative and financial reports. The Regulation prescribes the content, deadlines and manner of submission, review and evaluation of these reports. The Regulation also provides for the possibility of evaluating the effects, although this is not the binding provisions.

Also, there are partially prescribed sanctions for CSOs that misuse funds which are proportional to the violation of procedure. The Regulation stipulates that the competent authority will inform the beneficiary that it will initiate the procedure for termination of the contract and the return of funds with CSOs if non-purposeful spending is determined. There are no further elaborations or clear conditions for initiating such procedure.

**There is a partially enabling environment when it comes to continued monitoring and in accordance with predetermined and objective indicators.** Answering to FoI requests Ministries stated that monitoring process was carried out by insight in projects' financial and narrative reports, and sometimes by participating in project activities by submitting report on final evaluation of program.

15 CSOs participated in MM Survey reported that project implementation was subject to state monitoring and that monitoring of project implementation was carried out in accordance with predefined criteria. 7 CSOs reported that monitoring visits by state officials were announced in advance.

**However, disabling environment has been identified when it comes to regular evaluation on effects/impact of public funds is carried out by state bodies and is publicly available.** Based on answers to FoI requests, only MTTT and MYS reported on this type of program's evaluation - External evaluation report on "Ask for advice if you want to know" project (2018-19) and program evaluation carried out in May 2019 for proms from 2018 (Report on implementation Serbian Ice hockey federation's yearly program). MCI reported that periodical evaluation for public calls' financing has started in the end of 2019 and still hasn't finished.

Periodic reports on state funding impact weren't published at web sites of MLEVSP and MYS as core distributions finds for CSOs during 2019.

#### 2.2.4. Non-Financial Support

**Legislation is not in line with standards in the area of legal guarantees for state authorities to allocate non-financial support, such as state property, renting space without financial compensation (time bound), free training, consultations and other resources, to CSOs.** This area is not adequately regulated by any separate legal act. [The Law on Public Property](#) defines who is considered to be the holder of the property right and who has the right to use the real estate in the public domain. Among others, Article 19 of the Law provides that beneficiaries are considered to be state bodies and organizations, as well as bodies and organizations of an autonomous province or local self-government units, but also that things in the public domain may be used by other legal entities on the basis of a concession, or otherwise prescribed by law.

The Office for Cooperation with Civil Society provides CSOs with a range of services that can be considered as a form of non-financial assistance, such as counseling, informing civil society organizations, establishing dialogue between the public and non-governmental sectors, working to strengthen CSO capacity, networking of CSOs, etc.

**The same is with providing of non-financial support under clearly prescribed processes, based on objective criteria.** The assemblies of the local self-government units make decisions on the rent for the premises owned by them or in relation to which they have special ownership powers. These decisions in most of cases foresee a reduction in the rent for associations aimed at helping children or the sick, people with disabilities, associations in the fields of health, culture, science education, sports, etc. There are no further elaborations as well as other legal provisions in this regard.

**Practice indicates partially enabling environment when it comes to using non-financial support by CSOs.** None of MM Survey participants reported on accessing to non-financial state support in the past year.

*There are several cases of providing working spaces to CSOs by LSGs. City of Belgrade provided office space for using to Human Right House Belgrade (2011) with obligation to adapt and maintain that space. Citizens' Alliance for Social Inclusion (GASI, Požega) in 2013 also was given space for using as working space as well as activities' implementation. GASI and LSG Požega signed contact on co-financing upon which was agreed that GASI will invest funds for space reconstruction/adaptation, and invested amount will be considered as rent paid in advance for next 15 years.*

*MCI reported on following ways of non-financial support – letters of support, training for CSOs participants and counseling (without stating number). MTTT reported that non-financial support wasn't provided to CSOs, but more than 20 educational activities very carried out. MY&S reported that space for 2 CSOs activities implementation was provided.*

***However, practice is not in line with standards regarding treating CSOs in an equal or more supportive manner compared to other actors when providing***

***state non-financial resources.*** Only 5 CSOs which participated in MM Survey agree that requirements for accessing non-financial support are easy to meet while only 2 CSOs which participated in MM Survey agree that they have an advantage over other actors when accessing non-financial support

*From 32% of CSOs from ACT Study which stated they need some forms of support (besides money, equipment and training), 7 % of them stated they need working space. No available data on CSOs which support that they have an advantage over other actors when accessing non-financial support.*

*Also, there are cases of depriving critical CSOs of support or otherwise discriminating based on loyalty, political affiliation or other unlawful terms which is not in line with standards as well. 1 CSO which participated in MM Survey agrees that organizations critical to the government can access non-financial state support. Also 1 CSO agrees that decisions for allocation of non-financial support are fair.*

*The Zajecar Children's Center, which deals with the inclusion of children with Down Syndrome and Paralysis, is threatened with expulsion from premises they use under a lease agreement concluded with the City of Zajecar. Although the contract was concluded for a period of 10 years, the city government in 2017 sent a request to the association to vacate the premises for allegedly "inappropriate use". The proceedings are currently pending before the Court of Appeal, and the pressures continue on a daily basis. The reason for this is the clash between prominent activist Selena Ristic-Vitomirovic, who is managing the Center and current mayor Bosko Nicic, who threatened, using his position, to make difficult for her to access and cooperate with local services and stakeholders. In this way, the pressure of the authorities on the work of CSOs is continued and additional uncertainty is introduced as it opens the door to the denial of acquired rights based on arbitrary interpretation and politically or personally motivated animosity.*

## **EU Guidelines assessment**

**Result 2.4.a** *There is no comprehensive and up-to-date data on funds allocated to the CSO's from the state budget for 2019. At the end of 2018, the Government Office for Cooperation with Civil Society published the Annual Summary Report on CSO Funds during 2016 which is still the latest available version. The report contains data from bodies providing financial and non-financial support to associations and other civil society organizations from all three levels of government (local, provincial, national), but this information is provided on the basis of a request for information rather than a legal obligation, and therefore not all authorities provide it. Also, the report includes only partial data on CSO funding from the state budget (i.e. from 4 budget lines: 481 - Grants for civil society organizations, 472 - Social security benefits, 423 - Contracted services and 424 - Specialized services), but no information on funds allocated under the Games of Chance Act, as well as other donations from public companies.*

**Result 2.4.b.** *The comprehensive regulation on the CSOs financing from the state budget is existing only partially at a very general and by-law level. Since March 2018, a new Decree on Funds for Incentive Programs or a Missing Part of Funding for Program of Public Interest implemented by Associations has been implemented. Although the novelties are an attempt to make the CSO funding process more transparent (obligation to publish an annual plan for announcing public competitions, more precise deadlines, conflicts of interest defining, the possibility of involving public representatives in the selection committee, obligation to inform the public about the results of the conducted competitions), key objections of CSOs are still they relevant. Actually, the list of areas of public interest was not determined, the selection criteria for the program were not elaborated and prioritized, no clear criteria for membership of the selection board were given, no mandatory membership of CSOs was ensured, no appeal procedure was defined, no obligation to harmonize individual rules with the provisions was prescribed regulation or the defined penalty measures for its non-compliance, it does not envisage conducting individual and summary evaluations of the effects of projects in relation to a strategic document of an authority body in a particular area of public interest; the finality of the commission's decision, etc.).*

## **Sub-area 2.3. Human resources**

### **2.3.1. Employment in CSOs**

**When it comes to treating CSOs in an equal manner to other employers by law and policies, legislation is in line with standards.** There are no special registration requirements when hiring people in relation to employment in the commercial sector. [The Labor Law](#) and [the Law on Compulsory Social Security Contributions](#) do not treat CSOs differently than other legal entities neither as employers nor their employees. All other non-employment contracts (copyright contract, work contract, etc.) under the same conditions are available to CSOs and the persons hiring them.

**However, practice indicates disabling environment in the area of equal treatment of CSOs as a beneficiaries of state incentive programs.** Answering to FoI request, the National Employment Service responded that it does not have data on the number of citizens' associations that have benefited from programs and initiatives in the last 12 months compared to other entities. Only 5 CSOs participating in MM Survey reported use of state incentive programs for employment.

**There are partially regular statistics on the number of employees in the non-profit sector.** Serbian Business Register Agency and Pension and Disability Insurance Fund collect information on employment in the non-profit sector, but still there is no official comprehensive statistics on the number of CSOs employed. There is accurate data on the average number of full-time employees in CSOs recorded by the SBRA based on CSOs annual financial reports, publicly available annually. Data of other forms of employment (part-time employees, consultants or people with short-term contracts) in CSOs collected by the Pension and Disability Insurance Fund according to different methodologies are not available to the public on an annual basis.

According to the last comparative available data (2018), 8.517 is the total number of full-time employees in CSOs which is 0,4% of all employed in Serbia. Data for 2019 will be available after June 2020 due to legal deadlines for submitting annual financial reports.

There is no systematic, comprehensive data on volunteers, volunteer hours or monetary value of volunteer work. Some data is being collected by the Ministry of Labor, Employment, Veterans' and Social Affairs, in accordance with the Law on volunteering, which [registers only organizers of volunteering](#), but number of volunteers engaged and volunteering hours spend wasn't evidenced. From totally 351 registered organizers of volunteering, 165 are CSOs. However, this data is not reliable because most CSOs do not send such data reports / information, nor the Ministry publishes comprehensive report annually.

### **2.3.2. Volunteering in CSOs**

**Legislation is not in line with standards when it comes to stimulating volunteering and incorporating best regulatory practices, while at the same time allowing for spontaneous volunteering practices.** The [Law on Volunteering](#) contains the necessary minimum provisions for the protection of volunteers and their organizations and leaves other issues for the parties to define. The law does not prevent spontaneous volunteering, but does not explicitly provide for spontaneous volunteer practice. Article 3 of the Law on Volunteering provides, inter alia, that definition of volunteering does not consider the performance of services or activities that are common in family, friendship or neighborhood relations.

**Similarly, disabling environment has been identified regarding incentives and state supported programs for the development and promotion of volunteering.** There are no strategic state policies or other documents aimed on promotion of volunteerism, support or training for volunteers. The Law on volunteering provide the right to reimbursement of contracted expenses in connection with volunteering, payment of pocket money in the case of long-term volunteering, insurance in case of injury and professional volunteering in the case of long-term volunteering or if so stipulated by the contract, as well as the right to receive a certificate of volunteering are envisaged.

**However, there are clearly defined contractual relationships and protections covering organized volunteering which is in line with standards.** The law is detailed when it comes to regulating the relationship between volunteers and volunteer organizers. It also addresses in detail the issue of their rights and responsibilities. Long-term volunteering has been defined which envisages performing volunteer work longer than 10 hours per week, for at least three months without interruption.

**When it comes to incentives and programs used by CSOs and the implementation, monitoring and evaluation policies of strategic document or law, practice indicates partially enabling environment.** MLEVSP is responsible for implementation of policy/strategic document/ law for volunteering. However, periodic monitoring and evaluation is missing.

Also, MYS supports volunteering programs implemented by CSOs. One public call for support of implementation of youth volunteer projects and the organization of international volunteer camps was announced in 2019. However, answering to FoI request it was stated that Ministry doesn't have information on incentives for volunteers and hosting organizations.

In January 2019 MCI and Belgrade University signed memorandum on cooperation opening the possibility for students to volunteer within the Ministry. Similar practices already exist among other ministries, but in this way volunteering engagement should be valued in case of job application and/or participation in Ministry's activities. 2 CSOs participating in MM Survey reported they benefited from state programs for volunteering in the past year.

Interviewed CSOs agree that the application procedure for state programs for volunteering is easy and procedure for provision of incentives for volunteers and hosting organizations is transparent; both are very precisely described in calls for support this type of activity. They pointed out their respective and experience in this area<sup>17</sup> According to ACT Study on CSOs only 4% of the CSOs used subsidies in engaging volunteers or employees (2% each).

**Administrative procedures for organizers of volunteer activities or volunteers are partially complicated and with certain unnecessary costs.** 13 CSOs who participated in MM Survey agree that the administrative procedure for involving volunteers is easy vs. 14 CSOs which do not agree. 8 CSOs who participated in MM Survey reported they had to register volunteers to the state. There is law requirement for volunteering organizers to register long-term and short-term volunteering (including description of the volunteering programs, number of volunteers engaged in the volunteering program, information about the beneficiaries)

Respondents who participated in focus groups (within ACT Study) stressed there is insufficient volunteering of the elderly, while young people most often volunteer in educational, humanitarian and street actions. To resolve problems with volunteer recruitment, good practice examples were mentioned - volunteering by providing small grants to cover the costs of an action, for example a performance for young people (similar to "Mladi su zakon" ("Young People Rule") or Active

<sup>17</sup> Interviews with Young researchers of Serbia and AIESEC Serbia representatives.

Communities of the TRAG Foundation).

**Volunteering can take place in any form in Serbia and there are no cases of complaints of restrictions on volunteering in practice which is in line with standards.** None of interviewed/surveyed CSOs reported cases of sanctions or restrictions in case when volunteers were engaged without contracts/ registration or state approval. None of interviewed/surveyed CSOs reported that there are sanctions for spontaneous volunteering (e.g. volunteering without state approval).

### 2.3.3. Non-Formal Education

**Non-formal education is partially promoted through policy/strategy/laws.** Non-formal education is recognized by [the Adult Education Law](#) and [the Law on the Fundamentals of the Education System](#). The Law recognizes associations (among other institutions and organizations) as organizers of adult education activities if they are registered for educational activity implementing according to regulation which defines activities' classification (Article 16). Also, other organization may acquiring status of publicly recognized organize of activities of non-formal adult's education if it is registered for educational activities, fulfilled standards prescribed and based on competent Ministry approval in accordance to this Law (Article 17).

The [National Employment Action Plan for 2019](#) envisages the involvement of CSOs in the career guidance and counseling programs of young people in secondary and higher education and in the labor market. CSOs are also mentioned as a partner in enhancing the capacity of school teams for career guidance and counseling in high school, which realizes educational profiles in dual education as well as organizing professional orientation fairs.

[The Law on Youth](#) provides that funds from the budget of the Republic shall be provided for financing projects of youth organizations aimed on public interest in the youth sector, which shall, inter alia, encourage non-formal youth education in the youth sector and develop the quality of non-formal youth education.

**Civil society-related subjects are also partially included in the official curriculum at all levels of the educational system.** By the decision of the Ministry of Education, on the basis of the Law on Fundamentals of the Education System, Civic Education or Education for Democracy and Civic Society was introduced into the school system of the Republic of Serbia in year 2001/2002. The basis for the introduction and further development of civic education in Serbia was the Council of Europe Recommendation on Education for Active Participation in Democratic Society, adopted in 2002. Within this course, students have the opportunity to learn about important social topics, such as human rights, democratic society, the importance of civic activism and the work of the civil sector.

In 2018, the MESD published the Rulebook on the program of teaching and learning for the first grade of grammar school, which introduced six new elective modules: language, media and communication, individual, group, society, health and sports, education for sustainable development, applied sciences, and art and design. In addition, by this decision, the curriculum of civic education has been modified and improved in accordance with students' needs and contemporary social problems and topics. This is the first time the program has changed since the introduction of civic education into schools. However, civic education as a subject / module does not exist as part of the initial teacher education. There is no faculty where students can profile and educate for civics professors.

**Practice indicates partially enabling environment when it comes to including possibilities for civic engagement in the educational system.** [The Institute for the Advancement of Knowledge and Education](#) reported on small sample of CSOs applying for the approval of continuing professional development programs for teachers, educators, associates and principals employed in educational institutions – 327 association and 9 foundations. Totally 1022 educational institutions/organizations applied for this purpose.

Representative of the Institute for the Advancement of Knowledge and Education<sup>18</sup> pointed out there are around 30 associations which are accrediting their program for years. Generally, a CSO sector is more active in that area, comparing to faculties or institutes.

During the last year numerous CSOs implemented different capacity building programs (for CSOs and public institutions' representatives) – group of CSOs gathered around Resource Center for CSOs, Belgrade Open School, CEP, YUKOM, Belgrade center for human rights, Belgrade center for security policy, etc.

### **EU Guidelines assessment**

**Result 1.2.a.** There is still no official comprehensive statistics on the number of CSOs employed. There is accurate data on the number of full-time employees in CSOs recorded by the SBRA based on CSOs financial statements, publicly available annually, so data for 2019 is still not available. However, data on the number of part-time employees in CSOs collected by the Pension and Disability Insurance Fund according to different methodologies are not available to the public on an annual basis.

**Result 1.2.b.** There is no accurate or up-to-date data on the number of volunteers in CSOs, nor is the number of volunteers in CSOs available annually. Therefore, the total number of volunteers in CSOs in 2019 is not known, nor is it possible to estimate the change in the number of volunteers in CSOs in terms of increase, decrease or change from previous years (for which there is also no data). Also, there are no accurate data on the number of volunteer hours spent in CSOs.

**Result 1.2.c.** There is no change in the legislative framework regulating employment and volunteering in CSOs. There are no discriminatory members for CSOs in labor legislation (including active employment policy), but the legislative framework still is not stimulating in promoting volunteering. The Law on Volunteering, through its over regulating and treatment of volunteering as a work engagement, still makes it difficult for CSOs to include volunteers in their activities. Having in mind that the Law stipulates an agreement between the volunteer and the organizations that engage him/her, the spontaneous volunteer practice is not recognized. After strong pressures of civil society, during 2019, Government announced forming working group for conducting impact analyses in the area of volunteering.

<sup>18</sup> Interview with representative of the Institute for the Advancement of Knowledge and Education.

## Area 3: Government-CSO Relationship

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

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

In Serbia **there is no strategic document** dealing with the state-CSO relationship and CSDev. However, certain **partial elements of the strategic approach** to civil society are contained in the Government Regulation on establishing the Office for Cooperation with Civil Society, as well as the Guidelines for the involvement of civil society organizations in decision making processes. Although strategic document was drafted and passed a public debate in 2015, it has not been adopted yet. On that occasion, a draft Strategy, an Action Plan as well as Monitoring and Evaluation Plan were developed.

Certain elements of the strategic approach to civil society are contained in the Government Regulation on establishing the Office for Cooperation with Civil Society, as well as the Guidelines for the involvement of civil society organizations in decision making processes. For the purpose of the involvement wider public in the process of IPA programming in 2011 Government has been established the Mechanism of the sectorial civil society organizations (**SEKO**). Additionally, in 2014 Government adopted **Guidelines for the Cooperation between the Negotiating Team and Negotiating Groups with Representatives of CSOs, the National Convention on the EU and the Serbian Chamber of Commerce**. Civil society organizations are also occasionally recognized in the annual work plans of the Government of the Republic of Serbia.

**Practice also indicates partially enabling environment.** 25 CSOs which participated in MM Survey reported cooperation with state institutions in policymaking/ legislation drafting and activities. 19 CSOs reported they hadn't cooperated with any state institutions because they did not have such need and 8 CSOs stated they had tried to cooperate but without success.

CSOs are officially involved in the process of programming international development aid, with the focus on helping the EU through Sectorial Civil Society Organizations (SECO). From the 2018 SECO is organized within 9 sectors (public administration reform, justice, home affairs, transport, environment, energy, competitiveness, human resource development and social development, reduced to the level of topics addressed by other sectors: civil society in public administration reform, media in justice, and culture in competitiveness. However, their real involvement and participation in consultation processes was reduced to minimum.

National Convention on the European Union (NCEU) gathers more than 720 members which are working through 24 working groups, including two intersectorial groups, for Freedom of expression and media and intersectorial group for political criteria.

According to ACT Survey, the majority of CSOs (63%) cooperated with their local self-governments, but there is still a significant 16 percentage point drop when compared to 2011 (79%). As for the methods of cooperation, local self-government was a donor in 37% of the cases, 29% of the CSOs cooperated on joint projects, while 25% exchanged experiences and information with LGs. Also, 14% of the CSOs reported consultations about strategies/regulations at the local level and 6% reported to have been engaged as consultants.

Answering to FoI request, GOCCS stated it has been following trends in the cooperation between public administration bodies and CSOs through annual research on cooperation and trends in providing financial support to CSOs through the preparation of annual consolidated reports. The GOCCS uses the information obtained in the preparation of the abovementioned documents as a basis for policy-making processes

Basic data for CSOs are available in financial statements submitted to the Serbian Business Registers Agency except the number of CSOs networks: total number of CSOs, total number of those who submitted financial reports, number of employees (full-time and part-time), total income, total costs. SBRA also collects data on CSOs' areas of work, but those data aren't systematized; that information are requested for submitting registration request, but SBRA doesn't publish statistic report containing them.

The Ministry of Labor, Employment and Social Policy collects data/reports on the number of volunteers engaged, but it does not publish annual report containing summary information, nor an analysis of the data collected and processed. That means that the reported number of volunteers engaged is not publicly available, nor comparable to the information obtained through conducting different types of research on or by CSOs.

Lack of consolidated data on and related to CSOs sector, lack of regularly updated and available data collected and analyzed by relevant authorities, lack of obligation for public announcement of associations founders' names and even official e-mail addresses are seen as some of biggest challenges to operation across sectors.

### *3.1.2. Institutions and Mechanisms for Development of and Cooperation with Civil Society*

**When it comes to national level institution or mechanism with a mandate to facilitate cooperation with CSOs, legislation indicates partially enabling environment.**

There is no parliamentary committee whose area of activity is mainly focused on the issues of cooperation and improvement of the environment and work of CSOs, but for this purpose the Government has established an Office for cooperation with civil society. The Council for cooperation with CSOs wasn't established in Serbia.

**The Office for Cooperation with Civil Society (GOCCS)** has been established in 2010 by the Government's [Regulation](#). According to its mandate, Office should provide the support to the CSOs in the process of the defining and implementing legislative procedures altogether with public policies, and thereby contributing to a positive pressure on the governmental institutions.

In order to enable more inclusive and transparent dialog, consultation and communication with all relevant stakeholders in the field of planning and programming of EU funds and international development assistance, Serbian European Integration Office (today Ministry of European Integration) established in 2011 a consultation mechanism with the CSOs - **SECO mechanism**.

**National Convention on the EU (NCEU)** is a permanent body for thematically structured debate on Serbian accession into the European Union. NCEU was established primarily as body with the aim to facilitate cooperation between the National Assembly and the Civil society during the process of the EU accession negotiations. The cooperation is established in accordance to the good strategic cooperation between the highest Serbian legislative body and chosen representatives of civil society, which was enforced by the Resolutions of National Assembly from 2004 and 2013. In order to

increase operability, efficiency and strengthen its role in the decision-making process, NCEU was registered as a separate legal entity in 2018.

**Philanthropy Council**, established in 2018 by the Prime Minister's Decision, has the task to propose a development policy in the field of philanthropy and to consider issues such as the liaison and cooperation of relevant actors in the field of philanthropy, the refinement of the legal and financial framework in this area, including proposals and opinions giving on regulatory changes, and the promotion of philanthropy and corporate social responsibility in the Republic of Serbia and towards the international community. The Philanthropy Council includes 6 representatives of civil society organizations implementing USAID Local Works project although they have been recognized and engaged in promoting and supporting philanthropic activities and corporate social responsibility for years.

**Also, there are partially binding provisions on the involvement of CSOs in the decisions taken by the competent institutions.**

Decision on Formation of the Negotiating Team for Accession Negotiations of Serbia to the European Union, [Decision on the formation of the Negotiating Team for Accession Negotiations of Serbia to the European Union and Guidelines for the Cooperation of the Negotiating Team and Negotiating Groups with Representatives of CSOs, the National Convention on the EU and the Serbian Chamber of Commerce](#) predict that the criteria for the opening of negotiations imply an obligation to adopt a document, it must be submitted for consideration and consultation with civil society organizations, after which, in accordance to the Work plan of the Government, a public hearing is organized. Participants in public hearings should be informed in writing of the reasons for not adopting their suggestions.

Selected CSOs, members of SECO mechanism, are involved in consultations, participation in the work of sectorial working groups and preparation proposals for the use of EU funds based on signed Memorandum on Cooperation with the Ministry of European Integration.

In accordance with the obligation of consulting civil society when drafting strategic and legal documents required by the Serbian government, NCEU is used as suitable platform for the cooperation and consultations with the government and its bodies in charge of the EU accession negotiations (the negotiating team, negotiating working groups). However, clear rules for CSOs participation in those processes have not been established, therefore their involvement is just a matter of pure formality. Short deadlines for conducting the consultation processes are also a problem, and it is unknown whether there is an adequate and objective analysis of the received comments from civil society on negotiating positions, as well as systematic explanations as to why certain comments have been rejected.

**When it comes to capacities and resources of the national level institution or mechanism, practice partially met standards.**

A growing number of state authority bodies approached the GOCCS for support in conducting consultative processes, public hearings and other forms of cooperation with CSOs, instead of independently inviting CSO representatives to participate in the activities they organize and to provide direct cooperation with them. This position of the Office indicates the weakening influence of this institution on political decision making. Actually, since 2016 the work of the GOCCS is characterized primarily by support to other institutions in implementing their regular tasks (forwarding information on public hearings, co-organization, etc.) and their lack of results in a fundamental improvement of the environment for civil society development. Total amount of allocated budget for 2019 was 266.053 EUR, and for 2018 was 294.700 EUR. It shows decrease for 9, 72% in one year. Comparing to

*other stat bodies, this amount is closer to amount some of the allocated to CSOs (i.e.) through one public call, than to their annual budget*

*Number of employees in the GOCCS was 9 permanent employees and 1 person was employed on temporary and occasional contract. A small number of employees directly affect the limited GOCCS's capacities and impact toward support and adoption CSOs' initiatives and further CS development. Based on regular communication and cooperation with GOCCS C's representatives it is clear that annual budget allocated to the GOCCS doesn't responds to their needs and human resources are not sufficient for more active and effective role in advocating and proposing policies regarding CSOs development. 6 employees of GOCCS have CSO background.*

***Similar findings were obtained regarding regular consultations and involvement of CSOs in processes and decision making by the competent institution or mechanism.***

*Answering to FoI requests Ministries responded that CSOs participated in meetings organized, but without stating number of neither meetings nor CSOs. MSALSG reported that 5 meetings of WG for new Strategy Public Administration Reform were held.*

*The GOCCS reported that conference gathering around 130 participants was organized in cooperation with 3 CSOs, 10 CSOs project were co-financed, Europe for Citizens' events gathered around 400 citizens, all information relevant to CSOs are distributed through mailing lists to 2000 contact. 16 CSOs which participated in MM Survey stated they are informed about the work of the GOCCS. 8 CSOs reported they agree that decisions by the GOCCS are dominantly based on CSO input, 1 – strongly agree and 4 CSOs don't agree with this statement*

*15 CSOs stated they have been involved in consultations for preparation of draft legislation and policies (e.g. laws and bylaws, national or local strategies, action plans, etc). 7 CSOs reported that some of their suggestions and comments have been considered; 4 reported that most of their suggestions and comments have been considered and only 1 that all its suggestions and comments have been considered.*

*ACT Study data shows that three quarters of CSOs from (75%) believe that their influence on the creation of public policies at the national level is too small; one quarter (24%) finds it just about right, while only 1% is of the opinion that CSOs have too much influence on policy development at the national level.*

*CSOs members of the Philanthropy Council actively participated in creation proposals for improving the legal and fiscal framework: cost-benefit analysis of the tax burden of scholarships and the effect of magnification non-taxable amount of scholarships with comparative analysis of tax treatment scholarship in the countries of the environment was prepared, cost-benefit analysis of the tax burden of donations in goods / services and assessment budgetary implications of exempting VAT on benefits for public cause in goods by legal persons was prepared, Philanthropic agenda for advancing tax regulations relevant to development philanthropy in the Republic of Serbia was created. Key achievement in 2019 is related to relevant adoption of documents for legal and fiscal framework improvement: Guideline for donor s' tax benefits was published at Tax Administration web site, Tax-free amount for scholarships and student loans was increased.*

### **EU Guidelines assessment**

**Result 3.1. b.** *The Office for Cooperation with Civil Society (OCCS), as an institutional mechanism for supporting the development of dialogue between the Government of Serbia and CSOs, has been recognized within the state administration as an advisory body for the involvement of civil society organizations in the regulation process. An increasing number of government bodies have approached the Office for support in conducting consultative processes, public hearings and other forms of cooperation with CSOs, but this has not affected the quality of CSO involvement. Since 2016, the work of the Office is characterized primarily by support to other institutions in the performance of their regular jobs (forwarding information on public hearings, co-organization, etc.) and lack of results in substantially improving the environment for civil society development. The National Strategy for an Enabling Environment for Civil Society Development in the Republic of Serbia has not yet been adopted. The National Convention on the European Union is a specific body for dialogue, between representatives of government, political parties, CSOs, experts, the business community, trade unions and professional organizations on the nature of the EU accession process.*

*The SECO Mechanism (Sectorial Civil Society Organizations) was established to enhance the constructive dialogue between state authorities and civil society in the programming process and in order to increase the efficiency of use of development funds, especially EU funds. However, the new IPA support cycle (Multiannual planning document for international assistance 2019-2025) does not provide for direct support to the former sector civil society, media and culture.*

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

### **3.2.1. Standards for CSO Involvement**

**There are clearly defined standards on the involvement of CSOs in the policy and decision-making processes in line with best regulatory practices prescribing minimum requirements which every policy-making process needs to fulfill.**

The provisions and standards that enable CSOs to participate in decision making process are available in several different law and by-laws. [Law on Public Administration](#) prescribes the duty and obligation of public administration bodies to provide conditions for public participation during the preparation of draft laws, other regulations and acts (Article 77).

[Law on Local Self Government](#) prescribed several obligations relevant to CSOs involvement. There is an obligation of local self-government units (LSGUs) to regulate in their statutes the implementation of the obligatory procedure of public debate during the preparation of the statute, budget (in the phase of investment planning), strategic development plans, determination of source income rates, spatial and urban plans, and other general acts based on proposals of qualified number of citizens or request of one-third of city councilpersons. There is also possibility for citizens to initiate a public hearing, provided that such a proposal is supported by at least 100 citizens with voting rights in the municipality, collected in accordance with the regulations governing the citizens' initiative.

[Law on the Planning System](#) stipulates the principle of publicity and partnership, which implies that public policies are determined in a transparent and consultative process, i.e. that a transparent consultation process is conducted with all stakeholders and target groups, including citizens' associations and other civil society organizations, scientific and research organizations, taking into account the individual and legal interests of all stakeholders and target groups, while protecting the public interest.

[The National Assembly's Rules of procedures](#) prescribes that scientists and experts, who are not MPs may participate in the work of assembly's committees and also prescribes the possibility of organizing public hearings for the purpose of obtaining information or expert opinions on a proposal for an act that is in the parliamentary procedure, for monitoring the implementation of the law, or for exercising the control function of the National Assembly; other persons may attend public hearings at the invitation of the chairman of the line committee.

[The Government's Rules of procedures](#) provide that the Government, through the competent ministries and services, cooperates with associations, trade unions and municipalities. The document prescribes mandatory public hearing; proponent is required to conduct a public hearing in preparation of a law that significantly modifies certain issues or issues of special interest to public. This obligation applies in particular to the preparation of new systemic laws or a new law regulating the previously uncovered area, as well as in the case of major amendments to existing laws. The deadline for submitting initiatives, proposals, suggestions and comments in written or electronic form is at least 15 days from the date of the public invitation. The public hearing lasts at least 20 days.

[The Regulation on the Methodology of Public Policy Management and Regulatory Impact Assessment, and Content of Individual Public Policy Documents](#) was adopted in the beginning of 2019. The process of planning, drafting and adoption of public policy act and documents at all levels was harmonized by this document, which should result in their better and more efficient implementation.

By adopting this regulation, mechanisms have been put in place to systematically prevent the adoption of ineffective regulations and documents that do not meet the prescribed standards and criteria.

[Rulebook on good practice Guidelines for public participation in the preparation of draft laws and other regulations and acts](#) prescribes that consultation in particular includes the participation of other state bodies, relevant associations and the professional public, in a manner that ensures openness and effective public participation in the process, in accordance with the law.

**However, legislation partially met the standards when it comes to providing educational programs/training for civil servants on CSO involvement in state policies.**

[The National Academy of Public Administration](#) is the central institution of the system of professional development in public administration of the Republic of Serbia, with the status of officially recognized organizer of informal adult educational activities. It was founded in accordance with the Law on the National Academy of Public Administration and it started working in January 2018. By implementing the training program, and along with using modern forms and methods of work on professional development, the Academy improves the competencies of employees working in public administration, required for good quality of business as usual. The Government Office for Cooperation with Civil Society has developed training programs for public administration officials. Programs include several topics such as a framework for cooperation CSOs and the implementation of models of cooperation, transparent CSOs' financing from public sources etc.

**Also, internal regulations partially require specified units or officers in government, line ministries or other government agencies to coordinate, monitor and report CSO involvement in their work.**

**There is no regulation for providing mandatory existence of units or persons for cooperation with civil society at the level of the entire public administration.** However, a significant number of bodies, especially at the local level, have positions whose description, among other things, involves cooperation with civil society, most often in the form of conducting a public call procedure and allocating funds to CSO programs and projects from budget funds, but also other areas of cooperation.

Creation of a model of job descriptions, as a part of a job of an official in charge of cooperation with civil society in LSGs, was adopted as one of measures in [Action plan for OGP Initiative implementation 2016-17](#). On the sample of 77 LSGs, SCTM collected data on the number of LSGs which were envisaged a position for cooperation with civil society in town/ municipal administration. The results showed that the workplace for cooperation with civil society was foreseen by rulebooks only in 12% on a sample of 51 municipalities, while in cities this percentage is 50% on a sample of 26 towns.

The Office for Cooperation with Civil Society by the end of 2019 initiated the process of appointing contact points - points for cooperation with civil society organizations in government bodies at all three levels of government - national, provincial and local. The database currently contains 191 appointed persons by a total of 140 administrative bodies and will be updated periodically.

**However, practice indicates disabling environment when it comes to routinely inviting CSOs to comment on policy/ legal initiatives at an early stage.** 47 calls for public debates on laws (38) and strategies (9) were announced at [E-Government](#) portal in 2019.

According to ["Open Parliament" data](#), from totally adopted 189 laws, 31 laws (16, 4%) was adopted in "urgent procedure" during the 2019. It means that public debates, within which CSOs could submit their proposal/comments, weren't organized for those laws. In 2018 that percentage was twice a high

(32%) - from 400 adopted laws, 128 were adopted in "urgent procedure". 30 CSOs (almost 58%) which participated in MM Survey reported they were invited and involved in consultation over policy/legislation. Only 6 CSOs (11%) stated they were involved in an early stage of legislation drafting. 13 CSOs (25%) reported that invitation for consultation is received at least a week in advance. 7 CSOs (13%) reported that sufficient time to prepare and submit comments (around 15-20 days) was given. 71 % CSOs reported they participated in the work of advisory, consultative or working group bodies and committees.

Answering to FoI request, MTTT reported that WG for creation new Consumers' Protection Law involved 1 CSO representative, Draft Strategy of Consumers' Protection was sent for opinion to evidenced Consumers' Protection Associations, CSOs participated in WGs established for preparation laws and bylaws in tourism area. MCI reported that didn't involve CSOs representatives in laws'/bylaws' creation. MESTD reported that doesn't have requested information.

In May 2019, following the [announcement of president Vucic, the Assembly discussed changes to the law that should have introduced life sentence](#). The changes were inspired by the initiative of a father whose 15-year-old daughter had been raped and then killed several years earlier. As good as it may sound that the Ministry of Justice has decided to consider a petition signed by almost 160.000 of citizens and formulate amendments to the Criminal Code, it does not provide a valid legal basis, or a substantial justification for not organizing public debates on the Draft Law. There was no public debate, although there was more than enough time. Namely, the petition of the Tijana Juric Foundation was submitted 18 months before the law was debated in the National Assembly. In addition to the formal ones, in this case there were strong substantive reasons for holding public hearings, especially because of a possible violation of international conventions. Instead of public hearing, with the participation of experts, emotions of citizen flared up and the ruling parties benefiting from the law adoption for their own promotion. On December 2nd, group of CSOs and individuals submitted an initiative to review the constitutionality of the amendments to the Criminal Code to the Constitutional Court, which introduced a life sentence without the possibility of conditional realize into the RS legal system. On December 2nd, group of CSOs and individuals submitted an [initiative to review the constitutionality of the amendments to the Criminal Code to the Constitutional Court](#), which introduced a life sentence without the possibility of conditional realize into the RS legal system. Everyone who expressed concerns with the proposed law provisions were immediately labeled as child killer aides. The court has not decided yet.

Following the Anti-Discrimination Coalition's initiative to withdraw the Draft Law on Amendments to the Anti-Discrimination Law due to the failure to hold a public debate, a public debate was announced for September 2019.

**Practice also indicates that CSOs are partially provided with adequate information on the content of the draft documents and details of the consultation with sufficient time to respond.** 10 MM survey respondents reported they agree with availability of adequate draft documents before consultations.

It is for sure there are documents which were adopted without conducting prior public consultations, but there is no official report/statistic on this. More precisely it could be analyzed only by "manually" counting all laws or policy documents adopted. State Secretariat for Public Policies should be in charge to keep record on this, but this is not a case. According to Public Policy Secretariats' data, 46.9%, of adopted regulations for which in accordance with the Law on the Planning System and the Law on Public Administration is required to public consultation be held, were sent to that body for opinion. The Assembly adopted bit a less than 34.9% of them.

As a part of finalizing the process of drafting Guidelines for the involvement of civil society

organizations in working groups for drafting public policy documents their draft, GOCCS has produced a Report on the results of the consultation process. Also, narrative report on the results of the consultation process, tabular view of report with adopted/non-adopted comments, consolidated text of Guidelines' draft, Draft of Guidelines as amended in track changes format were published at the GOCCS's [web site](#). 8 CSOs sent totally 58 comments to Draft of Guidelines, 11 of them were adopted (20%), 3 were partially adopted, 22 weren't adopted and 10 comments were recorded.

**Practice is also partially harmonized with standards regarding written feedback on the results of consultations.**

There is no unique available evidence of summary reports on consultations held, including CSOs inputs sent and feedback provided. Answering to FoI, none of instances reported that after the consultation a summary report was publicly available on the input from the consultation, nor that list

of CSOs that participated was included with the report or online neither provide explanation why received inputs and recommendations were not adopted.

16 CSOs from MM Survey reported that some of their suggestions/comments were considered in the consultation processes, 5 CSOs reported that most of their suggestions/comments were considered, 4 CSOs reported that all of their suggestions/comments were considered and 6 CSOS stated they don't have information on what happened with our suggestions and comments.

Although the Draft Law on Prevention of Corruption passed the public debate in 2016, 2018 and 2019, contrary to the requirements of Article 41 of the Government's Rules of Procedure, the Ministry of Justice did not publish report on public debate held explaining why the suggestions submitted were unacceptable, i.e. why the proposed solutions are better than those submitted by the participants in the public debate. The Health Care Law was adopted in April 2019 without adequate debate enacting conflict of interest provisions, of which some are useful and some extremely problematic. The public debate on this act was organized, but it was in the end of 2016 and begging of 2017 and that draft version did not contain the problematic provisions.

According to data from [Annual report on implementation the Action plan for implementation Public Administration Reform Strategy 2018-20](#), preparation consultation procedure was carried out for 46,9% of laws respecting the Law of State Administration.

After a strong pressure of interested CSOs gathered by the Coalition for Social Entrepreneurship, the process of adopting Draft Law on Social entrepreneurship (which excluded association as founders of social entrepreneurs) has been stopped by the intervention of the Prime minister cabinet in March 2019. The new working group has been established with expert support of GIZ Serbia and strong involvement of CSOs, but the draft is not published yet.

[The Draft law on Accounting](#) provided for the abolition of a separate chart of accounts for CSOs, i.e. at the initiative of the Association of Accountants, it was requested to introduce a unified chart of accounts for all the head offices, thus eliminating the difference between CSOs and smaller and larger companies. With the support of the Office for Cooperation with CSOs, cooperation with the Ministry of Finance was established, and after two joint meetings, the Ministry accepted the request of the CSOs to maintain the existing separate chart of accounts, and proposal of the Draft Law was withdrawn.

**Practice indicates enabling environment in the area of educational programs for the majority of civil servants in charge of drafting public policies.** Only 5 CSOs agreed that designated public servants facilitated effective engagement of CSOs in the consultation processes. Office for Cooperation with civil society, in partnership with the Standing Conference of towns and municipalities, organized seven trainings for totally 123 local government employees on the topic

*“Collaboration with Civil Society Organizations and Program of public interest Financing implemented by associations.*

*According to National Academy's for Public Administration data, 359 trainings were organized for totally 6357 state officials and 104 trainings for 1686 LSG officials during 2019.*

*According to data from [Annual report on implementation the Action plan for implementation Public Administration Reform Strategy 2018-20](#), all four programs for the professional development of civil servants and state employees in local government in 2019 contained training on public consultation, mainly as part of training on the process of creating public consultations on policy and regulation, but also cooperation between public administration bodies and civil society. During 2019 eight trainings were conducted with 93 participants from state administration bodies participated.*

***When it comes to available units/officers coordinating and monitoring public consultations are functional and their capacities, practice is partially harmonized with standards.***

*Ministry of Youth and Sport, Ministry of Education, Science and Technologic Development, Ministry of Culture and Information and Ministry of Trade, Tourism and Telecommunications reported that do have designated officers for organizing public consultations; MME reported that public consultations were organized by Serbian Chamber of Commerce. Only 5 CSOs agreed that majority of civil servants responsible for drafting documents have the necessary capacities to involve CSOs.*

*There is no established mechanism for conducting and monitoring the consultation process. The person in charge for organizing consultation or public debate is determined for each particular case. Essentially, idea was to strengthen the contact points for cooperation with CSOs so they become the main channels for communication and consultation<sup>19</sup>.*

### *3.2.2. Public Access to Draft Policies and Laws*

***Legislation recognizes a clear obligation of public institutions to make all draft and adopted laws and policies public which is in line with standards.*** *The list of acts adopted or proposed by the Government for adoption is provided for in the Government's Work Plan for 2019. The Law on the Planning System, in accordance with the principle of publicity and partnership, provides for the obligation to carry out the consultative process transparently. This means that a transparent consultation process is conducted with all stakeholders and target groups, including associations and other civil society organizations, during the preparation and implementation of planning documents, as well as the impact analysis and impact assessment of public policies.*

*This issue is also regulated in the Law on Public Administration. In the Article 77 of this law that refers to public participation in the preparation of draft laws and other regulations and acts, it is stipulated that public administration bodies are obliged to provide conditions for public participation in the preparation of draft laws, other regulations and acts, in accordance with this law.*

*The conduct of public debates in the preparation of the draft law will be further regulated by **the Government Rules of Procedure**. The Ministry in charge of public administration, in cooperation with the public administration body responsible for public policies, prepares and adopts in the line with examples other good practice guidelines for public participation in the preparation of draft laws, other acts and regulations. Additionally, in preparation of the development strategy, public debate is obligatory, in accordance with the Rules of Procedure of the Government.*

<sup>19</sup> Interview with the GOCCS's representative.

[The National Assembly's Rules of procedures](#) defines the documents that must be published on the National Assembly's Website.

**Also, enabling environment has been detected regarding existing clear mechanisms and procedures for access to public information/ documents exist.** [Law on Free Access to Information of Public Importance](#) regulates this area.

**There are clearly prescribed sanctions for civil servants/units for breaching the legal requirements on access to public information which is harmonized with standards.**

Article 22 of Law on free access to information of public importance provides that an applicant may lodge a complaint with the Commissioner if a public authority rejects or denies an applicant's request within 15 days or if failed to reply to submitted request within the statutory time limit. The same right is provided in the case that a public authority does not grant access to a document containing the requested information and/or does not issue a copy of the document. The Law also provides that complaints shall be inadmissible if lodged against decisions of the National Assembly, the President of the Republic, the Government of the Republic of Serbia, the Supreme Court of Serbia, the Constitutional Court and the Republic Public Prosecutor. An administrative dispute complaint may be lodged against the decision in accordance with the law, which fact shall be notified to the Commissioner by the relevant court ex officio.

**However, practice of publishing draft and adopted laws and policies partially met standards.**

There is a unified portal where all laws subject to consultation are published – [E-Government](#). Also, citizens can post their opinions on the portal during the public debate's duration, but only if they were subscribed as users of e-Government services. The portal is also adjusted to blind and partially sighted persons. However, small number of citizen's posts was recorded comparing to number of this portal registered users (900.00 citizens) which indicates that this potential wasn't used enough.<sup>20</sup> There is no official data on number of ministries that do not regularly publish adopted laws and policies on their websites. All adopted laws can be accessed free of charge by citizens via [National Parliament web page](#) and [ParagrafLex](#) portal.

**Same findings have been assessed when it comes to answering the majority of requests for access to public information within the deadline prescribed by law, in a clear format, providing written explanations on the reasons for refusal, and highlighting the right to appeal and the procedure for appealing.**

Preliminary data gathered from Commissioner for Free Access to Public Importance Information indicates that 25.416 requests was evidenced in 2019, 20.572 of them were adopted, 563 were dismissed, and 1746 were rejected. The Commissioner's Office doesn't have information on the rest of 2534 requests because each state authorities evidence request send to them, and they didn't report on status of this requests.

The Commissioner terminated the proceedings on 5188 (20,4% % of the total number of requests) complaints for violation of the right to free access to information – in most of cases (2306) complaints were related to "administration's silence", in 584 cases complaints were sent to a conclusion or decision for denying the request, in 2298 complaints were sent because of some sort of public authority's response.

From 19 CSOs participated in MM Survey who requested access to information of public character during 2019, 10 of them received information within the time limit prescribed by law. were provided with an answer in a clear format, and only 2 CSOs were denied access without any explanation.1 CSO

reported it was advised on the possibility to appeal. Also, only 1 CSO reported it did not receive any answer on FoI request.

**Partially enabling environment has also been identified when it comes to sanctions for the violations of the law.**

Since the beginning of the 2019, the Commissioner for Free Access to Information has issued 80 decisions to execute the requests. However, in the same period, he addressed the Government 50 times, requesting that his decisions be enforced by direct coercion. The Commissioner has not received feedback in any of those cases.

Law on Free Access to Information of Public Importance prescribes that Commissioner's decisions and conclusions are binding. Their execution shall be provided by the Government of the Republic of Serbia, if necessary. From the beginning of the Law's implementation the Commissioner pointed to the problem of enforcement of the decision and insisted that in cases of failure of the authorities at the order of the Commissioner it was necessary to activate the function placed under the jurisdiction of the Government of Serbia and thus to provide the requester with access to information.

### 3.2.3. CSOs' Representation in Cross-Sector Bodies

**Existing legislation partially requires public institutions to invite CSO representatives on to different decision-making and/or advisory bodies created by public institutions.**

[The draft of Guidelines for CSOs' involvement in working groups for drafting public policy documents and draft regulations](#) was available for consultations during 2019. The Guidelines as a non-binding act propose principles and procedure for appointing representatives of CSOs to working groups for drafting public policy documents and drafts, that is, draft regulations established by the state administration body. Their purpose is to direct the work of state administration bodies towards further enhancing the involvement of civil society organizations in the processes of drafting regulations and public policy documents. The Guidelines provides for more levels of participation of CSOs in the process of preparing, adopting and monitoring the implementation of regulations: Information, Counseling, Involvement and Partnership.

**There are no clear guidelines on how to ensure appropriate representation from civil society, based on transparent and predetermined criteria which are not in line with standards.**

According to [the draft of Guidelines for CSOs' involvement in working groups for drafting public policy documents and draft regulations](#).

When the appointment of CSOs' representatives in the working groups is carried out in accordance with these guidelines, the competent state administration body (which organize the decision making process) shall

WG for creation National Strategy for Public Administration Reform after 2019 was created and 6 CSOs representatives are its members; CSOs representative participated in Philanthropy Council work during 2019. MTTT reported that 22 WG groups/coordination bodies were established, but only 18 involved CSOs representatives (representatives of professional associations); MME reported that 5 working groups were established and representatives of professional associations were involved, but their number wasn't reported; MCI reported that representatives of 3 CSOs were member of coordination body established by Ministry. MYS didn't establish any WG in 2019. MESTD reported that doesn't have information/documents on CSOs representatives as members of bodies/WG established by the Ministry. The GOCCS organized consultations with CSOs on Draft Guidelines for CSOs participation in policies creation process.

establish a commission for the election of CSO representatives for the members of the working group

and inform the public in a timely manner about the initiation of the process of appointing the members of the working group by publishing the public call.

**Practice is in line with standards when it comes to decision-making and advisory bodies on issues and policies relevant for civil society generally include CSO representatives.** 37 CSOs participated in MM Survey (71%) reported they were involved/ represented in the work of advisory/consultative/ working group bodies and committees in the past year;

**CSO representatives in Serbia in mentioned bodies are enabled to freely present and defend their positions, without being sanctioned which is in line with standards.** None of CSOs which participated in MM Survey reported being subject to excessive state control (e.g. inspections, sanctions) or harassment due to critical stances expressed in advisory/consultative/ working group bodies and committees. On the other side, 28 CSOs stated they agree that CSOs are free to express critical stances at advisory, consultative, working group bodies and committees. No available information from other sources on violations cases.

**CSO representatives are partially selected through selection processes which are considered fair and transparent.** Only 6 CSOs from MM Survey reported the procedure for selection of representatives on advisory, consultative and working group bodies and committees in their area of work is public and transparent.

In June 2019, the Government of the Republic of Serbia held a meeting with CSOs aimed to changing the Law on Financial Support for Families with Children. Association "Moms are the Law" which was most critical of the law was not originally invited, but other CSOs that have never dealt with this law have been invited. After this association's post on social networks invitation to participate in meeting was sent just the day before.

Interviewed CSOs representatives shared positive experiences on publishing at least names of WG members by competent ministries. Official decision on appointing members were sent to involved CSOs by e-mail/post and announced at ministries' web pages. Regular practice of making public information on meetings and WG's decisions is still missing, but official minutes are sent to WG members. Decisions on appointing CSOs' representatives as members of WG for Strategy's for Public Administration Reform creation was published at Ministry of State Government and Local Self-government (MSALSG) web site. MSALSG reported that mentioned WG is opened for participation other stakeholders, which didn't apply in public call. In that sense, Transparency Serbia became regular participant of working meetings.

Working group for amendments to Criminal Code involved only 2 CSOs representatives from 22 WG members (Autonomous Women Center and Tijana Jurić Foundation). In this case there was no broader involvement of CSOs in the process of drafting a document which targeting a broad area of social life. The WG was formed after the President of the Republic announced, during the press conference, that a life sentence would be imposed. As this proposal was supported by a large number of citizens, a public hearing was not formally organized. In this way, all the relevant rules that apply in the lawmaking process are played out.

**When it comes to prevention CSOs participating in these bodies from using alternative ways of advocacy or promoting alternative stand-points, practice is again partially harmonized with standards.** 24 organizations from MM Survey responded that

they are involved in decision-making advisory bodies that report using alternative advocacy measures to promote their opinion (e.g. such advocacy measures may include media campaigns, demonstrations, petitions, mobilizing constituencies to send e-mails to representatives, joining and forming advocacy coalitions etc.), 3 of them responded that they aren't using alternative advocacy

measures to promote their opinion and 10 of them responded that they don't know.

As it previously stated, in May 2019 [the Belgrade Center for Human Rights launched a petition](#) with aim to at least delete the ban on parole for sentenced to life imprisonment. The petition was signed by several dozens of the most eminent judges, prosecutors, lawyers, law professors and human rights organizations. This petition also expresses dissatisfaction that no public debate is being held on such a sensitive social issue although the law changes were drafted by the working group established by the Ministry of justice.

Serbia on the Move and the Association for the Protection of Constitutionality and Legality have launched the "In the Name of Culture" initiative to limit the broadcasting of programs on nationally televised channels and to improve cultural content for children and minors. Following the procedure of the people's initiative, the campaign of collecting citizens' signatures, the organizers collected almost 43,000 signatures and forwarded the initiative to the National Assembly. However, the Assembly still didn't respond to that initiative.

According to research [The Need for Change - An Analysis of CSOs' Capacity for Advocacy in Serbia](#), in order to achieve advocacy goals, for the mostly part and almost equally, CSOs used dissemination information through the media to exert pressure on decision makers (79.89%) and direct contact with decision makers (78.16%). More than a half of CSOs (56.32%) stated that it was also implemented a strategy to support relevant target groups to influence decision makers.

### **EU Guidelines assessment**

**Result 3.1.a.** Consolidated data on CSOs involved in consultations and public hearings during 2019 are not available. The number of laws / by-laws, strategies and public policy documents that are effectively consulted by CSOs is not available, since there is no consolidated data on the total number of adopted laws / by-laws, strategies and public policy documents both locally and nationally. However, it is noticeable that the competent bodies ignore the relevant comments and suggestions of the profession, professional and citizen associations, and formally organize meetings and collect written comments, thus making the whole mechanism of citizen participation in the regulation adoption meaningless. Also, although the policies and procedures for developing and coordinating public policies are formally established in practice, out of the total number of laws adopted by the Assembly, only 34.9% of them were fully complied with the procedure envisaged by the Law on the Planning System.

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

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

**Existing legislation allows CSOs to provide services in various areas, such as education, healthcare, social services which is in line with standards. Existing laws allow CSOs to provide services in a variety of fields, such as education, health, social services.** [The Law on social Protection](#) allows to CSOs to provide social protection services since 2011 as well as other public and private entities with the obligation to obtain a license, as provided for in Article 64 of that Law.

Article 16 of the [Law on Adult Education](#) provides that the organizer of educational activities may also be an association, and therefore CSOs, if they are registered for performing educational activities. Article 17 of this Law provides that only an association which meets the established standards and which has been approved by the competent Ministry may be recognized as a publicly recognized organizer of activities. The conditions that CSOs must fulfill are related to programs, staff, space, equipment and teaching tools.

[The Regulation on accreditation](#), manner of engagement and fees of implementers and implementers of professional development programs in public administration allows CSOs, as publicly recognized organizer of adult's education activities, provide educational services to public officials.

[The Law on Free Legal Aid](#) significantly limits the work of associations that have so far provided legal assistance and support to vulnerable categories. The adopted solutions virtually prevent CSOs from continuing to provide free legal aid, except in cases provided for by asylum laws, domestic violence and non-discrimination.

Role of CSOs in the field of health care is not defined in health policy and normative acts. The lack of a clear framework for co-operation prevents a greater role of CSOs in health care. The cooperation of the Ministry of Health and CSOs takes place through the Program of Support to Associations and Organizations which provided financial support in the line 481 to certain CSOs. This Program also includes support to the activities the Red Cross of Serbia.

The Article 130 [of Law on the Consumer Protection](#) provides that associations, including CSOs, may perform work in the area of consumer protections if they meet the relevant criteria. The criteria stipulate that the consumer protection must be a core area of work of this association, that they are ineligible and independent from political parties and traders and that the person in a managerial position in the association is not employed by a state body or regulatory body and that he is not in a managerial position in the trade association or in the political party.

**Enabling environment has also been assessed when it comes to barriers to providing services that are not defined by law.** The legal framework generally does not contain provisions that hinder civil society organizations from providing services not defined by law ("additional" services). According to the Law on Social Protection, CSOs are explicitly allowed to provide innovative services and they are not a subject of stricter requirements in the areas in which they provide services compared to other service providers.

When it comes to the areas for which a preliminary registration is required, CSOs are also allowed to license their services as well as other legal entities from public and private sector. Difficulties and limitations have been recognized in implementation of the Law on Free Legal Aid, which entrusts these tasks only to lawyers and legal services of local self-government units, except in cases of asylum

and non-discrimination. Associations are given the opportunity to provide general legal information and to complete forms, as part of free legal support.

The Article 131 of the Law on the Consumer Protection provides that associations working in this area may carry out: informing, educating, advising and providing legal assistance to consumers in exercising consumer rights; receiving, recording and acting on consumer complaints; conducting, independent tests and comparative analyzes of the quality of goods and services and publicizing the obtained results ;conducting research and studies in the field of consumer protection and publicizing the results obtained.

**Existing legislation partially met standards regarding additional burdensome requirements on CSOs comparing to other service providers.**

According to the Law on Social Protection, CSOs are allowed to provide innovative services and they are not a subject of stricter requirements in the areas in which they provide services compared to other service providers. CSOs may provide activities in the field of social protection, precisely individual social protection services. The process of licensing CSOs as providers in the social protection system is not sufficiently entrenched, given the very high functional standards (in terms of the space for service providing). The license / work permit must be obtained by organizations providing the following community services: day care, home help, halfway house, supported housing, child's personal escort, personal assistant, rest shelter and shelter accommodation.

The Law on Adult Education provides the possibility for citizens' associations to carry out activities of (non-formal) adult education if they are registered for educational activities, meets the established standards and obtain the Ministry's approval in accordance with this law. The Minister prescribes more detailed conditions regarding the programs, staff, premises, equipment and teaching tools, including the conditions for ensuring accessibility of teaching and programs for persons with disabilities.

The Law on Free Legal Aid prescribes that CSOs may provide free legal aid only to the basic law governing asylum law and non-discrimination as well as within the objectives for which they were established, they may provide general legal information and complete forms, as forms of free legal support. The Law also provides that legal aid providers shall be entered in the Register. Article 6 of [the Rules on the method of entry into the Register of providers of free legal aid and maintenance of the Register](#) provides for registration to be made on the basis of an application containing the following information: the association's name and seat; the sector of responsibility and the goals for which it is being established, information about the person providing free legal aid and the e-mail address of the person providing the free legal aid. The application shall also be accompanied by documents certifying that the association has been entered in the appropriate register and that the person providing the free legal aid has adequate qualifications

The Law on Consumer Protection in the Articles 132-134 provides for the procedure for the registration of an association or alliance of associations in the records of the Ministry. The procedure provides equal conditions and an identical procedure for all entities. The procedure is initiated by filing in an application which contains the name of the association, proof of registration in the SBRA, statute and evidence of fulfillment of the requirements for entry in the Register. Health services area

Interviewed representatives of CSOs agreed that CSOs as services providers are not involved in any stages of developing and evaluation of services. Furthermore, they are not familiar that even relevant Ministries carry out evaluations. CSOs engaged in social protection area reported that planning services' provision based on beneficiaries' needs is missing for years, Centers for Social Work have monopoly on that process and public calls for service provision are created based on their inputs.

does not contain legal provisions related to this indicator.

**CSOs are partially able to obtain contracts in competition with other providers and are engaged in various services.** 19 CSOs reported funding through state contracts. MTTT awarded one contract for service provision by CSO in 2019; supported 143 associations respecting the public call procedure, 1 association respecting single tender procedure. MESTD reported that concluded 36 contracts for service provision, but without specifying number of CSOs which participated in it. Ministries didn't report on the range of fields in which CSOs are contracted. MTTT through public call for the allocation of funds for public interest's programs in the field of consumer protection for 2019 distributed a bit more than 170.000EUR from budget line 481 to 7 CSOs involved in consumers protection area.

According to register of signed contract for social service providing in local level ([Public Procurement Portal](#)), from totally 16 signed contract 15 of them were received by CSOs; one public call for contract signing was suspended. Among signed contracts for health care service providing in 2019 there are no signed contracts with CSOs. From 6 registered contracts for educational service provision in 2019, none contract was signed with CSOs.

Providing services in health care area by CSOs is financed only on project base, unlike in social protection area – based on tender procedure. There is no procedure for CSOs contracting for service provision; they are not recognized as providers but as “helpers” who have direct access to beneficiaries.<sup>21</sup>

**However, when it comes to inclusion CSOs in all stages of developing and providing services the environment is disabling.** Interviewed CSOs representatives agreed that CSO as services providers aren't involved in any stages of developing and evaluation of services. Furthermore, they aren't familiar that even relevant Ministries carry out evaluations. CSOs engaged in social protection area reported that planning services' provision based on beneficiaries' needs is missing for years, Centers for Social Work have monopoly on that process and public calls for service provision are created based on their inputs. In addition, LSG often try to finance provision of services by CSOs through public calls for support to their projects, instead through public tender procedure, as Social Protection Law prescribes for licensed service provision.

CSOs dealing with consumers right's protection weren't included in all stages of developing and providing services/support for consumers - Public call for financing consumers' protection association is announced once a year, before prior consultations with provider on priorities and needs; the call targets same topic for a years back.<sup>22</sup>

**When prior registration/licensing are required, the procedure for obtaining it is partially burdensome.** 15 CSOs (from 19 involved in service providing) consider the process for obtaining license is burdensome. According to the Law on Social Protection Law, CSOs are obligated to be licensed for providing certain social services (daily community services, family accommodation and home placement services). [Totally 558 organizations were licensed](#) for providing social services till the end of 2019. 129 of them (almost 20 %) are CSOs licensed for providing social services in local communities. 27 CSOs provide more that one licensed service<sup>23</sup>. Respecting the Free legal Aid Law CSOs have to be registered in official Register of legal aid providers – 18 CSO are registered for providing free legal aid and 21 are registered for providing legal support.

<sup>21</sup> Interview with Association's Duga representative.

<sup>22</sup> Interview with CSO's Narodni parlament Leskovac representative.

<sup>23</sup> Interview with Center's for Social Policy representative.

The National Academy for Public Administration made publicly available list of accredited training facilitators – from totally 66 accredited organizations, 13 of them are CSOs. Among 212 registered providers of educational services for adult, only 5 of them (1,9%) are CSOs – 3 associations and 1 foundation. According to MTTT's official Register, 26 associations and federations are registered for consumers' protection and this number has been stagnant since 2015)

There is no licensing/certification procedure for health service providing, but persons who are directly involved in service provision have to be certificated by the Ministry of Health. CSOs interested in health service provision (counseling and testing) need to sign Memorandum of Cooperation with territorially competent institution. Integrated socio-health services need to be accredited by State Institute for social protection. Official register of health services providers is missing.<sup>24</sup>.

Procedure for registering CSOs in area of consumers' protection isn't burdensome: Associations or federations wishing to be registered in the Register have to submit an application to the Ministry. However, it is not clear intense and purpose of prescribing obligation for CSOs to

employ one more person with Bachelor degree (didn't specified in which area) beside Bachelor of Laws.

Institute for Education's Advancement gives accreditation to CSOs for providing trainings for teachers', professional associates' and directors' employed in educational institutions professional development. List of accredited CSOs is available within Catalogue of professional development programs. Accreditation procedure isn't burdensome; there is no additional request for CSOs as potential providers/organizers. However, accreditation procedure is repeated every 2 years and there is a need to do it more often<sup>25</sup>.

### 3.3.2. State Funding for CSO-Provided Services

**The budget partially provides funding for various types of services which could be provided by CSOs including multi-year funding.** The state budget, as well as local budgets and financial plans, provides funds for financing the various types of services provided by CSOs.

The budget provides a specific budget line intended to finance the provision of social protection services: 472 - Social security allowances but there is a practice of financing services through budget line 481 - CSO activities. Total amount of funds planned to be allocated in 2019 budget from line 472 (social protection provisions from state budget) was 963.721.137 EUR. Total amount of funds planned for CSOs support from the budget line 481 (grants to CSOs was 64.431.679, 49 EUR). Funds planned for project financing of free legal aid and free legal support provided from public funds, may be transferred to registered providers or to bar Associations. Public call is announced for this activities' project financing.

There are no legal barriers to CSOs receiving public funding for the provision of different services (either through procurement or through another contracting or grants mechanism).

**When it comes to legal barriers to CSOs receiving public funding for the provision of different services, legislation is in line with standards.**

The Law on Budget for 2019 on line 481 provides for the allocation of funds for the work of civil society organizations in the fields of support to citizens' activities in the field of health care, the sector

<sup>24</sup> Interview with Association's Duga representative

<sup>25</sup> Interview with Center's for Education Policy representative.

*of support for youth employment and their active inclusion, for the development and implementation of youth policy and for the implementation of projects relevant to education.*

*The only restrictions concern areas where there is exclusive competence of bodies or organizations established by the Republic of Serbia, as provided for example by the Law on Social Protection*

*Article 6 of Law on Public procurement prescribe that the subject matter of contract on public procurement of services may be education and vocational training services, as well as healthcare and social services. The law also prescribes a transparent tender procedure in the case of bidding for the financing of services from public sources, with criteria that many civil society organizations cannot meet. The buyer may specify additional terms in terms of financial, business, technical and personnel capacity. Contracting authority may provide in tender documents that bidder has to prove that it is not undergoing liquidation or bankruptcy procedure, or preliminary liquidation procedure, but may also define other additional requirements for participation in public procurement procedure, especially if they relate to social and environmental issues. According to Article 61, CSO are obliged to submit financial or banking guarantees for tenders with value in excess of RSD 250 million.*

***When it comes to signing long-term contracts for provision of services, legislation partially satisfies standards.***

*The Law on Social Protection and the Law on Adult Education provide that CSOs can provide services in this area. These services are provided on the basis of a contract concluded in accordance with the procedure followed, which is regulated by the provisions of the Law on Public Procurement. The normative framework allows the conclusion of multi-year contracts, but in practice it works differently and contracts are signed only for the current year.*

*Article 58 of the Law on Adult Education provides that funds for these purposes shall be provided in the budget of the Republic of Serbia, the budget of the autonomous province and the budgets of local self-government units.*

*Article 135 of the Law on Consumer Protection provides that associations registered under the law may compete with the program of public interest for incentive funds of the Ministry. Article 136 provides that the activities of the registered associations may be financed or co-financed from the budget of the Republic of Serbia in accordance with the law, the Strategy and the Government's Work Plan.*

***When it comes to receiving funds for services, disabling environment has been assessed. 11 CSOs agree that CSOs are excluded from public service tenders in their area of work.***

In mid of 2019 the Minister of Labor, Employment, Veterans and Social Affairs announced a call for proposals for the submission of projects for the establishment of a National SOS phone for Women Victims of Violence. The Women Against Violence Network has warned that this type of social protection service has to be funded only through a public procurement procedure, and that the call for competition is not in accordance with the Law. Although the Minister announced that this legal obligation would be circumvented by the Government Conclusion, it is known that the Government Conclusion cannot violate the law. The same situation also occurred in 2017. The Ministry of Labor, Employment, Veterans' and Social Affairs announced and, after the response of the Autonomous Women's Center to the violation of the Law, canceled the competition for the procurement of this service. The Women Against Violence Network reminded that according to the Social Protection Law, social protection services are procured from a licensed provider of social protection services through a public procurement procedure, and that the procurement of the National SOS phone for women victims of violence must also be done in accordance to the Law.

Further, the Minister announced the piloting of the service which was provided by the Women's Network Against Violence member organizations for 25 years. Vojvodina SOS phone Network, for 6 years, through a unique and free telephone number, provides the same service for the entire province. Given the existing experience in providing this service, there was no reason to spend taxpayer money on piloting. Above mentioned public call was published and the Infant, Child and Youth Care Center was selected to provide this service. The number of calls received in the first six months of operation of the newly formed National SOS telephone for women with experience of violence, operating within a social protection institution - Center for Care of Infants, Children and Youth, was twice lower than the recorded and publicly presented number - 934 calls (average 155.7 calls per month). The other 861 calls, made up of "test" calls, should not be counted and displayed because they do not originate from callers. Although the newly formed national SOS phone is available 24/7, it receives only a 1/5 of calls made annually by women with experience of violence in Serbia, and provides seven times less services than the number of services provided by women's SOS phones, which there are more but they are less available during the day and mostly weekdays due to lack of funding.

representatives of the City stated that the amendment of the Decision on social protection and allocation of funds for this service based on it is one of the priorities of the City. It is allowed that providing free legal aid by registered CSOs is financially supported from state budget; registered

Ministry of Health finances health services provided by CSOs through public call for project activities' implementation, instead based on contract for services providing. One public call was announced in 2019.

CSO's National Parliament from Leskovac (recorded for consumers' protection) application for public call for state financing wasn't take in consideration because it wasn't submitted in manner requested by the public call, i.e. [application's pages weren't bounded](#). CSOs partially receive sufficient funding to cover the basic costs of the services they are contracted to provide, including proportionate institutional (overhead) costs.

CSOs reported that funding for services was not sufficient to cover basic costs of the services. 6 CSOs reported that funding for services did not include proportionate institutional and administrative (overhead) costs. Interviewed CSOs representatives agree that funds allocated from public sources aren't sufficient for sustainable service providing.

In 2019 Ministry of Health allocated a bit a more than 73.000 EUR to 5 CSOs (in a range from 6.650 EUR to 28.500 EUR per CSO) for supporting their activities in the field of prevention and control of HIV infection. All funds were allocated through only 1 public call. In August 2019 CSO The Living Upright Center has launched [a crowd funding campaign](#) for providing personal assistance service in Novi Sad to ensure continuity of service provision and functioning of people in need. The City financed the provision of this service through public works and budget rebalancing funds, but this represented a short-term solution. The Center actively advocated for service's purposefully financing through public procurement, as foreseen by the Social Protection Law, and

CSOs had opportunity to submit project proposals as any other CSOs. During 2019 tenders for this type of service weren't recorded

Respecting providing services in education area, the relevant Ministry didn't announce any public call for funding services in 2019. However, there is a practice of direct negotiation among schools or other education institutions and accredited CSOs to provide trainings needed for their employers.<sup>26</sup>

**When it comes to delays in payments and flexibility of the funding practice is in line with standards and no data on violations.**

### 3.3.3. Procedures for Contracting Services

**Legislation is in line with standards when it comes to clear and transparent procedure through which the funding for services is distributed among providers.** The control procedure is foreseen in the Law on Public Procurement and the Ordinance on the Close Regulation of the Public Procurement Procedure Article 161 of the Law on Public Procurement provides that members of the Republic Commission may conduct control of the execution of the Republic Commission's decision.

**Unfortunately, disabling environment has been identified when it comes to lead criterion for selection of service providers.** According to Articles 84 and 85 of Law on Public Procurement price is not always the main criterion for the selection of service providers, but also the factors of service quality and financial stability of providers are considered. Same articles provide that the contracting authority is obliged to determine the same criterion and elements of the criteria for awarding the contract in the invitation to tender and in the tender documents. The criterion for evaluating the bid, in addition to the lowest price, is the criterion of the most economically advantageous tender (which depends on a number of other issues).

[The Rulebook on the Close Regulation of the Public Procurement Procedure](#) sets out the obligation of the Public Procurement Commission to prepare a reasoned proposal for a decision in accordance with the Report on the Expert Evaluation of the Bid.

**There are clear guidelines on how to ensure transparency and avoid conflicts of interests which is in line with standards.** The Law on Public Procurement contains provisions on the prevention of conflicts of interest, as well as certain mechanisms aimed at ensuring transparency and legality of this procedure. **Same goes for the right to appeal against competition results.** The Law on public procurement, provides for the possibility of submitting a request for protection of rights to the Republic Commission, if the authorized person who has a legal interest in awarding the contract considers that he has suffered or could suffer damage due to the actions of the contracting authority which is contrary to the provisions of the Law on Public Procurement. It also provides for the possibility of initiating an administrative dispute against the decision or in case of failure to act on the request for protection of rights by the Republic Commission.

**Regarding the level of services contracted to CSOs, practice is partially harmonized with standards.** 19 CSOs from MM Survey stated they applied for contracts – 18 of them are licensed for social service providing and 1 applied for educational services for LSG representatives. There is no unique record of CSOs that reported receiving contracts per different policy field. None of the surveyed/ interviewed CSOs reported receiving other types of contracts).

<sup>26</sup> Interview with Center's for Education Policy representative.

**Data indicates enabling environment when it comes to competitions are considered fair and conflicts of interest are avoided.** 9 out of 52 CSOs agreed that the allocation of state contracts is transparent and fair. Anti-Corruption Agency exercises control over the disposal of public resources, reveals irregularities committed by individuals and / or groups, regardless of their status, educates representatives of the public sector and other target groups, including the general public, on issues relevant to anti-corruption activities; provides mechanisms to establish and enhance integrity within the institutional and regulatory framework. The Agency regularly publishes the Opinions on conflict of interest of public officials, but none of published opinions refers to conflict of interest in case of calls/contracts for service providers. There are no available data on cases of conflict of interest reported in anticorruption reports by the state/ CSOs or in media by journalists.

**State officials have partial capacity to organize the procedures.** Answering to FoI requests, MCI stated that only 1 official has undergone training for state contracting, MYS confirmed that its officials attended mentioned trainings, but didn't state their number; 2 MTT's officials have undergone relevant training. 10 CSOs agreed that state officials have the sufficient capacity (e.g. knowledge; training) to implement procedures for contracting of services.

#### 3.3.4. Accountability, Monitoring and Evaluation of Service Provision

**Legislation partially satisfies standards when it comes to possibility for monitoring both spending and the quality of service providers.** The control procedure is prescribed by the Law on Public Procurement and the Rulebook on Regulation of the Public Procurement Procedure.

The Law on Free Legal Aid prescribes control over the conscientiousness and professionalism of the provision of these services. The control procedure is initiated on the basis of a proposal by the Ministry, ex officio or upon the complaint of the beneficiary. If these services are provided by CSOs, the quality control is performed by a joint commission, chosen by mutual agreement between the Bar Association of Serbia, representatives of professional associations or law faculties. In a joint commission consisting of five members, two are selected among the lawyers, one from the professional association, one from the law faculty and one from the ministry. If the competent authority determines in the quality control procedure of providing free legal aid that there is an unconscious or unprofessional provision of free legal aid or free legal support, it shall issue a decision to the Ministry.

The possibility of monitoring the provision of social protection services is prescribed by the Law on Social Protection, as well as the Regulation on Licensing of CSOs of Social Services Providers and the Rulebook on Conditions and Standards for the Provision of Social Welfare Services. Clear standards are set out in the Rulebook on Terms and Standards for the Provision of Social Welfare Services.

Article 137 of Law on Consumer Protection provides that an association will be deleted from Register if it does not submit to the Ministry an annual report on activities and results achieved in the field of consumer protection, including the financial report, violates the consumer principles of the Code of Conduct adopted by the Consumer Council or does not publish their decisions on its website.

**Legislation contains clear quality standards and monitoring procedures for services which is in line with standards.** The Law on social protection prescribes the obligation of determinations of minimum standards for social protection services, continuous professional development of social care providers and accreditation of training and service programs.

The Rulebook on Close Conditions and Standards for the Provision of Social Services prescribe basic

requirements that must be fulfilled by all social service providers, including CSO, regardless of the user groups for which the service is intended. In addition, this Rulebook also provides specific minimum standards that must be met within a particular service group or specific service. The basic standards stipulate that the service provider have to define a basic program that contains basic information on users, program activities carried out and basic personnel information. They also must define work plan that sets out goals in terms of staff development, service development and public awareness of the services provided.

Article 137 of Law on Consumer Protection provides that an association will be deleted from Register if it does not submit to the Ministry an annual report on activities and results achieved in the field of consumer protection, including the financial report, violates the consumer principles of the Code of Conduct adopted by the Consumer Council or does not publish their decisions on its website.

Article 10 of the Law on Free Legal Aid provides that it is based on the control and improvement of the quality of the provision of free legal aid and the monitoring of the manner and outcome of the free legal aid provided. The law provides for the obligation of independent, conscientious and professional provision of free legal aid. It also stipulates in Article 25 the obligation to adopt a Code of professional ethics. Article 19 provides for the possibility of deletion of a free legal aid provider from the Register if it is determined that unlawful or unprofessional provision of free legal aid or free legal support.

**No data on CSOs as a subject to excessive control which is in line with standards.** Only 1CSO from MM Survey reported that they have been subject to excessive control. 13 CSOs reported that onsite controls were conducted without prior notification. Interviewed CSOs representatives didn't report they have been subject to excessive control; furthermore, they even stressed that control carried out by relevant state authority during service provision is missing.

**However, when it comes to performing monitoring on a regular basis according to pre-announced procedures and criteria, disabling environment has been assessed.** Answering to FoI requests, 4 Ministries responded they didn't conduct monitoring on state contracts during 2019. MYS reported that monitoring wasn't carried out based on clear criteria, but in accordance with the law, internal regulations and way defined in concrete state contract. 14 CSOs from MM Survey agreed that accountability criteria are clear. Interviewed CSOs representatives pointed out that there is no established monitoring mechanism during service provision, so they weren't monitored during 2019.

Similar findings have been identified regarding regular evaluation of quality and effects/impact of services. Answering to FoI request MYS answered there is no data on made evaluation of the service provision; MEDT responded that is not in charge to make evaluations. MCI responded it doesn't pose requested information; Ministry of Mining and Energy reported that revision is made as a way of monitoring and evaluation service providing. MTTT reported on only case of evaluation of the service provision; copy of evaluation report for service provided by one CSO was sent. The report contains only one sentence that confirms that provider fulfilled all agreed obligations and submitted report on services provided. In other received answers there is information on evaluation of the service provision provided by CSOs.

# Conclusions and recommendations

## AREA 1

### Recommendation 1

**Consistent implementation laws and by-laws in the area of freedom of association, freedom of assembly and freedom of expression is needed at all state levels in order to defend achieved standards in the legal framework, as well as strengthening the accountability of all relevant institutions responsible for the protection of fundamental rights. Urgent reaction of the competent authorities is also needed in cases of threats and attacks against activists and journalists, their personality, property and lives. A strong message must come from the highest political representatives as well as from the relevant EU institutions. Constant monitoring of the European Union with the pressure on political representatives. Clear messages and political punishments in this regard ("Pribe mechanism" or similar instruments).**

Violation of fundamental freedoms is one of the strongest findings of this report. Numerous recorded cases of violations of freedom of association, expression and assembly are recorded. Cases include smear campaigns, intimidation and security threats in online and offline spheres, interference gatherings and public events. In some cases, high government officials initiate or participate in campaigns. This particularly affects CSOs with critical attitude toward the authorities at the national and local levels, who are intimidated and abandon their attitudes in the public space and media support the narrative of foreign mercenaries and traitors. It weakens citizens' confidence in the sector. CSOs and activists are committed to defending attacks that interfere with their daily work.

### Recommendation 2

**Stop using GONGO and PONGO organizations for the purpose of legitimizing decisions and proposals of institutions of government, faking public debates as well as misuse of state funds for all associations established and operating in areas of public interest. Recognizing the GONGOs in a relevant EU documents and reports (PAR, Progress reports, EU Guidelines for civil society etc.) and sending clear messages to the highest political representatives in Serbia.**

Establishing GONGOs and PONGOs is one of the main trends in Serbia during 2019 in the public space and the media. Their role is visible in decision-making processes, distribution of state money, and the initiation and campaigning of critically oriented actors. CSOs and activists are committed to defending attacks that interfere their daily work while a parallel civil society is being created that makes a false image in society. In the decision-making processes GONGOS and PONGOs uncritically support all proposals of the authorities. They also use state funds contrary to the principle of public interest set out in the Law on Associations

### Recommendation 3

**Prevent legal interventions that would ban organizations from establishing social enterprises**

**or impose new administrative and financial obligations on them. Introducing adequate incentives, financial and non-financial is also needed as well as recognizing social entrepreneurship as social value in the different sectorial policies**

*Potential of social entrepreneurship has not been recognized and it is still rare among CSOs. Current legal framework is liberal and allows it, although there are no adequate incentives by the state. There is an intention on the part of the state to regulate the legal framework in this area, but not in a direction favorable to CSOs. As the state of financial diversification of sector is not at the satisfied level, this is a good way to secure funds that are not dependent on the state or donors. Additionally, social entrepreneurship is a solid basis for the strengthening constituency relations of those CSOs and could contribute to the better public image of CSOS -*

## AREA 2

### **Recommendation 4**

**Providing stronger political label for the philanthropy with stronger incentives for corporative giving, introducing incentives for individual giving, and harmonization of public interest between different laws as well as establishing system for collecting data.**

*Different domestic and international reports assess non-favorable framework for individual and corporate giving. There are no proper tax benefits underlying the further growth of giving. Implementation of existing incentives is not unique and different practices of the competent authorities in this regard are present. The definition of public interest is inconsistent in Law on Associations law and tax laws. There is no system for collecting data on donations from citizens and businesses. Diversification of the financial sources is weak and needs to be strengthened with funds raised through individual and corporate giving. Poor tax incentives directly reflect the number of those who wish to donate. Analyses of existing donations are not available and do not allow organizations to be adequately informed about those who donate, which also affects their approaches to individual and corporate donors*

### **Recommendation 5**

**Developing additional qualitative criteria for participating in distribution of state funds on a basis of expertise and public interest contribution as well as establishing a system for effective regular collecting data on all types of state finding. Providing a political label for the EUG is also needed as it could be used as a regular mechanism for monitoring and pressure on the state (such as PAR). Stronger focus on qualitative indicators in EUG in relevant area. Providing full implementation of recommendations based on EUG criteria by the Government as well.**

*Although there is a general framework for transparent state funding, it still contains certain gaps, which allow for the prescribed procedures, and in particular the political influence on the final decisions. The state funding for CSOs in Serbia is one of the initial reasons for increasing GONGO activities and a number of cases have been reported. Existing practices threatens access to the funds of those organizations that have expertise and act in the line with public interest, but criticizes certain actions of the authorities. Even those organizations that are not critical, give up, because it is known in advance who will receive the funding, especially at the local level*

### **Recommendation 6**

**Adoption a new Volunteering Act to treat volunteering as an activity of public interest, not as unpaid work as well as by-laws that will make it possible monitoring the effects of its application.**

*The legal framework still does not stimulate volunteering, no acknowledges the value of volunteer engagement and does not enables the collection and analysis of data on volunteers and volunteer hours. The law is overnormed treating volunteering as free labor, rather than social value. For this reason, most organizations organize volunteering without law enforcement, while official statistics do not include the actual number of volunteers and volunteer organizers.*

## **AREA 3**

### **Recommendation 7**

**Adoption of the National Strategy for Enabling Environment for Civil Society Development in the Republic of Serbia.**

*Although, there were some GOCCS activities aimed to establishing of the Council of Cooperation with Civil Society, in order to respond a strong message from the Progress Report in May 2019, the most of liberal/pro EU CSOs thought that forming such body at the moment would only be a check of boxes and another mechanism for maintaining parallel reality due to strong GONGO activities. It is necessary to adapt the existing draft Strategy to the current state of affairs, to define adequate and effective measures and to assess whether certain mechanisms for cooperation are necessary and appropriate.*

### **Recommendation 8**

**Developing additional qualitative criteria for participating in decision making processes on a basis of expertise and public interest contribution as well establishing a system for effective regular collecting data. Providing a political label for the EUG is also needed as it could be used as a regular mechanism for monitoring and pressure on the state (such as PAR). Stronger focus on qualitative indicators in EUG in relevant area. Providing full implementation of recommendations based on EUG criteria by the Government as well.**

*Although certain changes in the legal framework have been observed, they are not qualitative and do not address the problem of limited influence in the decision-making process. Due to the focus of the EU on quantitative criteria, a trend of faking public participation and debates was observed, with strong GONGOs activities. The absence of a feedback mechanism, a lack of political will for qualitative contribution of CSOs to the decision-making process are leading to a self-excluding by an increasing number of CSOs, especially those that are critically positioned. Their place is filled by GONGOs that create a parallel reality this way, as well as discredit organizations with strong expertise and that act in the line of the public interest*

### **Recommendation 9**

**Ensure the status of social service providers to civil society organizations in all relevant fields including equalizing their status with other actors in the field. Improvement of the legal is also needed in the parts related to the criteria for awarding the service contracts and clear monitoring and evaluation procedures.**

*Currently the most regulated area is the provision of social protection services and consumer rights. CSOs are generally recognized and equated with other providers, but the same needs to be done in other areas (free legal aid, health care, education, culture). In all areas, there is lack of clear procedures to ensure the quality of customer service, so the quality of services in different areas is different according to the beneficiaries. It is not always clear how much money and from which budget lines are allocated in practice for service delivery.*

# Annexes

## 1. Monitoring Matrix methodology

### **Operationalization and data collection**

*The Monitoring Matrix on Enabling Environment for Civil Society Development is a detailed theoretical framework based on international human rights and freedoms and regulatory practices of European countries and the EU. The framework is built around three core areas: Basic Legal Guarantees of Freedoms; Framework for CSOs' Financial Viability and Sustainability; Government – CSO Relationship, each divided in sub-areas. The areas are elaborated by standards, which are further specified through legal and practice indicators.*

*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 regarding the **practice indicators**, country researchers follow a methodology plan in which each of the 80 indicators are further operationalized in concrete 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 could 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 indicator (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. For each indicator there is a clear guidance on the data gathering strategy (instruments and sources) which should be utilized 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 is followed by relevant secondary sources (e.g. from CSOs reports, Ombudsman and media). Finally, at the end of the hierarchy are interview data, being subjective type of data, which covers smaller groups of respondents.*

*The primary factual data and secondary data are gathered through **desktop research**. Following the data gathering strategy, country researchers utilize three core data gathering instruments: Freedom of Information requests (FoI), survey questionnaire and interview topic guides. The questions in the data gathering instruments are tailored to match the mandatory data types (operationalised dimensions) of each practice indicator. The **Freedom of Information requests** (FoI requests) are*

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 civil society organizations' experiences and perceptions on the 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) on 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 which require the respondents to elaborate on their experience. The same questionnaire is implemented across all countries, and only the formulation of few items is slightly adapted to the concrete country context to assure questions are understood by respondents. The survey is sent to lists of formal CSOs compiled and updated by country researchers on the basis of available registers or other alternative lists of active CSOs in the country (for more information see section on country-specific notes on methodology). The data collected from the survey is confidential and used strictly on anonymous basis. Individual responses are not connected to the organizations which answered the survey and reported only in an aggregate form.

The **interview topic guides** include questions which – similar to the survey questionnaire – matches specified mandatory data types and are used in all countries. In addition to these core questions, researchers formulate 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 and online initiatives).

### **Data analysis and interpretation**

To analyze and interpret the data, country researchers use a unified data collection template which provides the indicators description (including the mandatory and additional data types for the practice indicators) and five category descriptions ranging from fully enabling to fully disabling environment provided under each indicator. The five category descriptions are specified for each legal and practice indicator in the Monitoring Matrix Toolkit, to enable researchers – based on the reported data – to choose one code (score) which most accurately summarizes the state of enabling environment concerning the respective indicator. In a first step, the researcher reports the required data types collected through 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 a second step, they choose one of five category descriptions specified for the respective indicator which best illustrates the reported data. The categories enable unified comparison of findings on the level of indicators across all country reports.

## 2. Notes on methodology and country challenges

The process of the development of the report was based on the analysis of existing legal and strategic documents regulating CSOs work, on one side, and analysis of numerous CSOs and independent institutions' research and reports, as well as on-line survey and interviews' results, on the other. Relevant documents (laws, by-laws, strategies, action plans, and reports) were collected through desktop research; all were available on the state institutions', independent institutions', numerous CSOs' web sites and online legal database Paragraf Lex. Data on implementation of current legal and strategic framework was also collected during different public events organized throughout the entire year (both by the state authorities and CSOs), as well as in daily communication with numerous CSOs, CSOs who used Resource Centre services, institutions, representatives of donor community, independent experts and consultants.

Relevant data on legal documents' implementation was collected based on answers from Freedom of Information (FoI) requests. CI sent totally 35 FoI requests to relevant state authorities (ministries, agencies, offices, prosecution and courts, independent bodies, National Bank and the Pension and Disability Insurance Fund of the Republic of Serbia). 24 institutions' answers (68, 5%) were received – 18 of them were sent in hard copy and 6 via e-mail (in PDF format). In 4 cases, relevant institutions answered they do not possess requested information and 6 answers were sent after required deadline extension (provided by Law). Missing FoI request answers required after complaints sent to the Commissioner for Information of Public Importance were not received by CI until the end of development of this Report.

Data on CSOs experience in enjoying basic freedoms and implementing rights prescribed by the Constitution and laws were collected through unique on-line Survey. The Survey was launched in the mid of December 2019 and was opened till mid of February 2020. Invitations to CSOs were sent to the e-mail and via CI FB page. Totally 52 CSOs answered to the questions from Survey, sharing experience from their work and practices faced with during 2019.

Important sources were also publications prepared and published by state institutions, other CSOs, and projects: The National money laundering and terrorist financing risk assessment (Republic of Serbia, 2018), A Guide to achieving tax relief for donors (Ministry of Finance, Tax Administration, 2019), Annual report on implementation the Action plan for implementation Public Administration Reform Strategy 2018-20, (Ministry of State Government and Local Self-government, 2020), CSO SECTOR IN SERBIA 2019 Assessment of the Situation in the Civil Society Organization Sector in Serbia (Representative Office of HELVETAS Swiss Intercooperation SRB, Belgrade, 2019), Case study: Threats and Pressures on activists and independent journalists in Serbia (Belgrade Center for Security Policy, 2019), Philanthropic agenda - Analysis and suggestions for improvement tax and other regulations of significance to develop giving for the common good (Trag foundation, 2019), PREUGOVOR ALARM: Serbia's progress report in Chapters 23 and 24 (Belgrade Center for Security Policy, 2019), The Need for Change - An Analysis of CSOs' Capacity for Advocacy in Serbia (Belgrade Open School, 2019).

For the purpose of gathering additional data on CSOs experience, following tools were used: focus groups with CSOs', thematic networks' and grass roots' representatives and interviews with selected CSOs representatives, organized in October and November 2019 for the purpose of preparation TACSO 3 Need Assessment Report for Serbia. Also, 16 interviews with state institutions and CSOs representatives involved in specific areas relevant for MM indicators assessment were organized during February 2020: interview with representative of the Government office for Cooperation with civil society, the Office for information technologies and eGovernment, State Secretariat for Public

*Policy and the Institute for the Advancement of Knowledge and Education, Trag foundation, Catalyst foundation, Young researchers of Serbia and AIESEC Serbia, Center's for Education Policy, Association's Duga, Narodni parlament Leskovac, Center for Social Policy, Smart Kolektiv, Share Foundation, European Policy Center, Belgrade Center for Human Rights The Lawyers' Committee for Human Rights (YUCOM).*

*As an official national Resource Center for CSOs, CI were in daily communication with different CSOs who approached with questions and shared experiences on different issues which were also taken into consideration. Experiences shared on CSOs expert panel for CSOs Sustainability Index 2019 preparation, where CI representative participated, were also used as a significant input. Also, during 2019, representatives of Civic Initiatives participated in relevant events organized by state authorities where they collected useful information regarding basic legal guarantees of freedoms and participation in decision making processes and transparent state funding (WG's meetings for PAR Strategy development and OGP Action plan implementation, public debate on the Draft law on referendum and people's initiative, meetings with Prime Minister on Draft law on Social Entrepreneurship, meeting with representatives of Ministry of Finances on Draft law on Accounting).*

*In the terms of hierarchy of sources of findings, key challenge was to collect required information from state institutions in adequate manner and within agreed deadline. Although all Freedom of Information requests were sent to the relevant authorities by e-mail and was pointed out that answers were also expected by e-mail, 18 answers (75%) were sent in hard copy, so it wasn't possible to use/insert relevant numeric/statistic data into report. Furthermore, some authorities answered questions by referring to data published on their web pages and/or sending links to requested data, instead of reporting on analyzed or consolidated data (i.e. total amount of funds allocated to CSOs, number of public call, number of meetings, and number of CSOs involved in WG/advisory bodies). In that manner, additional time and efforts were needed to find, gather and count data. Having in mind that state authorities' official annual reports (for 2019) were still in preparation and final data and official statistics were missing, it is understandable why some of them (4) answered they do not possess required information. A lack of official data or delay with its publishing (within the MM reporting timeframe) is recognized and presents significant challenge in all monitoring processes. Also, lack of comprehensive data and their public availability for some areas of CS development (i.e. total number of employees in CSOs, number of volunteers and volunteers' hours, types and number of different services provided by CSOs, etc.) is additional challenge in proper reporting and future advocacy strategies' creation. On the other hand, some authorities/independent bodies reported on preliminary data.*

*The online survey, envisaged as the simplest and quickest way of collecting CSOs experience on legal framework implementation, showed certain lacks. Although the survey was sent to almost 4000 email addresses via Recourse Center newsletter and also published on CI Facebook page with 9,700 followers, only small number of CSOs responded. This survey was created in Google form, therefore easy to fulfill. However, due to the complexity of the questionnaire, it required involvement of more than one person from a CSO and additional time to provide answers. Attempts to ensure more relevant sample for gathering and analyzing data from practice via direct calls to CSOs was either not very successful. According to their responses, there were a few similar surveys launched in 2019 that they have already participated in and were not interested in repeating the answers. It indicates that numerous parallel monitoring processes, based on collecting CSOs experiences via on-line surveys, have caused decrease of CSOs motivation and interest in participation. Also, types of CSOs involved in MM Survey confirmed that ensuring relevant stratification based on geographical or thematic area, or other CSO differentiation method, like year of establishment, size, and types of activities implemented, etc. remains as one of the key challenges. In that regard, interviews and focus groups, proved to be more relevant and trustworthy source of experiences from practice. Bad side of this process is certainly time consumption and number of interviewed persons involved.*



### 3. Used resources/Bibliography

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9. *The Need for Change - An Analysis of CSOs' Capacity for Advocacy in Serbia, Belgrade Open School, 2019*

## **III Relevant web sites**

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- [www.krik.rs](http://www.krik.rs)
- [www.glasamerike.net](http://www.glasamerike.net)
- [www.balkaninsight.com](http://www.balkaninsight.com)

## 4. Other annexes

[Questionnaire on the CSOs experience in their work in 2019](#)

