

**MONTENEGRO**  
**Monitoring Year 1**  
**APRIL 2015**

| Objectives  | Criteria against which indicators were assessed  | Baseline findings (BCSDN country report and TACSO Needs Assessment Report)  | Scoring | Recommendations  |
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| <b>Conducive environment</b>  |  |   |         |  |
| 1. An enabling legal and policy environment, for the exercise of the rights of freedom, expression, assembly and association, | <b>Results: 1.1. All individuals and legal entities can express themselves freely, assemble peacefully and establish, join and participate in non-formal and/or registered organisations</b>   |   |         |  |
|   | Indicator: 1.1.a. Quality assessment of existing legislation and policy framework  |   |         |  |
|   | <p><b>Freedom of establishment and participation in informal/ formal organisations online/offline of individuals/ organisations</b></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) There is a legal framework according to which any person can establish associations, foundations and other types of non-profit, non-governmental entities (e.g., non-profit company) for any purpose. (1.1.1.L1)</li> <li>2) The legal framework allows both individual and legal persons to exercise this right without discrimination (age, nationality, legal capacity, gender etc.). (1.1.1.L2)</li> <li>3) Registration is not mandatory, and in cases when organizations decide to register, the registration rules are clearly prescribed and allow for easy, timely and inexpensive registration and appeal process (1.1.1.L3)</li> <li>4) The law allows for networking among organizations in the countries and abroad without prior notification. (1.1.1.L4)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Every individual or legal entity in practice can form associations, foundations or other non-profit, non-governmental organizations offline or online. (1.1.1.P1)</li> <li>2) Individuals and legal entities are not sanctioned for not-registering their organizations. (1.1.1.P2)</li> <li>3) Registration is truly accessible within the legally prescribed deadlines; authorities decide on cases in non-subjective and apolitical manner. (1.1.1.P3)</li> <li>4) Individuals and CSOs can form and participate in networks and coalitions, within and outside their home countries. (1.1.1.P4)</li> </ol> <p><b>Freedom of CSOs operations in relation to unwarranted state interference in CSOs' internal governance and activities</b></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>5) The legal framework provides guarantees against state interference in internal matters of associations, foundations and other types of non-profit entities. (1.1.2.L1)</li> <li>6) The state provides protection from interference by third parties. (1.1.2.L2)</li> <li>7) Financial reporting (including money laundering regulations) and</li> </ol> | <p><b>Freedom of establishment and participation in informal/ formal organisations online/offline of individuals/ organisations</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• There is a legal framework for establishing associations and foundations (Law on NGOs, 2011). There is no legal framework for establishing other types of organizations such as non-profit companies.</li> <li>• Foreign non-governmental organization may operate on the territory of Montenegro in order to achieve goals and interests which are not prohibited by Constitution and the law.<sup>1</sup></li> <li>• Organizations acquire legal personality only after registration</li> <li>• The Association may be established by at least 3 people, one of whom must have residence, domicile or head office in Montenegro</li> <li>• A person authorized to represent must be permanent or temporary resident in Montenegro</li> <li>• There are no sanctions prescribed in case of failure to register</li> <li>• Law on NGOs allows networking with organizations in Montenegro and abroad</li> <li>• According to Labor Law and Rulebook on Registration of Trade Unions and Rulebook on Registration of Representative Trade Union, trade organizations are registered in Trade Union Register and Register of Representative Trade Union kept at the Ministry of Labor and Social Welfare of Montenegro.<sup>2</sup></li> </ul> <p><b>Practice</b></p> <ul style="list-style-type: none"> <li>• Over 90% of organizations referred to the questionnaire said that they didn't have problems registering the organizations</li> <li>• Few organizations have met with difficulties and additional procedures when registering and with naming their representatives</li> <li>• As the main flaw of the Registering process organizations named long (one month comparing to 10 days which are prescribed by the Law) waiting for the decision.</li> <li>• Registry does not contain contact information</li> </ul> <p><b>Freedom of CSOs operations in relation to unwarranted state interference in CSOs' internal governance and activities</b></p> <p><b>Legislation</b></p> <ul style="list-style-type: none"> <li>• State control over the work of CSOs is regulated by the Inspection Law</li> <li>• A fine ranging from EUR 500 to EUR 800 shall be imposed on a non-governmental organization if it does not report the body in charge about the changes in data which are to be entered in the register within 30 days.</li> </ul> | 52/100  | <p><b>Freedom of establishment and participation in informal/ formal organisations online/ offline of individuals/ organisations</b></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Changes of the laws / by-laws and internal procedures of the necessary statistical data related to the work of CSOs and the manner of their introduction into the system of official statistics;</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Seek for clarity in the legislation if the registration is mandatory or not.</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Ensure equal principles for all when it comes to founding and registering organizations.</li> <li>• Reduce time of waiting during the registration process</li> <li>• Provide more information within Registry, such as contact information</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Look for more information in relation to sanctioning or not if organisation is acting informally in comparison to registered ones.</li> </ul> <p><b>Freedom of CSOs operations in relation to unwarranted state interference in CSOs' internal governance and activities</b></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Consider revising the amount of sanctions</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Look for more information whether or not legal framework provides guarantees against state interference in internal matter of CSOs,</li> <li>• Look for more information whether or not state provides</li> </ul> |

<sup>1</sup> Montenegro Needs Assessment Report, TACSO, December 2013, pg. 8

<sup>2</sup> Ibid 1 pg.9

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|  | <p>accounting rules take into account the specific nature of the CSOs and are proportionate to the size of the organization and its type/scope of activities. (1.1.2.L3)</p> <p>8) Sanctions for breaching legal requirements should be based on applicable legislation and follow the principle of proportionality. (1.1.2.L4)</p> <p>9) The restrictions and the rules for dissolution and termination meet the standards of international law and are based on objective criteria which restrict arbitrary decision making. (1.1.2.L5)</p> <p><b>Practice:</b><br/>There are no cases of state interference in internal matters of associations, foundations and other types of non-profit entities. (1.1.2.P1)</p> <p>1) There are no practices of invasive oversight to which impose burdensome reporting requirements. (1.1.2.P2)</p> <p>2) Sanctions are applied in rare/extreme cases, they are proportional and are subject to a judicial review (1.1.2.P3)</p> <p>3)</p> <p><i>Freedom of CSOs in seeking and securing financial resources from various domestic and foreign sources to support CSOs' activities</i></p> <p><b>Legislation:</b></p> <p>1) Legislation allows CSOs to engage in economic activities (1.1.3.L1)</p> <p>2) CSOs are allowed to receive foreign funding (1.1.3.L2)</p> <p>3) CSO are allowed to receive funding from individuals, corporations and other sources (1.1.3.L3)</p> <p><b>Practice:</b></p> <p>1) Legislation on CSOs engaging in economic activities is implemented and is not burdensome for CSOs. (1.1.3.P1)</p> <p>2) There are no restrictions (e.g. administrative or financial burden, preapprovals, or channelling such funds via specific bodies) on CSOs to receive foreign funding. (1.1.3.P2)</p> <p>3) Receipt of funding from individuals, corporations and other sources is easy, effective and without any unnecessary cost or administrative burden. (1.1.3.P3)</p> <p><i>Freedom of peaceful assembly of CSOs' representatives, individuals or CSOs</i></p> <p><b>Legislation:</b></p> <p>1) The legal framework is based on international standards and provides the right for freedom of assembly for all without any</p> | <ul style="list-style-type: none"> <li>The same punishment is also envisaged in the event of failure to publish financial statements within 10 days of adoption.</li> <li>A fine ranging from EUR 500 to EUR 4,000 shall be imposed on non-governmental organizations if, during the calendar year proceed to conduct economic activity after crossing the allowed threshold of 4,000 or 20% of total annual revenue</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>3 organizations out of 50 from our survey said that the state has interfered in their inner matters 43 organizations said that they have not been exposed to the pressure, while 6 of them said that sometimes they were One organization had unannounced visit from state authorities, and one had excessive inspection according to its opinion</li> </ul> <p><i>Freedom of CSOs in seeking and securing financial resources from various domestic and foreign sources to support CSOs' activities</i></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>Non-governmental organizations can directly engage in economic activity specified in the statute if they are registered in the Company Register.</li> <li>Legislation allows CSOs to be funded by foreign institutions and organization, domestic legal and private individuals as well as corporations.</li> <li>If the income from economic activities in the current year exceeds 4,000 or 20% of the annual income, a non-governmental organization cannot directly engage in economic activities later this year.</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>Performing economic activities is not burdensome for NGOs</li> <li>Organization participating in our survey did not have any objections on the process of receiving funds of any kind</li> </ul> <p><i>Freedom of peaceful assembly of CSOs' representatives, individuals or CSOs</i></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>The Constitution of Montenegro guarantees freedom of peaceful assembly, without a permit, subject to prior notification to the competent authority.</li> <li>Freedom of assembly may be temporarily restricted by the decision of the competent authority for the prevention of disorder or crime, protection of health or morals or for the protection of people and property in accordance with law.</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>98% of the organizations participating in the survey said that they had no problems while organizing public assemblies</li> <li>One organization was prohibited to organize a gathering and it got a written explanation</li> <li>This year's Pride Parade was organized with the protection of more than 1000 policemen, with no counter-gatherings. Organizers</li> </ul> | <p>protection from interference by third party</p> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>Provide necessary freedoms for the functioning of NGOs, no matter how critical they are towards certain policies</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>Same as BCDN's</li> </ul> <p><i>Freedom of CSOs in seeking and securing financial resources from various domestic and foreign sources to support CSOs' activities</i></p> <p><b>Legislation (BCSDN):</b><br/>Regular monitoring of the legislations implementation</p> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>Same as BCSDN's</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>Continue with relevant practice</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>Further monitor if the legislation of CSOs engaging in economic activities is burdensome</li> <li>Further monitor of funds from individuals, corporations and other sources is easy, effective and w/o any unnecessary costs and administrative burden</li> </ul> <p><i>Freedom of peaceful assembly of CSOs' representatives, individuals or CSOs</i></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>Regular monitoring of the legislations implementation Amend the Law in a way that urgent gatherings can include more than 20 people</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>Same as BCSDN's</li> </ul> |
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|  | <p>discrimination (1.2.1.L1).</p> <ol style="list-style-type: none"> <li>2) The laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies (1.2.1.L2)</li> <li>3) The exercise of the right is not subject to prior authorization by the authorities, but at the most to a prior notification procedure, which is not burdensome. (1.2.1.L3)</li> <li>4) Any restriction of the right based on law and prescribed by regulatory authority can be appealed by organizers (1.2.1.L4)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) There are no cases of encroachment of the freedom of assembly, and any group of people can assemble at desired place and time, in line with the legal provisions. (1.2.1.P1)</li> <li>2) Restrictions are justified with explanation of the reason for each restriction, which is promptly communicated in writing to the organizer to guarantee the possibility of appeal.</li> <li>3) (1.2.1.P2) Simultaneous, spontaneous and counter-assemblies can take place, and the state facilitates and protects groups to exercise their right against people who aim to prevent or disrupt the assembly. (1.2.1.P3)</li> <li>4) There are cases of freedom of assembly practiced by CSOs (individually or through their organizations) without prior authorization; when notification is required it is submitted in a short period of time and does not limit the possibility to organize the assembly. (1.2.1.P4)</li> <li>5) No excessive use of force is exercised by law enforcement bodies, including pre-emptive detentions of organizers and participants. (1.2.1.P5)</li> <li>6) Media should have as much access to the assembly as possible (1.2.1.P6)</li> </ol> <p><b>Freedom of expression of individuals or through their organisations</b></p> <p><b>Legislation</b></p> <ol style="list-style-type: none"> <li>1) The legal framework provides freedom of expression for all (1.2.2.L1)</li> <li>2) Restrictions, such as limitation of hate speech, imposed by legislation are clearly prescribed and in line with international law and standards (1.2.2.L2)</li> <li>3) Libel is a misdemeanour rather than part of the penal code (1.2.2.L3)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) CSO representatives, especially those from human rights and watch dog organizations enjoy the right to freedom of expression on matters they support and they are critical of. (1.2.2.P1)</li> <li>2) There are no cases of encroachment of the right to freedom of expression for all. (1.2.2.P2)</li> <li>3) There are no cases where individuals, including CSO representatives would be persecuted for critical speech, in public or private. (1.2.2.P3)</li> <li>4) There is no sanction for critical speech, in public or private, under the penal code. (1.2.2.P4)</li> <li>5)</li> </ol> | <p>started good cooperation with the authorities.</p> <ul style="list-style-type: none"> <li>• One organization couldn't organize an urgent gathering with more than 20 people since the deadline of 5 days in advance was passed.</li> </ul> <p><b>Freedom of expression of individuals or through their organisations</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• By The Constitution of Montenegro everyone has the right to freedom of expression by speech, writing, painting, or otherwise.</li> <li>• The right to freedom of expression can be limited only by the other persons' right to dignity, reputation and honor, and if it threatens public morality or security of Montenegro.</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>•</li> <li>• Four organizations stated that sometimes they have faced in limitations in freedom of speech</li> <li>• 10 organizations said that they have faced consequences for expressing critical attitude towards authorities</li> </ul> <p>Several organizations stated that they have been indirectly threatened by inspections or contacts with donors because of their criticism</p> <p><b>Rights of CSOs representatives, individuals and through their organisations to safely receive and impart information through any media</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The Law on Free Access to Information Act is not harmonized with other relevant laws</li> <li>• Rules of the working group for the preparation of negotiations restrict CSO members to inform the public about the work of the working group.</li> <li>• There are no legislated restrictions in the use of different communication and information tools.</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• The implementation of the new Law on Free Access to Information has started</li> <li>• The internet and other tools used for collecting information are accessible and there are no restrictions in practice regarding this.</li> </ul> | <p><b>Practice:</b></p> <p>Provide possibility for organizing urgent gatherings with more than 20 people <b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Look for more information related to access of media to assembly</li> </ul> <p><b>Freedom of expression of individuals or through their organisations</b></p> <p><b>Legislation (BCDN):</b></p> <ul style="list-style-type: none"> <li>• Continuation of adequate implementation of legislation in this field</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Greater monitoring of practical manifestation of implementation of legislation.</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Terminate the practice of direct or indirect threatening of NGO members for their critical attitudes</li> <li>• NGO members need to be able to publicly express their opinion no matter how critical it is towards the governing structures</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Seek for greater monitoring of sanctions of critical speech, in public or private, under the penal code.</li> </ul> <p><b>Rights of CSOs representatives, individuals and through their organisations to safely receive and impart information through any media</b></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Harmonize the Law on free access to information with the law of confidentiality of information</li> <li>• Modify the Rules of Procedure of working groups for the preparation of negotiation in order to provide space for CSO representatives to inform the public about the work of the working groups</li> <li>• Adopt bylaws in accordance with the Law on Free Access to Information</li> </ul> |
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|  | <p><b>Rights of CSOs representatives, individuals and through their organisations to safely receive and impart information through any media</b></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) The legal framework provides the possibility to communicate via and access any source of information, including the Internet and ICT; if there are legal restrictions, these are exceptional, limited and based on international human rights law (1.2.3.L1)</li> <li>2) The legal framework prohibits unjustified monitoring of communication channels, including Internet and ICT, or collecting users' information by the authorities (1.2.3.L2)</li> </ol> <p><b>Practice</b></p> <ol style="list-style-type: none"> <li>1) There are no cases in practice where restrictions are imposed on accessing any source of information, including the Internet or ICT. (1.2.3.P1)</li> <li>2) The Internet is widely accessible and affordable(1.2.3.P2)</li> <li>3) There is no practice or cases of unjustified monitoring by the authorities of communication channels, including the Internet or ICT, or of collecting users' information. (1.2.3.P3)</li> <li>4) There are no cases of police harassment of members of social network groups. (1.2.3.P4)</li> </ol> |  | <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Improve web presentations of state authorities in the sense of information provided</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> |
| Indicator: 1.1.b. Progress with the adoption and implementation of relevant legislation  |  |  |  |
|  | Progress   | <b>Will be monitored as of this baseline in accordance to the adopted recommendations</b>  |  |
| <b>Result: 1.2. The policies and legal environment stimulate and facilitate volunteering and employment in CSOs</b>  |  |  |  |
| Indicators: 1.2.a. Number of employees in CSO (permanent and part-time)  |  |  |  |
|  | <ul style="list-style-type: none"> <li>• There is no recent data available in relation to number of employees in CSOs.</li> <li>• According to the survey of ADP ZID from 2010, there are 556 persons employed in NGOs in line with the Labour Law<sup>32</sup>, while 1,358 of them have worked on the basis of service contracts (short-term or occasional employment). That is less than 1% (0.86%) out of the total average number of employees in Montenegro in 2010 (161,742 MONSTAT).<sup>3</sup></li> </ul>  |  |  |
| Indicator: 1.2.b. Number of volunteers in CSOs per type of CSO / sector  |  |  |  |
|  | <ul style="list-style-type: none"> <li>• There is a lack of information on number of volunteers</li> </ul>   |  |  |
| Indicator: 1.2.c. Quality of legislative framework   |  |  |  |
| <p><b>Equality of treatment of CSOs' employees in comparison with other employees</b></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) CSOs are treated in an equal manner to other employers by law and policies. (2.3.1.L1)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>2) If there are state incentive programs for employment, CSOs are</li> </ol> | <p><b>Equality of treatment of CSOs' employees in comparison with other employees</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The Labor law treat CSOs in an equal manner to other employers, <b>which has its advantages, but drawbacks as well</b></li> <li>• The Labor Law does not recognize any advantages of employment and working in CSO sector. The Law imposes an obligation for creating employee contact for unlimited period of time after two years of work, and in the case of involuntary termination of employment, the employer i.e. organization has to settle severance pay in the amount of six gross salaries.<sup>4</sup></li> <li>• There is no statistics in regard to employees and volunteers in civil sector</li> </ul> <p><b>Practice:</b></p>  | <p><b>Equality of treatment of CSOs' employees in comparison with other employees</b></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• <b>Take under consideration the nature of CSOs and its differences from other employees</b></li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Seek for liberation of the employment conditions in the Labour Law.</li> </ul> <p><b>Practice (BCSDN):</b></p> |  |

<sup>3</sup> Ibid 1 pg. 28

<sup>4</sup> Ibid 1, pg. 12

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|  | <p>treated like all other sectors.</p> <p>3) There are regular statistics on the number of employees in the non-profit sector.</p> <p><b>Enabling volunteering policies and laws</b></p> <p><b>Legislation:</b></p> <p>4) Legislation stimulates volunteering and incorporates best regulatory practices, while at the same time allowing for spontaneous volunteering practices. (2.3.2.L1)</p> <p>5) There are incentives and state supported programs for the development and promotion of volunteering. (2.3.2.L2)</p> <p>6) There are clearly defined contractual relationships and protections covering organized volunteering. (2.3.2.L3)</p> | <ul style="list-style-type: none"> <li>• CSOs participated in the program of professional education of graduates, along with other interested employees.</li> <li>• Lack of official statistics on employees and volunteers in civil sector, as well as on CSOs incomes</li> <li>• Taking into consideration that CSOs are mainly financed through projects and that they do not have their own assets for severance pay as stipulated by the Labor Law, they are exposed to potential threats for further operations and functioning.<sup>5</sup></li> </ul> <p><b>Enabling volunteering policies and laws</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The Law on Volunteer Work regulates a number of issues related to volunteer work</li> <li>• The Law on Volunteer Work treats volunteering as a special form of labor-law relations, rather than voluntary, citizens' initiative</li> <li>• Action Plan for chapter 23 included the creation of Law on Volunteering with the aim of supporting civic activism</li> <li>• The Law does not stimulate volunteering, but prohibits and makes bureaucratic the manner of participation of citizens in volunteering, and therefore, instead of making efforts to strongly regulate all forms of citizens in volunteering and instances on punishment the offenders, the Law should have the approach of affirming volunteerism.</li> <li>• Provisions of this Law greatly hinder the arrival of foreign volunteers, as they must have a residence permit or permission for housing.</li> <li>• This law creates additional financial burdens and puts CSOs in even less favourable position (compulsory health insurance, residence permits for foreign volunteers).</li> <li>• Labor inspection may without prior warning prohibit volunteering if a volunteer or organizer do not have necessary documentation (contract and insurance), but there is not a single mechanism to prevent potential abuse.</li> <li>• The lawmakers have not adopted the accompanying secondary legislation in due time.<sup>6</sup></li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Current Law on Volunteer Work complicates and bureaucratizes the process of hiring volunteers, thus ignoring the core meaning of volunteerism NGOs mostly do not engage volunteers using the procedures prescribed by the Law on Volunteer Work Most volunteer actions are spontaneous</li> </ul> <p>69% of the surveyed CSOs point out that the existing legal regulations (related to the development of volunteerism and engagement of volunteers) are not stimulating; while 24% state that they are stimulating.</p> | <ul style="list-style-type: none"> <li>• Regular gathering of data related to the employees in the civil sector</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> <p><b>Enabling volunteering policies and laws</b></p> <p><b>Legislation (BCSDN)</b></p> <ul style="list-style-type: none"> <li>• Adoption of the Law on Volunteerism in order to legally define volunteerism as voluntary citizens' initiative, focusing on the real nature of volunteerism</li> </ul> <p><b>Legislation (possible other):</b></p> <p>Apart from the BCSDN's</p> <ul style="list-style-type: none"> <li>• Introduce affirming measures related to the volunteerism in the relevant Law (support of voluntary activities, support of structure that develops and promotes volunteerism, the coordination board whose establishment was foreseen by the conclusion of the Strategy for the Development of Volunteerism)</li> <li>• Adopt accompanying secondary legislation.</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Further promotion of the volunteerism and civic activism especially focusing on the youth</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> |
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<sup>5</sup> Ibid 1, pg. 12

<sup>6</sup> Ibid 1, pg. 11

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|  | <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Incentives and programs are transparent and easily available to CSOs and the policy/strategic document/ law is fully implemented, monitored and evaluated periodically in a participatory manner.</li> <li>2) Administrative procedures for organizers of volunteer activities or volunteers are not complicated and are without any unnecessary costs.</li> <li>3) Volunteering can take place in any form; there are no cases of complaints of restrictions on volunteering.</li> </ol>   |   |   |
| <p><b>Result: 1.3. National and/or local authorities have enabling policies and rules for grass-roots organisations* and/or civic initiatives.</b><br/> *A grass-roots organisation is a self-organised group of individuals pursuing common interests through a volunteer-based, non-profit organisation. Grassroots organisations usually have a low degree of formality but a broader purpose than issue-based self-help groups, community-based organisations or neighbourhood-associations.</p> |   |   |   |
| <p>Indicator: 1.3.a. Quality of the enabling environment for grass-roots organisations and/or civic initiatives</p>  |   |   |   |
|  | <p><b>Registration, informal vs. formal</b></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) 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. (1.1.1.L3)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Every individual or legal entity in practice can form associations, foundations or other non-profit, non-governmental organizations offline or online. (1.1.1.P1)</li> <li>2) Individuals and legal entities are not sanctioned for not-registering their organizations. (1.1.1.P2)</li> <li>3) Registration is truly accessible within legally prescribed deadlines; authorities decide on cases in non-subjective and apolitical manner. (1.1.1.P3)</li> </ol> <p><b>Spontaneity</b></p> <p><b>Legislation</b></p> <ol style="list-style-type: none"> <li>1) The laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies. (1.2.1.L2)</li> <li>2) The exercise of the right is not subject to prior authorization by the authorities, but at the most to a prior notification procedure, which is not burdensome. (1.2.1.L3)</li> <li>3) The legal framework provides the possibility to communicate via and access any source of information, including the Internet and ICT; if there are legal restrictions, these are exceptional, limited and based on international human rights law. (1.2.3.L1)</li> </ol> <p><b>Practice:</b></p> <p>There are no cases of police harassment of members of social network groups. (1.2.3.P4)</p> | <p><b>Registration, informal vs. formal</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• There are no sanctions prescribed in case of failure to register a CSOs</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Over 90% of organizations referred to the questionnaire said that they didn't have problems registering the organizations</li> <li>• Few organizations have met with difficulties and additional procedures when registering and with naming their representatives</li> <li>• As the main flaw of the Registering process organizations named long (one month comparing to 10 days which are prescribed by the Law) waiting for the decision.</li> <li>• Registry does not contain contact information</li> </ul> <p><b>Spontaneity</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The Constitution of Montenegro guarantees freedom of peaceful assembly, without a permit, subject to prior notification to the competent authority</li> <li>• Freedom of assembly may be temporarily restricted by the decision of the competent authority for the prevention of disorder or crime, protection of health or morals or for the protection of people and property in accordance with law.</li> <li>• The Law on Free Access to Information Act is not harmonized with other relevant laws</li> <li>• Rules of the working group for the preparation of negotiations restrict CSO members to inform the public about the work of the working group.</li> <li>• There are no legislated restrictions in the use of different communication and information tools.</li> </ul> <p><b>Practice</b></p> <ul style="list-style-type: none"> <li>• N/A</li> </ul> | <p><b>Registration, informal vs. formal</b></p> <p><b>Legislation (BCSDN):</b><br/>N/A</p> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Seek for clarity in the legislation if the registration is mandatory or not.</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Ensure equal principles for all when it comes to founding and registering organizations.</li> <li>• Reduce time of waiting during the registration process</li> <li>• Provide more information within Registry, such as contact information</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Look for more information in relation to sanctioning or not if organisation is acting informally in comparison to registered ones.</li> </ul> <p><b>Spontaneity</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Regular monitoring of the legislations implementation</li> <li>• Amending the Law in a way that urgent gatherings can include more than 20 people</li> <li>• Harmonize the Law on free access to information with the law of confidentiality of information</li> <li>• Modify the Rules of Procedure of working groups for the preparation of negotiation in order to provide space for CSO representatives to inform the public about the work of the working groups</li> <li>• Adopt by-laws in accordance with the Law on Free Access to Information</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> <p><b>Practice (BCSDN):</b><br/>N/A</p> <p><b>Practice (possible other):</b><br/>N/A</p> |
| <p>2. An enabling financial environment which supports sustainability</p>  | <p><b>Result: 2.1. Easy-to-meet financial rules for CSO, which are proportionate to their turn-over and non-commercial activities</b></p>   |   |   |
|  | <p>Indicator: 2.1.a. CSOs' perception of the ease and effectiveness of financial rules and reporting requirements (disaggregated by type / size of CSO)</p>   |   |   |
|  |   | <p>82% of the surveyed CSOs believe that the prescribed financial rules,</p>  |   |

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| of CSOs.   |   | <p>obligation of bookkeeping and accounting are generally clear and understandable</p> <p>71% of the surveyed CSOs consider these rules simple to implement</p>  |  |
| Indicator: 2.1.b. Quality assessment of financial rules (with the focus on built-in mechanisms that financial rules and obligations change as the turn-over and non-commercial activities change). |   |  |  |
|  | <p><b>Legislation:</b></p> <p>1) Financial reporting (including money laundering regulations) and accounting rules take into account the specific nature of the CSOs and are proportionate to the size of the organization and its type/scope of activities. (1.1.2.L3)</p> <p><b>Practice:</b></p> <p>1) There are no practices of invasive oversight which impose burdensome reporting requirements. (1.1.2.P2)</p> <p><b>Economic activities</b></p> <p><b>Legislation:</b></p> <p>1) Legislation allows CSOs to engage in economic activities. (1.1.3.L1)<br/> 2) CSOs are allowed to receive foreign funding. (1.1.3.L2)<br/> 3) CSO are allowed to receive funding from individuals, corporations and other sources(1.1.3.L3)</p> | <p><b>Financial reporting</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• A fine ranging from EUR 500 to EUR 800 shall be imposed on a non-governmental organization if it does not report the body in charge about the changes in data which are to be entered in the register within 30 days</li> <li>• The same punishment is envisaged in the event of failure to publish financial statements within 10 days of adoption</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• 43 organizations said that they have not been exposed to pressure, while 6 of them said that sometimes they were.</li> <li>• One organization had unannounced visit from state authorities, and one had excessive inspection according to its opinion</li> </ul> <p><b>Economic activities</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Non-governmental organizations can directly engage in economic activity specified in the statute if they are registered in the Company Register. The provision of the Law specify that only economic activity of CSOs is entered in the Register, rather than the organization itself in order to avoid interpretation whether it needs to be registered as a company or established as a new legal entity or not</li> <li>• Non-governmental organization needs to cumulatively meet the following conditions in order to conduct economic activity: 1) economic activity must be determined by Articles of Association; 2) gained revenues must be used exclusively to finance the statutory goals of the organization and on the territory of Montenegro; 3) economic activity must be conducted in line with the regulations governing the area within which the economic activity is conducted; 4) carrying out of the economic activity must be entered in the Central Register of the Commercial Court, which is done by entering the code and description of the activity, as stipulated by the regulations on classification of activities.<sup>7</sup></li> <li>• If the income from economic activities in the current year exceeds 4, 000 or 20 % of the annual income, a non-governmental organization cannot directly engage in economic activity later this year.</li> <li>• Legislation allows CSOs to be funded by foreign institutions and organization, domestic legal and private individuals as well as corporations.</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Performing economic activities is not burdensome for NGOs</li> <li>• Organizations participating in our survey did not have any</li> </ul> | <p><b>Financial reporting</b></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Consider revising the amount of sanctions</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Look for more information whether or not financial reporting and accounting rules take into account the specific nature of the CSOs and proportionate to the size of the organisations and its type/scope of activities.</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Provide necessary freedoms for the functioning of NGOs, no matter how critical they are towards certain policies</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> <p><b>Economic activities</b></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Regular monitoring of the legislations implementation</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> |

<sup>7</sup> Ibid 1, pg 9

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|   | <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Legislation on CSOs engaging in economic activities is implemented and is not burdensome for CSOs. (1.1.3.P1)</li> <li>2) There are no restrictions (e.g. administrative or financial burden, preapprovals, or channelling such funds via specific bodies) on CSOs to receive foreign funding. (1.1.3.P2)</li> <li>3) Receipt of funding from individuals, corporations and other sources is easy, effective and without any unnecessary cost or administrative burden. (1.1.3.P3)</li> <li>4) Endowments are established without major procedural difficulties and operate freely, without administrative burden or high financial cost (2.1.1.P4)</li> </ol>   | <p>objections on the process of receiving funds of any kind</p> <ul style="list-style-type: none"> <li>• Some organizations stated that the procedures for tax exemptions are too long or demanding</li> </ul>   | <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Continue with relevant practice</li> <li>• Simplify the tax exemptions procedures</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Further monitor if the legislation of CSOs engaging in economic activities is burdensome</li> <li>• Further monitor of funds from individuals, corporations and other sources is easy, effective and w/o any unnecessary costs and administrative burden</li> </ul>   |
| <p><b>Result: 2.2. Donations are stimulated with adequate legislation and regulations</b></p>                           |  |  |   |
| <p>Indicators: 2.2.a. Quality and applicability/practice of the legal framework for individual and corporate giving</p> |  |  |   |
|   | <p><i>Incentives for individual and corporate giving</i></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) The law provides tax deductions for individual and corporate donations to CSOs (2.1.2.L1)</li> <li>2) There are clear requirements/conditions for receiving deductible donations and these include a wide range of publicly beneficial activities. (2.1.2.L2)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) There is a functional procedure in place to claim tax deductions for individual and corporate donations. (2.1.2.P1)</li> <li>2) CSOs working in the main areas of public interest, including human rights and watchdog organizations, effectively enjoy tax deductible donations. (2.1.2.P3)</li> </ol> | <p><i>Incentives for individual and corporate giving</i></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The Law on Income Tax stipulates that expenditure on health, education, sports, culture and environmental protection purposes are recognized as expenses up to 3.5% of total revenue. A similar provision is contained in the Law on Corporate Income Tax.</li> <li>• Law on Corporate Income Tax and Law on Personal Income Tax stipulate narrowly defined and limited list of areas of public interest. These regulations have not covered a number of other areas, not even those that are otherwise recognized and protected as constitutional values (human and minority rights, the rule of law), or on whose importance in society there is a broad consensus (fight against corruption, sustainable development). Definition of areas of public interest specified in these regulations is inconsistent with considerably broader list of areas of public interest in which NGOs operate, which is regulated by the Law on NGOs, and which is not limited.<sup>8</sup></li> <li>• The legislation is not encouraging enough for the CSR.</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• The provisions of legal and natural persons-taxpayers in the area of human rights are not recognized as an expense, although human rights are recognized as a fundamental constitutional value.</li> <li>• The difference between the tax and statutory regulations leads to a situation where there are two public policies when it comes to areas of public interest in which CSOs operate, depending on whether CSOs are funded directly by the state or through tax incentives. So for example, CSO operating in the field of human rights meets the general requirements prescribed to apply for financing from the budget, however, grant to such CSO by legal entities or natural persons does not represent recognized tax expenditure.</li> <li>• There are no official statistics that show the degree of utilization of these benefits.<sup>9</sup></li> <li>• The culture of giving and corporate social responsibility is not being encouraged, despite the amendment of the Law on Corporate Income Tax</li> </ul> | <p><i>Incentives for individual and corporate giving</i></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Changes in the tax laws in terms of concept of public interest activities agreed with the appropriate provisions of the NGOs in order to fully realize the potential for the development of philanthropy in Montenegro.</li> <li>• Development of the Analysis of the legal framework for the promotion of a culture of giving enterprises (corporate philanthropy), and the development and change to existing regulations in line with the analysis.</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Expand narrowly defined range of activities of public interest, for example, giving of legal and physical persons-tax payers in the field of human rights</li> <li>• Make changes to the Law on Profit Tax, to extend the above mentioned range of activities of public interest</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Harmonise relevant public policies</li> <li>• Seek for official statistics that show the degree of utilization of benefits related to individual and corporate giving.</li> </ul> |

<sup>8</sup> Ibid 1, pg. 10

<sup>9</sup> Ibid 1 pg. 11

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| <b>2.3. Financial (e.g. tax or in-kind) benefits are available</b>  |  |  |  |
| 2.3.a. Quality of the system of tax benefits for the CSOs' operational and economic activities  |  |  |  |
| <p><b>Tax benefits for CSOs</b></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs. (2.1.1.L1)</li> <li>2) The law provides tax benefits for economic activities of CSOs. (2.1.1.L2)</li> <li>3) The law provides tax benefits for passive investments of CSOs. (2.1.1.L3)</li> <li>4) The law allows the establishment of and provides tax benefits for endowments. (2.1.1.L4)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) There is no direct or indirect (hidden) tax on grants reported (2.1.1.P1)</li> <li>2) Tax benefits for economic activities of CSOs are effective and support the operation of CSOs (2.1.1.P2)</li> <li>3) Passive investments are utilized by CSOs and no sanctions are applied in doing so. (2.1.1.P3)</li> <li>4) Endowments are established without major procedural difficulties and operate freely, without administrative burden nor high financial cost (2.1.1.P4)</li> </ol> | <p><b>Tax benefits for CSOs</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• CSOs are generally, subjected to the same VAT regulations as commercial enterprises, but CSOs do not have to register for VAT if their total annual income is less than the statutory limit of 18,000 EUR</li> <li>• CSOs are exempt from VAT in key areas</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Some organizations stated that the procedures for tax exemptions are too long or demanding</li> </ul>   |  | <p><b>Tax benefits for CSOs</b></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Regular monitoring on the legislations implementation</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Simplify the tax exemptions procedures</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Seek for legislation that will stimulate economic activities of the CSOs.</li> </ul> |
| <b>Result: 2.4. Government support to CSOs is available and provided in a transparent, accountable, fair and non-discriminatory manner</b>  |  |  |  |
| Indicator: 2.4.a. Ratio of amount sought vs. amount approved/disbursed annually through state funding to CSOs. (this proves availability of funds)  |  |  |  |
| <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs. (2.1.1.L1)</li> <li>2) The law provides tax benefits for economic activities of CSOs. (2.1.1.L2)</li> <li>3) The law provides tax benefits for passive investments of CSOs. (2.1.1.L3)</li> <li>4) The law allows the establishment of and provides tax benefits for endowments. (2.1.1.L4)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) There is no direct or indirect (hidden) tax on grants reported(2.1.1.P1)</li> <li>2) Tax benefits for economic activities of CSOs are effective and support the operation of CSOs(2.1.1.P2)</li> <li>3) Passive investments are utilized by CSOs and no sanctions are</li> </ol>   | <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• CSOs are generally, subjected to the same VAT regulations as commercial enterprises, but CSOs do not have to register for VAT if their total annual income is less than the statutory limit of 18,000 EUR</li> <li>• CSOs are exempt from VAT in key areas</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Some organizations stated that the procedures for tax exemptions are too long or demanding</li> <li>• Total allocations for NGOs from the state budget are reduced from EUR 4 million in 2010 to 1.7 million in 2013. Seen as a percentage of the current budget of Montenegro, this reduction was further decreased from 0.73 in 2010 to 0.24% in 2013.</li> <li>• Commission for allocation of revenues from games of chance distributes 60% of all annual revenues from games of chance, out of which 75% is foreseen for "plans and programs of non-governmental organizations", which is why this is the most important source of public financing of CSOs.</li> <li>• The Commission has had available the funds determined by the annual Law on Budget. However, according to NGO data, these funds</li> </ul> |  | <p><b>Legislation (BCSDN):</b></p> <p>Regular monitoring on the legislations implementation</p> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> <p><b>Practice (BCSDN):</b></p> <p>Simplify the tax exemptions procedures</p> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul>   |

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|   | <p>applied in doing so. (2.1.1.P3)</p> <p>4) Endowments are established without major procedural difficulties and operate freely, without administrative burden nor high financial cost (2.1.1.P4)</p> | <p>are significantly different compared to the exact amount of the legally established percentage allocated for the Commission and NGOs in accordance with the provisions of the Law on Games of Chance.</p> <ul style="list-style-type: none"> <li>• According available information, the funds under this legal basis allocated and planned by the Budget over the period 2008-2013, were less than the funds that had to be allocated on the basis of the Law on Games of Chance for EUR 4,743,390.38.</li> <li>• Regulation on the Criteria for Determining the Beneficiaries and Manner of Distribution of the Revenues from Games of Chance<sup>7</sup> in force as of August 2011, determines that out of the total available funds <ul style="list-style-type: none"> <li>○ 75% is distributed to plans and programs of NGOs,</li> <li>○ 10% for media pluralism</li> <li>○ 15% for other non-profit organizations and public institutions.</li> <li>○ It is foreseen that for the area of “social protection and humanitarian activities” 12% is set aside for “meeting the needs of persons with disabilities”, 40% for culture and technical culture, 12% for non-institutional education and upbringing of children and young people, 10% for contribution to the fight against drugs and all other forms of addiction.</li> <li>○ Allocation of funds is done on the bases of four criteria which bear different number of points: public usefulness, i.e. public interest 30%, quality of the proposed plan and program 30%, the capacity of the organization to implement the plan and program 25% and budget 15%.</li> </ul> </li> <li>• Commission for the Allocation of Funds to NGOs (appointed in 2011 by the Parliament of Montenegro) is still positioned in the budget, even though it has not performed allocation since the entry into force of the Law on NGOs. Around EUR 560,000 (EUR 200,000 for 2011 and 2012 and EUR 160,000 for 2013) has not been distributed to NGOs from this budget item.</li> <li>• Fund for Minorities was established in 2008, in accordance with the Law on Minority Rights and Freedoms in order to support the activities that are of importance for preservation and development of national and ethnic particularities of minority people and other minority ethnic communities and their members in the field of national, ethnic, cultural, language and religious identity. In September 2013, the Fund has adopted a decision on financing projects of the total value of EUR 500,000.</li> <li>• Certain ministries and other state administration bodies continue to allocate funds for projects of CSOs, even though there are no clearly visible funds for CSOs in the budgets of these bodies. According to data from the Report on Cooperation between the Ministries/State Administration Bodies and CSOs, in 2012, the bodies financed NGOs with about EUR 175,000 from their budgetary positions, and mainly based on the applications of CSOs to help certain organizations. In the first six months of 2013, this amount was slightly less than EUR 39,000. It should be noted that there are no written, transparent procedures for distribution of these funds.<sup>10</sup></li> </ul> |  |  |
| Indicator: 2.4.b. Quality of state funding frameworks for civil society organisations (focusing on procedural document) |  |  |  |  |

<sup>10</sup> Ibid 1, pg 13

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| <p><i>Availability of public funding for institutional development of CSOs, project support and co-financing of EU and other grants</i></p> <p><b>Legislation</b></p> <ol style="list-style-type: none"> <li>1) There is a law or national policy (document) that regulates state support for institutional development for CSOs, project support and co-financing of EU funded projects. (2.2.1.L1)</li> <li>2) There is a national level mechanism for distribution of public funds to CSOs. (2.2.1.L2)</li> <li>3) Public funds for CSOs are clearly planned within the state budget. (2.2.1.L3)</li> <li>4) There are clear procedures for CSO participation in all phases of the public funding cycle(2.2.1.L4)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Available public funding responds to the needs of the CSO sector. (2.2.1.P1)</li> <li>2) There are government bodies with a clear mandate for distribution and/or monitoring of the distribution of state funding. (2.2.1.P2)</li> <li>3) Funding is predictable, not cut drastically from one year to another; and the amount in the budget for CSOs is easy to identify. (2.2.1.P3)</li> <li>4) CSO participation in the public funding cycle is transparent and meaningful. (2.2.1.P4)</li> </ol> <p><i>Procedures and transparency of distribution of public funding</i></p> <p><b>Legislation:</b></p> | <p><i>Availability of public funding for institutional development of CSOs, project support and co-financing of EU and other grants</i></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The Law on NGOs prescribes the centralized financing of NGOs</li> <li>• Even after two years from the adoption of the Law, other legal documents have not been put in accordance, and second legislative has not been adopted</li> <li>• The Law on Budget is not in accordance with the Law on Games of Chance, which causes allocation of significantly smaller means to NGOs</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Procedures for the funding of NGOs from the state budget are not in accordance with the Law</li> <li>• The biggest part of state funding of NGOs goes through the Fund for the allocation from the part of revenues from games on changes</li> <li>• Fund for minority rights is also funding NGO projects</li> <li>• NGOs are being financed through local self-governments, but significant part of the money is being allocated apart from public call for proposals, based on other legal basis, which is process that lacks transparency and defined criteria</li> <li>• Some state bodies allocated all together 1 024 346, 86 euros to NGOs, even though the Law on NGOs eliminates that possibility</li> </ul> <p><i>Procedures and transparency of distribution of public funding</i></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Legal documents regulating state funding of the NGOs are not in accordance with each other</li> <li>• Second legislative needed for adequate application of the Law on NGO has not been adopted even two years after the Law adoption</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Funds for NGOs are being allocated within the procedures that are not in accordance with the Law on NGO</li> <li>• Public calls for project proposals for funding from the part of revenue from games on chance for current year was published in September and legal deadline is the end of first quarter of the year</li> <li>• The Decision on the funding for 2014. year has not yet been made</li> <li>• The allocation is being made by the Commission publicly elected</li> <li>• There are clear criteria for the allocation of funds</li> <li>• Supposed projects are available online, but without score charts</li> <li>• One part of funding from local self-governments are being allocated through non-transparent procedures without publically known criteria</li> </ul> <p><i>System for accountability, monitoring and evaluation of public funding</i></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• According to the Law on NGOs, The Commission shall submit to the Government, once a year, a report on the implementation of projects and programs funded.</li> <li>• Legislation does not regulate which body is in charge for the monitoring of the work of the Commission</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Procedures for monitoring of project implementation from the</li> </ul> | <p><i>Availability of public funding for institutional development of CSOs, project support and co-financing of EU and other grants</i></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Amend the Law on NGO in the part of financing</li> <li>• The new Budget Law should be created in accordance with the Law on Games of chance, in the part which regulates the amount of money allocated to NGOs</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Public funding needs to be put in accordance with the Law</li> <li>• Regulate the financing of NGOs from budgets of local self-governments</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Closer monitoring of the entire process of public funding cycle.</li> </ul> <p><i>Procedures and transparency of distribution of public funding</i></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Amend the Law on NGO in the part of financing</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Public calls should be published within legally prescribed deadline, just as the decisions on supported project</li> <li>• Establish criteria for the allocations based on other legal basis when it comes to funding from local self-governments</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> |
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|  | <p>1) The procedure for distribution of public funds is transparent and legally binding. (2.2.2.L1)</p> <p>2) The criteria for selection are clear and published in advance. (2.2.2.L2)</p> <p>3) There are clear procedures addressing issues of conflict of interest in decision-making. (2.2.2.L3)</p> <p><b>Practice:</b></p> <p>1) Information relating to the procedures for funding and information on funded projects is publicly available. (2.2.2.P1)</p> <p>2) State bodies follow the procedure and apply it in a harmonized way. (2.2.2.P2)</p> <p>3) The application requirements are not too burdensome for CSOs. (2.2.3.P3)</p> <p>4) Decisions on tenders are considered fair and conflict of interest situations are declared in advance (2.2.3.P4)</p> <p><b>System for accountability, monitoring and evaluation of public funding</b></p> <p><b>Legislation:</b></p> <p>1) The procedure for distribution of public funds prescribes clear measures for accountability, monitoring and evaluation. (2.2.3.L1)</p> <p>2) There are prescribed sanctions for CSOs that misuse funds which are proportional to the violation of procedure. (2.2.3.L2)</p> <p><b>Practice:</b></p> <p>1) Monitoring is carried out continuously and in accordance with predetermined and objective indicators. (2.2.3.P1)</p> | <p>Commission for allocation of revenues from games of chance and reporting have not been developed, or are not sufficiently developed,</p> <ul style="list-style-type: none"> <li>The Commission did not submit the report for year 2013, as stated in the Audit Report</li> </ul> <p><b>Availability of the state non-financial support</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>According to the Law on NGOs, the Commission shall submit to an advisory body, once a year, a report on the implementation of projects and programs funded.</li> <li>According to the Law on NGOs, control of the appropriate use of funds allocated to CSOs should be undertaken by external auditors engaged by the advisory body.</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>Report on cooperation between ministries / state authorities and CSOs in the 2012th year, shows that, in practice, there have been cases where the ministries have given way to the use of their space-boardroom for the meetings.</li> </ul> <p><b>CSOs' engagement in different state services and equality of competition among all providers for state contracts</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>The new Law on Social and Children Protection has been adopted</li> <li>The Law prescribes the possibility for other entities, including non-governmental organizations to provide social services through the process of licensing</li> <li>Licensing, accreditation of the programs as well as the financing of the social services is to be regulated by the second legislation</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>For these to be achieved, second legislation need to be adopted previously. There are existing cases of service provision in cooperation with state or local authorities, but they are individual examples, not part of a bigger system and done aside from the process of licensing and accreditation</li> </ul> <p><b>Commitments of state to funding services and predictability and long-term availability of the funding</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>The Law on Social and Children protection prescribes that services will be funding by the state budget, local self-governments budget and by users themselves</li> <li>Financing is to be defined by second legislation that has not been adopted yet.</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>A number of social services are financially supported by the state of local governing mechanisms, however these are individual, mostly</li> </ul> | <p><b>System for accountability, monitoring and evaluation of public funding</b></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>Regulate the procedures for the evaluation of the Commission's work, as well as the evaluation of supported projects</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>Same as BCSDN</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>Establish an effective mechanism of control over the Commissions' work as well as the monitoring of the implementation of the supported projects</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>Same as BCSDN's</li> </ul> <p><b>Availability of the state non-financial support</b></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>Adopt all laws that are necessary for undisturbed implementation of the Law on NGOs, particularly in the area of finance</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>Same as BCSDN</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>It is necessary to note the space and property (decommissioned office furniture and equipment written-off vehicles, etc.) owned by the state that are not in use, and to define a transparent process and criteria for using these areas by CSOs, in order to realize programs and projects of common interest or joint.</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>Same as BCSDN's</li> </ul> |
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|  | <p>2) Regular evaluation of effects/impact of public funds is carried out by state bodies and is publicly available. (2.2.3.P2)</p> <p><b>Availability of the state non-financial support</b></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) Legislation allows 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. (2.2.4.L1)</li> <li>2) The non-financial support is provided under clearly prescribed processes, based on objective criteria and does not privilege any group. (2.2.4.L2)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) CSOs use non-financial state support(2.2.4.P1)</li> <li>2) CSOs are treated in an equal or more supportive manner as compared to other actors when providing state non-financial resources. (2.2.4.P2)</li> <li>3) There are no cases of state authorities granting non-financial support only to CSOs which do not criticize its work; or of cases of depriving critical CSOs of support; or otherwise discriminating based on loyalty, political affiliation or other unlawful terms. (2.2.4.P3)</li> </ol> <p><b>CSOs' engagement in different state services and equality of competition among all providers for state contracts</b></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) Existing legislation allows CSOs to provide services in various areas, such as education, healthcare, social services .(3.3.1.L1)</li> <li>2) CSOs have no barriers to providing services that are not defined by law ("additional" services). (3.3.1.L2)</li> <li>3) Existing legislation does not add additional burdensome requirements on CSOs that do not exist for other service providers. .(3.3.1.L2)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) CSOs are able to obtain contracts in competition with other providers and are engaged in various services (e.g., education, health, research, and training). (3.3.1.P1)</li> <li>2) CSOs are included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation). (3.3.1.P2)</li> <li>3) When prior registration/licensing is required, the procedure for obtaining that is not overly burdensome. (3.3.1.P3)</li> </ol> | <p>project-based cases, not part of a well-established system</p> <p><b>Clarity of procedures for contracting services and transparency in selection of service providers including CSOs</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Licensing, accreditation of the programs of the social services is to be regulated by the second legislation</li> <li>• Legislation that will regulate details about service provision is yet to be adopted</li> <li>• The only adopted document which concerns NGOs is Regulations on the Content of the Database and the Content and Method of Keeping Records in Social and Children Protection</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• 284 social services were available in Montenegro in the period 2012-2013</li> <li>• 175 of those were provided by non-governmental organizations, which makes 80%</li> <li>• NGOs provided services mostly through projects funded by foreign donors</li> <li>• Through the project Reform of the social and children protection – Improvement of social inclusion, IPA 2010, in the period 2012/13 it was supported by 40 social care services in 9 municipalities and most of them were performed by NGOs</li> <li>• Most of the social services providing shelter are provided in partnership between NGOs and local self-governments</li> <li>• There is no system of keeping record on the available services as well as evaluating them</li> </ul> <p><b>Clarity of a system for accountability, monitoring and evaluation of service provision</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• There is no legislation regulating monitoring both spending and quality of service provision</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Since there is no legislation regulating service provision, all concrete examples of this-like cooperation are being monitored based on individual arrangements from case to case</li> </ul> | <p><b>CSOs' engagement in different state services and equality of competition among all providers for state contracts</b></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Adopt second legislation needed for the implementation of the Law on Social and Children Protection</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Seek for greater clarification in the Law about manner of assigning obligations of the state authorities to others, and look for clarification of status and position of CSOs in this process.</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• It is necessary to adopt second legislation and then to implement these processes according to the rules</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> <p><b>Commitments of state to funding services and predictability and long-term availability of the funding</b></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Adopting second legislation necessary for the implementation of the Law</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Introduce in legislation licencing possibilities of CSOs for provision of social services.</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• In order for the financing of the service to be regulated, second legislation needs to be adopted first</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Closer monitoring of opportunities for CSOs to provide social services.</li> </ul> <p><b>Clarity of procedures for contracting services and transparency in selection of service providers including CSOs</b></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Adoption of the second legislation according to the deadlines prescribed in the Action Plan for the Implementation of the Strategy for Development of Social and Children protection.</li> </ul> <p><b>Legislation (possible other):</b></p> |
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|  | <p><b>Commitments of state to funding services and predictability and long-term availability of the funding</b></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) The budget provides funding for various types of services which could be provided by CSOs, including multi-year funding. (3.3.2.L1)</li> <li>2) 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). (3.3.2.L2)</li> <li>3) CSOs can sign long-term contracts for provision of services (3.3.2.L3)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) CSOs are recipients of funding for services. (3.3.2.P1)</li> <li>2) CSOs receive sufficient funding to cover the basic costs of the services they are contracted to provide, including proportionate institutional (overhead) costs. (3.3.2.P2)</li> <li>3) There are no delays in payments and the funding is flexible with the aim of providing the best quality of services. (3.3.2.P3)</li> </ol> <p><b>Clarity of procedures for contracting services and transparency in selection of service providers including CSOs</b></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) There is a clear and transparent procedure through which the funding for services is distributed among providers.(3.3.3.L1)</li> <li>2) Price is not the lead criterion for selection of service providers and best value is determined by both service quality and a financial assessment of contenders. (3.3.3.L2)</li> <li>3) There are clear guidelines on how to ensure transparency and avoid conflict of interests. (3.3.3.L3)</li> <li>4) There is a right to appeal against competition results. (3.3.3.L4)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Many services are contracted to CSOs. (3.3.3.P1)</li> <li>2) Competitions are considered fair and conflicts of interest are avoided. (3.3.3.P2)</li> <li>3) State officials have sufficient capacity to organize the procedures. (3.3.3.P3)</li> </ol> |  | <ul style="list-style-type: none"> <li>• Ensure that the legislation stipulates clear and transparent procedures through which the funding for services is distributed among providers</li> <li>• Ensure that criteria for selection is not price driven, but selection is driven by both service quality and a financial statement of contenders</li> <li>• Ensure that there are clear guidelines on how to ensure transparency and avoid conflict of interest.</li> <li>• Ensure possibilities for appeal against completion results.</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Provide for financial sustainability of the services established through the project “Reform of the Social and Children protections” IPA 2010</li> <li>• Improve cooperation of the Ministry of Labor and Social Care with civil sector in order to encourage the process of decentralization of social care</li> <li>• Establish database of available social services, as well as effective system of monitoring and evaluation</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Monitor state capacities to organise procedures related to tendering o the state services.</li> </ul> <p><b>Clarity of a system for accountability, monitoring and evaluation of service provision</b></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Creation of specific legislation regulating CSOs engagement in providing services, in the cooperation with the state, that would, among other things, regulate process of monitoring and evaluation of service provision</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Ensure that legislation recognises quality standards of provision of the services.</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Promote regional and international practice of CSO participation in service delivery</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Ensure that once introduces, monitoring does not turn into excessive control of the CSOs.</li> </ul> |
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|  | <p><b>Clarity of a system for accountability, monitoring and evaluation of service provision</b></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) There is legal possibility for monitoring both spending and the quality of service providers. (3.3.4.L1)</li> <li>2) There are clear quality standards and monitoring procedures for services. (3.3.4.L2)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) CSOs are not subject to excessive control. (3.3.4.P1)</li> <li>2) Monitoring is performed on a regular basis according to pre-announced procedures and criteria. (3.3.4.P2)</li> <li>3) Regular evaluation of quality and effects/impact of services provided is carried out and publicly available. (3.3.4.P3)</li> </ol>   |   |         |   |
| <b>Changing relations CSOs and government</b>  |   |   |         |   |
| <p>3 Civil society and public institutions work in partnership through dialogue and cooperation, based on willingness, trust and mutual acknowledgment around common interests</p> | <p><b>Result: 3.1. Public institutions recognise the importance of CSOs in improving good governance through CSOs' inclusion in decision making processes</b></p>   |   |         |   |
|  | <p>Indicator: 3.1.a. Percentage of laws/bylaws, strategies and policy reforms effectively* consulted with CSOs</p> <p>* in terms of:</p> <ul style="list-style-type: none"> <li>- adequate access to information</li> <li>- sufficient time to comment</li> <li>- selection and representativeness / diversity of working groups</li> <li>- acknowledgement of input</li> <li>- degree to which input is taken into account</li> <li>- feedback / publication of consultation results</li> </ul> <p>3.1.b Quality* of structures and mechanisms in place for dialogue and cooperation between CSOs and public institutions</p> <p>* in terms of:</p> <ul style="list-style-type: none"> <li>- CSO representation in general</li> <li>- representation of smaller/weaker CSOs</li> <li>- its visibility and availability</li> <li>- government perception of quality of structures and mechanisms</li> <li>- CSOs perception of structures and mechanisms</li> </ul> |   |         |   |
|  | <p><b>CSO-government cooperation strategic document</b></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) There are strategic documents dealing with the state-CSO relationship and civil society development. (3.1.1.L1)</li> <li>2) The strategic document includes goals and measures as well as funding available and clear allocation of responsibilities (action plans incl. indicators). (3.1.1.L2)</li> <li>3) The strategic document embraces measures that have been developed in consultation with and/or recommended by CSOs. (3.1.1.L3)</li> </ol>  | <p><b>CSO-government cooperation strategic document</b></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• Strategy for development of non-governmental sector in Montenegro for period of 2014-2016 and the Action Plan for the same period has been adopted in December 2013.</li> <li>• In July 2014, Government appointed the new Council for development of NGOs</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• The Council for Development of NGOs is in charge for following the implementation of the Strategy for development of NGOs, as well as</li> </ul> | 67/ 100 | <p><b>CSO-government cooperation strategic document</b></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Regular monitoring of the implementation of relevant documents</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> |

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|  | <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) CSOs from different areas of interest regularly participate in all phases of the strategic document development, implementation and evaluation. (3.1.1.P1)</li> <li>2) There are examples demonstrating that cooperation between state and CSOs and civil society development is improved and implemented according to or beyond the measures envisaged in the strategic document. (3.1.1.P2)</li> <li>3) The implementation of the strategic document is monitored, evaluated and revised periodically. (3.1.1.P3)</li> </ol> <p><i>Accessibility of all draft policies and laws to the public (easiness and timelines)</i></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) Existing legislation obliges public institutions to make all draft and adopted laws and policies public, and exceptions are clearly defined and in line with international norms and best practices. (3.2.2.L1)</li> <li>2) Clear mechanisms and procedures for access to public information/documents exist. (3.2.2.L2)</li> <li>3) There are clearly prescribed sanctions for civil servants/units for breaching the legal requirements on access to public information. (3.2.2.L3)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Public institutions actively publish draft and adopted laws and policies, unless they are subject to legally prescribed exceptions. (3.2.2.P1)</li> <li>2) Public institutions answer the majority of requests for access to</li> </ol> | <p>the implementation of the Action Plan for chapter 23 in part regarding the civil society</p> <ul style="list-style-type: none"> <li>• Small number of activities planned for year 2014, by the Action Plan for the Strategy for development of NGOs, was actually implemented within the deadline</li> </ul> <p>33% of the surveyed CSOs were consulted in the process of preparing strategies on the local level; 30% on action plans on the local level; 24% on strategies on the national level; 23% on specific laws; 19% on action plans on the national level; 12% on programming of IPA financial support; and 12% on policy documents</p> <p><i>Accessibility of all draft policies and laws to the public (easiness and timelines)</i></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• The existing legislation obliges public institutions to make all draft and adopted laws and policies public. This topic is covered by a number of laws and regulations (Law on free access to information, Law on NGOs, Regulation concerning public discussions etc.)</li> <li>• Clear mechanisms and procedures for access to public information and documents exist and there are guidelines concerning this topic, which can be found on the websites of almost every ministry and local self-government.</li> <li>• There are prescribed mechanisms for appeals to the decision of the body that is in charge for sharing the requested information or making them public. There is also the possibility to appeal to the Agency for the protection of personal data and free access to public information. However there is no possibility to complain in a case where the requested information is labelled as Secret. In that case the authority in charge of the case, is the Administrative Court of Montenegro</li> <li>• All the laws and regulations are published in the Official Gazette in its printed and online version.</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• The explanations on the reasons for refusal of the requests are often not clear, but they are included in the response. There is a lack of respect for the time frame in which it has to be responded to the request by the large number of government bodies.</li> <li>• As it was earlier stated there are no known cases of sanctioned individuals. There are cases in which the appeal was approved by the Agency or the Administrative court</li> </ul> <p>91% of the surveyed CSOs believe that they had adequate access to information during the process</p> <p>75% of the surveyed CSOs claim to have had enough time for giving comments</p> <p>12% of the surveyed CSOs did not have any of their comments taken into consideration; 5% claim that all their proposals and suggestions were taken into consideration; one fifth (19%) state that a majority of their proposals and suggestions were taken into consideration; 61% claim that only some of their proposals and suggestions were taken into account during the consulting processes on the national or local level</p> | <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Create conditions for the implementation of the Action plan for the Strategy for development of NGOs</li> <li>• Regular publishing of the reports on the implementation of the Strategy</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> <p><i>Accessibility of all draft policies and laws to the public (easiness and timelines)</i></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Ensure adequate implementation of relevant legislation</li> <li>• Harmonize Law on free access to information with international standards</li> <li>• Government bodies should think about creating contact lists of CSOs that have experience in some relevant areas and contact them individually when implementing certain plans and programs</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• The answers to requests have to be clearer, have to include written explanations on the reasons for refusal, and highlight the right to appeal and the procedure for appealing.</li> <li>• There is a lack of responsibility for breaching the legal requirements on access to public information by the civil servants. The focus is more on the body that breached the requirements</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN</li> </ul> |
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|  | <p>public information within the deadline prescribed by law, in a clear format, provide written explanations on the reasons for refusal, and highlight the right to appeal and the procedure for appealing. (3.2.2.P2)</p> <p>3) Cases of violations of the law are sanctioned. (3.2.2.P3)</p> <p><i>Representativeness of CSOs in discussions in cross-sector bodies and clarity of criteria and selection process</i></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>Existing legislation requires public institutions to invite CSO representatives on to different decision-making and/or advisory bodies created by public institutions. (3.2.3.L1)</li> <li>There are clear guidelines on how to ensure appropriate representation from civil society, based on transparent and predetermined criteria. (3.2.3.L2)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>Decision-making and advisory bodies on issues and policies relevant for civil society generally include CSO representatives. (3.2.3.P1)</li> <li>CSO representatives in these bodies are enabled to freely present and defend their positions, without being sanctioned. (3.2.3.P2)</li> <li>CSO representatives are selected through selection processes which are considered fair and transparent. (3.2.3.P3)</li> <li>Participation in these bodies does not prevent CSOs from using alternative ways of advocacy or promoting alternative stand-points which are not in line with the position of the respective body. (3.2.3.P4)</li> </ol> | <p>Of the surveyed CSOs (who participated in the consultation processes during the past three years), one in five (22%) state that they received no feedback information and that the results of the consultations were not published; 16% state that the government gave detailed enough feedback information and results were easily accessible to all interested parties; 60% claim to have received feedback information and that the results were published, but not in all consultation processes</p> <p><i>Representativeness of CSOs in discussions in cross-sector bodies and clarity of criteria and selection process</i></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>There are mechanisms regulating citizen participation on national level</li> <li>Union of Municipalities created models of four different Decisions regarding citizen participation on the local level</li> <li>Less than half of the municipalities have put their decisions in accordance with the Models</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>NGO representatives in the working groups formed by Ministries are chosen in a transparent manner, based on clear criteria</li> <li>Members of the working groups formed by local self-governments are sometimes chosen based on personal contacts, not following the legally prescribed procedure</li> </ul> <p><i>Recognition of the state, through the operation of its institutions, of the importance of the development of and cooperation with the CS</i></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>There is Office for Cooperation between Government and NGOs</li> <li>The Office for Cooperation with CSOs has a limited capacity and authority to fully carry out its duties. The Office only employs three persons, the Head of the Office, an advisor and administrative secretary. Within newly amended act on organization of working positions in the General Secretariat, additional advisor position is planned within the Office. The Office does not have a clear and precisely determined budget and its competences to coordinate the contact persons in public administration bodies have not been clearly defined. Also, being a part of the Government General Secretariat, it lacks the authority to act independently. As things stand at the present, the long-term sustainability and effectiveness of the Office is still a challenge.<sup>11</sup></li> <li>Decree on procedure for achieving cooperation between state authorities and non-governmental organizations as the obligatory documents for state bodies to inform, consult and involve CSO representatives in drafting public policies</li> <li>There is a Decree on the procedure and manner of conducting public debate in preparation of the laws as obligatory document for ministries to consult civil society in drafting laws</li> <li>Some municipalities either don't have, either the legislation which is not be best model for the cooperation with the NGOs and their inclusion in the decision making process</li> </ul> <p><b>Practice:</b></p> | <p><i>Representativeness of CSOs in discussions in cross-sector bodies and clarity of criteria and selection process</i></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>Adopt or amend relevant legislation on the local level</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>Same as BCSDN</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>Ensure adequate application of legislation regulating citizen participation on the local level</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>Same as BCSDN's</li> </ul> |
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<sup>11</sup> Ibid 1 pg. 20

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|  | <p><i>Recognition of the state, through the operation of its institutions, of the importance of the development of and cooperation with the CS</i></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) There is a national level institution or mechanism with a mandate to facilitate cooperation with civil society organizations (e.g., Unit/Office for cooperation; contact points in ministries; council). (3.1.2.L1)</li> <li>2) There are binding provisions on the involvement of CSOs in the decisions taken by the competent institution or mechanism(s). (3.1.2.L2)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) The national level institution or mechanism(s) has sufficient resources and mandate for facilitating CSO-government dialogue, discussing the challenges and proposing the main policies for the development of Civil Society. (3.1.2.P1)</li> <li>2) CSOs are regularly consulted and involved in processes and decisions by the competent institution or mechanism(s). (3.1.2.P2)</li> </ol> | <ul style="list-style-type: none"> <li>• NGO representatives participate in decision-making process on several levels (working groups formed by state bodies, parliamentary committees, public debates...)</li> <li>• NGO representatives participate in the working groups for the preparation of negotiating chapters in the process of accession to EU</li> </ul> <p>75% of the surveyed CSOs are aware of the current structures and mechanisms for dialogue and cooperation with state institutions; 42% believe that these mechanisms exist only pro-forma and 33% think that these mechanisms are useful.</p> <p>82% of the surveyed CSOs are aware of the current structures and mechanisms for dialogue and cooperation with local institutions; 41% believe that these mechanisms exist only pro-forma and 41% think that they are useful</p> <p><i>Recognition of the state, through the operation of its policies and strategies, of the importance of the development of and cooperation with the CS</i></p> <p><b>Legislation:</b></p> <ul style="list-style-type: none"> <li>• There are contact persons in the Ministries and other state bodies, as well as in the local self-governments</li> </ul> <p><b>Practice:</b></p> <ul style="list-style-type: none"> <li>• Process of previous consultations in creating strategic and legal documents is not being conducted on a regular basis. Only 26 previous consultations have been conducted in all of the municipalities in 2013.</li> <li>• Institute of “free chair” which is a mechanisms for NGO participation on local level is often being misused</li> <li>• Reports from public debates are not being published regularly, especially on the local level</li> <li>• Most of the participants of our focus groups complained about not getting feedback to their comments and suggestions</li> <li>• NGO participants are actively involved in the process of negotiations with the EU, through the participation in the working groups for different chapters.</li> </ul> | <p><i>Recognition of the state, through the operation of its institutions, of the importance of the development of and cooperation with the CS</i></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• Strengthen the capacities of the Office by giving it more independence and its own budget</li> <li>• Adopt necessary legislation on the local level</li> </ul> <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Seek for increasing number of employees in the Office for Cooperation with CSOs.</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• State and local bodies should make more effort in promotion of the citizen participation</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN’s</li> </ul> <p><i>Recognition of the state, through the operation of its policies and strategies, of the importance of the development of and cooperation with the CS</i></p> <p><b>Legislation (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• It is necessary to better define the actual tasks of the contact persons for NGO</li> </ul> |
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|  | <p><i>Recognition of the state, through the operation of its policies and strategies, of the importance of the development of and cooperation with the CS</i></p> <p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1) There are clearly defined standards on the involvement of CSOs in the policy and decision making processes in line with best regulatory practices prescribing minimum requirements which every policy-making process needs to fulfil.(3.2.1.L1)</li> <li>2) State policies provide for educational programs/trainings for civil servants on CSO involvement in the work of public institutions. (3.2.1.L2)</li> <li>3) Internal regulations require specified units or officers in government, line ministries or other government agencies to coordinate, monitor and report CSO involvement in their work. (3.2.1.L3)</li> </ol> <p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1) Public institutions routinely invite all interested CSOs to comment on policy/legal initiatives at an early stage. (3.2.1.P1)</li> <li>2) CSOs are provided with adequate information on the content of the draft documents and details of the consultation with sufficient time to respond. (3.2.1.P2)</li> <li>3) Written feedback on the results of consultations is made publicly available by public institutions, including reasons why some recommendations were not included. (3.2.1.P3)</li> <li>4) The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/training.(3.2.1.P4)</li> <li>5) Most of the units/officers coordinating and monitoring public consultations are functional and have sufficient capacity. (3.2.1.P5)</li> </ol> |  | <p><b>Legislation (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN</li> </ul> <p><b>Practice (BCSDN):</b></p> <ul style="list-style-type: none"> <li>• State bodies and local self-government should publish yearly Citizens-Participation Plans</li> <li>• Process of previous consultations should become practice on national as well as on the local level</li> <li>• Reports from the consultations and public debates need to be published and participants need to get feedback on their suggestions</li> <li>• Capacities of the local officials should be strengthened in order for the better implementation of all of the mechanisms of citizen participation</li> </ul> <p><b>Practice (possible other):</b></p> <ul style="list-style-type: none"> <li>• Same as BCSDN's</li> </ul> |
| <b>CSOs Capacities</b>                       |   |  |  |
| 4. Capable, transparent and accountable CSOs | <b>4.1. CSOs' internal governance structures are transparent and accountable to members/constituents/beneficiaries</b>  |  |  |
|  | 4.1.a. Percentage of CSOs publishing their governance structure and internal documents (statutes, codes of conduct etc.)  |  |  |

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|  | 4.1.a. independent survey run by TACSO | <p>15% of the surveyed CSOs believe that the majority of CSOs in Montenegro are managed (in the majority of cases) in compliance with the prescribed rules and they include consultations with employees and volunteers</p> <p>Of the surveyed CSOs, 3 in 10 state that in their CSO, the decisions are made in compliance with the prescribed rules and they include consultations with employees and volunteers</p> <p>77% of the surveyed CSOs believe that there is, by internal act prescribed obligation to inform the members or managerial or supervisory Board, customers or general public about the results of their work.</p>  |  |  |
| <b>4.2. CSOs are able to communicate the results of their activities to the public</b> |  |  |  |  |
| 4.2.a. External perception of importance and impact of CSOs activities.                |  |  |  |  |
|  | 4.2.a. independent survey run by TACSO | <p>Of the surveyed citizens, 52% have the most confidence in the president of the state; 50% in NGOs and 49% in the police</p> <p>Of the surveyed citizens, they have the least amount of trust in political parties, 29%; the judiciary, 36% and in trade unions, 36%.</p> <p>Of the surveyed citizens, 56% perceive the NGOs as trying the most to solve the country's problems, followed by the president of the state at 52% and the media at 50%. Those who are perceived to be least trying to solve the country's problems are political parties and the judiciary at 38%; trade unions at 41% and the local administration in your town at 45%.</p> <p>Of the surveyed CSOs, one in two (48%) believe that CSOs are not sufficiently visible in the public; 11% believe that they are sufficiently present and 41% believe that CSOs' presence in the public is in the right extent. For those who believe that the presence is not enough, 60% of the surveyed CSOs criticize the NGO sector saying that organisations themselves are to blame since they are not working enough (or in the right way) to increase their presence; four out of 10 (38%) believe that the key reason is insufficient interest of the media in reporting on CSOs' activities.</p> <p>Surveyed citizens believe that the most important topic areas are employment, 78%; fight against corruption, 73% and education at 72%. The least important topic areas are animal protection, 49%; culture and art, 53%; and ecology at 56%,</p> <p>Surveyed citizens believe that the CSOs are most active in the areas of rights of women, 64%; human rights, 62%; and ecology at 58%. The least active areas are perceived to be: rural development, 40%; employment, 41%; and safety at 47%.</p> <p>Surveyed CSOs believe that the most important topic areas are: fight against corruption, 85%; employment, 82%; and human rights 80%.</p> |  |  |

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|   |  | <p>The least important topic areas are: animal protection, 52%; culture and art, 64%; and rural development 67%.</p> <p>Surveyed CSOs believe that CSOs are most active in the areas of: rights of women, 76%; ecology, 72%; and human rights, 71%. They are perceived to be least active in the areas of: rural development, 40%; employment, 41%; and animal protection 43%.</p>  |  |  |
| <b>4.3. CSOs are transparent about their programme activities and financial management</b>                          |  |   |  |  |
| 4.3.a. Percentage of CSOs making their (audited) financial accounts and annual reports publicly available           |  |   |  |  |
| 4.3.a independent survey run by TACSO   |  | <p>One in three of the surveyed CSOs (35%) claim that the statute of their organisation is not accessible to the public.</p> <p>One in three, of the surveyed CSOs (32%) claim to not have a rulebook and one in three claim to have a rulebook which is not accessible to the public on a website (31%).</p> <p>Surveyed CSOs believe that 61% of organisations do not publish or make publicly available their Annual Program based Statement of Work</p> <p>42% of the surveyed CSOs claim that they organisation in which they are engaged does not have an Annual Program based Statement of Work which is accessible to the public in any way</p> <p>Surveyed CSOs believe that 64% of the CSOs in Montenegro do not publish their financial statements</p> <p>45% of the surveyed CSOs openly admit that they do not publish their financial statements</p> <p>Surveyed CSOs believe that 73% of the CSOs in Montenegro do not publish their audited financial statements</p> <p>58% of the surveyed CSOs openly admit that they do not publish their audited financial statements</p> |  |  |
| <b>4.4. CSOs monitor and evaluate the results and impact of their work</b>  |  |   |  |  |
| 4.4.a. Share of CSOs that monitor and evaluate their projects and programmes using baselines and quality indicators |  |   |  |  |
| 4.4.a. independent survey run by TACSO  |  | <p>Of the surveyed CSOs, 3 out of 10 (31%) openly claim that project assessments are done only pro-forma, while 66% claim that the projects are evaluated only in order to determine the effectiveness and draw lessons for further projects</p> <p>Of the surveyed CSOs, one in four (24%) use the services of external evaluators when they evaluate the realization of conducted projects</p> <p>Of the surveyed CSOs, one in four (27%) state that they do not have an established system for the evaluation of the realization of</p>  |  |  |

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|   |  | conducted projects  |  |  |
| 5. Effective CSOs   | <b>5.1. CSO activities are guided by strategic long-term organisational planning</b>   |   |  |  |
|   | 5.1.a. Share of CSOs which have developed strategic plans including human resources development activities in order to attract and retain talent |   |  |  |
|   | 5.1.a. independent survey run by TACSO   | <p>Of the surveyed CSOs, one in fourteen (7%) use an external evaluator for the evaluation of the employee's performance</p> <p>Half of the surveyed organisations do not practice the evaluation of the performance of the employees</p> <p>Of the surveyed CSOs, 44% have a plan for human resources development; 36% openly admit that they do not have this plan and 18% (one fifth) say that they are currently preparing the plan for the development of human resources. For those with a plan, one in eleven of the surveyed CSOs (9%) claim to not be able to keep talented associates while those without one, 35% claim to not be able to keep talented associates. For those with a plan, one in twelve (8%) claim that they fail to attract new associates and for those without one, 47% claim the same</p> <p>Of the surveyed CSOs, four fifths (80%) say that their organisations succeed in attracting new members and 75% succeed in keeping talented associates</p> <p>Of the surveyed CSOs, 1 in 10 states that an external evaluator is evaluating the implementation of the organisation's strategic plan</p> <p>Half of the surveyed organisations do not evaluate the implementation of the organisation's strategic plan</p> |  |  |
|   | <b>5.2. CSOs use research and other forms of evidence to underpin their activities</b>   |   |  |  |
|   | 5.2.a. Number of CSOs' who use adequate argumentation and analysis for achieving advocacy goals  |   |  |  |
|   | 5.2.a. independent survey run by TACSO   | <p>Of the surveyed CSOs, one in two (49%) say that they often use research results and analysis; 47% state that they rarely use research results and analyses and one in four almost never use research results and analyses for advocacy activities.</p> <p>Surveyed CSOs list the most common sources of data as: 52% use official data of national statistical offices, ministries; 25% conduct studies; 10% use academic studies; 5% use international institutions; 1% orders studies</p>  |  |  |
| <b>5.3. CSOs regularly network within and outside country borders and make use of coalition-building for increased impact in campaigning and advocacy</b> |  |   |  |  |
| 5.3.a. Share of CSOs taking part in local, national, regional and international networks  |  |   |  |  |

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|   | 5.3.a. independent survey run by TACSO   | <p>Of the surveyed CSOs, two thirds (67%) state that they are not members of any international CSO networks. For those who belong to at least one international network, they are active in 1.77 international CSO networks on average</p> <p>Of the surveyed CSOs, less than half (45%) are not members of any national network. For those who belong to at least one national network, they are active in 2.77 national CSO networks on average</p> <p>Of the surveyed CSOs, 57% state that their organisation does not belong to any local network. For those who belong to at least one local network, are active in 3 local CSO networks</p> <p>61% of the surveyed CSOs have a positive attitude towards networks' efficiency; while 14% state that CSO networks are of no use.</p> <p>Surveyed CSOs point out the major advantages of taking part in CSO networks, which are: the opportunity to exchange experiences and knowledge (15%); access to information and its exchange (12%); and joint activities and cooperation (10%).</p> |  |  |
| 6. Financially sustainable CSOs           | <b>6.1. Fund-raising activities are rooted in CSOs' long-term strategic plans and the core mission of the organisation</b>   |   |  |  |
|   | 6.1.a. Percentage of CSOs that confirm that they are able to raise funds according to their strategic plans  |   |  |  |
|   | 6.1.a. independent survey run by TACSO   | <p>The surveyed CSOs state that about two thirds (65%) of the CSOs within the NGO sector mainly adapt to the donors' priorities and collect means for other activities not in line with their strategic plan</p> <p>38% of the surveyed CSOs state that their organisation mainly adapts to the donors' priorities.</p>   |  |  |
|   | <b>6.2. CSO have a diversified funding base, including membership fees, corporate/individual giving and social entrepreneurship</b>  |   |  |  |
| 6.2.a. Diversity in CSO sources of income |  |   |  |  |
| 6.2.a. independent survey run by TACSO    | <p>On average, have somewhat more than two sources of income (2.2) per CSO</p> <p>Surveyed CSOs list the most common sources of financing as: 44% local administration/regional administration; 36% government/ministries/state administration; 30% private companies; 28% members; 24% citizens; 23% other FOREIGN resources; 22% EU funds and 16% public companies</p> |   |  |  |