

Montenegro

CSF Guidelines baseline brief

Component 1: Conducive environment

Objective 1: An enabling legal and policy environment, for the exercise of the rights of freedom, expression, assembly and association

Result 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

	The Law on NGOs and other related legislation create a basic legal framework for the free functioning of CSOs.
	There is a legal framework for establishing associations and foundations (Law on NGOs, 2011), but there is no legal framework for establishing other types of organisations such as non-profit companies. There are some restrictions in provisions who can establish an association.
	There are no sanctions prescribed in case of failure to register.
	The Law on NGOs allows networking with organisations in Montenegro and abroad.
	State control over the work of CSOs is regulated by the Inspection Law. Most of the CSOs consider sanctions stipulated by the law disproportionate to the activities and sizes of CSO.
	Few organisations had a case of unannounced inspections by state bodies. About 42 percent of organisations have been subjected to pressure by inspections because of their critical attitude towards authority.
	The Constitution of Montenegro guarantees freedom of peaceful assembly without a permit, subject to prior notification to the competent authority. 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.
	According to the Constitution of Montenegro, everyone has the right to freedom of expression by speech, writing, painting, or otherwise. The right to freedom of expression can be limited only by the other persons' right to dignity, reputation and honour, and if it threatens public morality or the security of Montenegro. There are some cases of objection of freedom of expression.
	Defamation was decriminalised, which has contributed to reducing the number of cases brought against journalists.
	The implementation of the new Law on Free Access to Information has started. Act is not harmonised with other relevant laws.
	There are no legislated restrictions on the use of different communication and information tools.
	The Internet and other tools used for collecting information are accessible and there are no restrictions in practice regarding this.

Result: 1.2. The policies and legal environment stimulate and facilitate volunteering and employment in CSOs

	<p>There are no statistics on the number of employees in CSOs.</p> <p>According to the available survey (2010) there are 556 persons employed in NGOs in line with the Labour Law, while 1,358 of them have worked on the basis of service contracts (short- term or</p>
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	occasional employment). That is less than one percent (0.86 percent) of the total average number of employees in Montenegro in 2010.
	21% of surveyed CSOs stated that they do not have employees, 40% have one employee, 19% from 2-5 employees, and 20% over 6 employees.
	The Labour Law treats CSOs in an equal manner to other employers and does not recognise any advantages of employment and working in the CSO sector, which makes CSOs exposed to potential threats for long-term operations and functioning.
	In 2012, the Government provided a new programme for vocational training and employment. CSOs could apply under the same conditions as state bodies and private companies.
	There is a lack of information on number of volunteers.
	Majority of CSOs neither conclude any volunteering contract with volunteers, nor any other contract with volunteers
	The Law on Volunteering is not in accordance with the situation in practice. Majority of CSOs were inclined to stating that legal solution in Montenegro are not stimulating at all for volunteers
	Although the Volunteer Work Act defines and stipulates number of issues relevant to the volunteering was intended to create a favourable legal environment for the development of volunteering, the law does not stimulate and affirm volunteering, but prohibits and bureaucratises participation of citizens in volunteering. It strongly regulates all forms of citizens' volunteering and it regulates the punishment offenders. Furthermore, it creates additional financial burdens and puts CSOs in even an even less favourable position (compulsory health insurance, residence permits for foreign volunteers). Provisions of this law greatly hinder the arrival of foreign volunteers.

Result 1.3. National and/or local authorities have enabling policies and rules for grassroots organisations and/or civic initiatives.

	There are no sanctions prescribed in cases of failure to register a CSO. Over 90 percent of organisations surveyed in the questionnaire said that they did not have problems registering their organisations.
	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.
	The Law on Free Access to Information Act is not harmonised with other relevant laws, which can hinder the organisation of any CSO, including grassroots organisations.
	There are no legislated restrictions in the use of different communication and information tools.

Objective: 2. An enabling financial environment, which supports the sustainability of CSOs.

Result: 2.1. Easy-to-meet financial rules for CSO, which are proportionate to their turnover and non-commercial activities

	82% of surveyed CSOs assessed that prescribed financial rule, obligations of bookkeeping and accounting, referring to their organisations are clear and understandable
	For 71% of surveyed CSOs it is not simple to implement prescribed financial rule, obligations of bookkeeping and accounting, referring to their organisations are not clear and understandable
	Non-governmental organisations can directly engage in economic activity specified in the statute under several conditions related to the Articles of Association; use of gained; regulations governing the area within which the economic activity is conducted; entering of the economic activity in the Central Register of the Commercial Court.

	Legislation allows CSOs to be funded by foreign institutions and organisations, domestic legal and private individuals as well as corporations. Majority of organisations reported that they neither had the problems associated with obtaining funds from abroad, nor they had administrative restrictions and difficulties obtaining funds from private sources.
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Result: 2.2. Donations are stimulated with adequate legislation and regulations

	Most of the donations to CSOs are subjected to tax.
	The Law on Income Tax stipulates that expenditures on health, education, sports, culture and environmental protection (limited number of areas) are recognised as expenses for up to approximately 3.5 percent of the total revenue.
	The legal framework related to income narrowly defines lists of areas of public interest, it excludes areas that are otherwise recognised and protected as constitutional values or those on whose importance in society there is a broad consensus.
	There is inconsistency between definition of areas of public interest specified in the regulation related to the income in comparison to the Law on NGOs, which leads to a situation where there are two public policies when it comes to the areas of public interest in which CSOs operate, depending on whether CSOs are funded directly by the state or through tax incentives. There are no official statistics that show the degree of utilisation of these benefits.
	The culture of giving and corporate social responsibility is not being encouraged, despite the amendment to the Law on Corporate Income Tax.

Result: 2.3. Financial (e.g. tax or in-kind) benefits are available

	The state provides tax benefits for non-governmental organisations in accordance with the law.
	CSOs are subject to the same provisions of the Value Added as private companies, although CSOs are not VAT registered if their total annual income is less than the statutory limit of EUR 18,000.
	Only grants coming directly from an EU institution are tax-exempt. All other donations, domestic or foreign, are subject to taxes.
	There is no tax exception for economic activities.

Result 2.4.: Government support to CSOs is available and provided in a transparent, accountable, fair and non-discriminatory manner

	There is inefficient financial state support for CSOs.
	Government financial support for CSOs is ensured from several sources. There has been a declining trend of state support to CSO projects in past three years (in comparison to 2010, funds are reduced for 50 percent).
	Total allocations for CSOs from the state budget were reduced from EUR 4 million in 2010 to 1.7 million in 2013 (from 0.73 percent in 2010 to 0.24 percent in 2013).
	The Commission for Allocation of Revenues from Games of Chance distributes 60 percent of all annual revenues from games of chance, out of which 75 percent is allocated for “plans and programmes of non-governmental organisations”. According to available information, the funds allocated and planned by the budget for the period 2008-2013, were less than the funds that had been allocated on the basis of the law on Games of Chance for EUR 4,743,390.38.
	The 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 2011/2012 and EUR

	160,000 for 2013) has not been distributed to NGOs from this budget item.
	The Law on NGOs envisages that government provides funding support to CSO programmes and projects from the state budget. Even though, the law prescribes centralised state funding to CSOs, there are no legal preconditions created for the successful implementation of centralised funding. The Law on NGOs does not preclude the ability of NGOs to be funded by ministries and other budget users.
	The legal basis for the allocation of funds to NGOs by local governments is contained in Article 116 of the Law on Local Self-Government, which stipulates that cooperation between local governments and NGOs is achieved under conditions and procedures prescribed by the general act of the municipality, including financing. State funds have not been allocated in accordance with the law.
	The Minority Fund, the Commission for the Distribution of Funds to NGOs within Parliament, and the Commission for the Allocation of Revenue from Games on Chance are still positioned in the budget, but not complying with the law on NGOs.
	According to the NGO law, procedures for allocation of public funding to CSOs should be transparent with determined criteria for appointing members of commission, including measures of conflict of interest. CSOs may place a complaint about the decision according to the procedures set by the Law on Administrative Procedure.
	According to the Law on NGOs, a report on the implementation of projects and programmes funded should be submitted. Control of the appropriate use of funds allocated to CSOs should be undertaken by external auditors engaged by the advisory body. Procedures for the monitoring of project implementation (mainly from the Commission for Allocation of Revenues from Games of Chance) have not been developed or are not sufficiently developed.
	In terms of an in-kind support, a report on cooperation between ministries, state authorities and CSOs in 2012 shows that, in practice, there have been cases where the ministries have been renting space or boardroom for meetings.
	There is no CSOs participation in providing state services at a sufficient level.
	The Law on Public Administration offers the possibility of the transfer of certain obligations of state authorities to other entities. The law neither defines in detail the manner in which these obligations are assigned, nor clearly recognise CSOs. Due to the ambiguity of the legislation, it is not clear which practices can be perceived as provision of social service.
	There are examples of short-term service provision in cooperation with the Government, but the budget does not specifically provide funding for various types of services, nor for the multi-year funding.
	Examples of licensing of CSO for social service provision have not been identified. CSOs cannot be recipients of funding for these kinds of services.
	The state did not clearly defined procedures for contracting services, which allows for transparent selection of service providers, including CSOs.
	There is no legislation regulating monitoring both spending and quality of service provision.

Changing relations; CSOs and government

Objective 3: Civil society and public institutions work in partnership through dialogue and cooperation based on willingness, trust and mutual acknowledgment around common interests

Result: 3.1. Public institutions recognise the importance of CSOs in improving good governance through CSOs' inclusion in decision-making processes

	Mechanisms created for improving cooperation between government and CSOs are not using their full potential.
	In 2009, the Government adopted the "Strategy for Cooperation between the Government of Montenegro and NGOs" with the implementation of the Action Plan for the period 2009-2011. The Strategy for the Development of the Non-governmental Sector in Montenegro for the period of 2014-2016, including the Action Plan, was adopted in December 2013. These two strategic documents have embraced goals and measures for cooperation of the two sectors that have been developed in consultations with CSOs.
	In 2012, state bodies involved eighty-three CSO representatives in working groups for drafting public policies in different areas.
	The involvement of CSOs in the monitoring of public policies is not on a satisfactory level. According to the Report of Cooperation between State Bodies and CSOs, in the first half of 2013 only eight out of forty-three bodies involved CSOs in monitoring.
	The existing legislation obliges public institutions to make all draft and adopted laws and policies public. 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. There are prescribed mechanisms for appeals to the decision of the body that is in charge for sharing the requested information or making it public. However, there is no possibility to complain in a case where the requested information is labelled as secret. There is a lack of respect by a large number of government bodies for the time frame in which requests for access to information must be answered. There are no known cases of individuals sanctioned for violation of the Law for Free Access to Information.
	Public authorities are obliged, when creating documents from the annual work programmes to invite CSOs to participate in working groups. There is a clear and detailed mechanism for appointing CSO representatives in these bodies that ensures the quality of the representatives and the representation. All the advisory bodies relevant to civil society include CSO representatives. CSO representatives in these bodies are able to freely present and defend their attitudes, although some believe that their proposals should be taken under consideration more often.
	There is a governmental Office for Cooperation with NGOs. The Office for Cooperation with CSOs has a limited capacity and authority to fully carry out its duties.
	There is a Council for Cooperation between the Government of Montenegro and NGOs; however, there are no allocated funds in the budget for its work.
	The Decree on the Procedure for Cooperation between State Authorities and Non-governmental Organisations is the obligatory document for state bodies to inform, consult and involve CSO representatives in drafting public policies. The Decree on the Manner and Procedure for Conducting Public Consultation is in preparation. It is an obligatory document for ministries to consult in drafting laws for civil society. 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. There has been certain improvement in this field.
	Generally, CSOs have a negative opinion on the current mechanisms for dialogue and cooperation between CSOs and state bodies.
	Relatively high participation of CSOs in consultation processes at the national and local level was registered. Fifty-seven percent of organisations in the past three years participated in some consultation process at the local or national level.

CSOs Capacities

Objective 4.: Capable, transparent and accountable CSOs

Result 4.1.: CSOs' internal governance structures are transparent and accountable to members/constituents/beneficiaries

	27% of CSOs stated that decision making in their organisation is in compliance with prescribed rules and laws of the organisation, 57% stated that decisions are made by some individual or top management, 16% that decisions are made with prescribed rules including consultations with the employees and volunteers
	77% of CSOs stated that they have prescribed obligations to inform the members, or Managerial or Supervisory Board, customers or general public about the results of your work
	91% CSOs inform members of their organisation about the results of their work, 81% inform founders of their organisation, 70% inform management board, 75% inform beneficiaries of their organisation, 82% inform general public, 72% general assembly, and 56% inform supervisory board

Result 4.2.: CSOs are able to communicate the results of their activities to the public

	49.9% of surveyed trust to NGOs in their country, general population trust the most to the President of the state Presidency 52.3% of surveyed, and the least to political parties 29.2% of surveyed
	43.6% of general population do not trust to NGOs
	56.4% of the general population believes that NGOs support dealing with problems in their country, 52.4% of population believe that the President of the state Presidency supports in dealing with problems, and political party support the least 37.7%
	38% of CSOs believe that the reason for lack of public presence of CSOs is insufficient interest of the media in reporting on CSOs activities, while 60% of CSOs believe it is due insufficient (or inadequate) CSO activities

Result 4.3.: CSOs are transparent about their programme activities and financial management

	34% CSOs stated that they publish their statute on their web page, 35% stated that the statute is not accessible to the public
	21% of CSOs stated that they have a rulebook and it available on their web page, 16% stated that they have a rulebook, 31% stated that have a rulebook, but it is not accessible to the public, and 32% stated that they do not have a rulebook
	30% of CSOs stated that they publish their Annual Program Statement of Work on their web page, and 42% stated that they do not have APS of Work accessible to public
	30% of CSOs stated that they have financial reports accessible to public and published on the web page, while 45% stated they do not have financial reports available to the public
	20% of CSOs stated that they have audited financial reports accessible to the public by publishing it on their web page, 58% of CSOs stated that they do not have audited financial reports available to the public

Result 4.4.: CSOs monitor and evaluate the results and impact of their work

	31% of CSOs evaluate their projects pro forma, while 66% evaluate projects with the purpose of establishing efficiency and drawing a lesson for further projects
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	29% of CSOs use external evaluation for realisation of their projects
	12% use external evaluator for assessment of implementation of their organisational strategy
	73% of CSOs have established system for assessment of efficiency for realisation of conducted projects
	60% of CSOs have established system for assessment for implementation of organisation's strategic plan

Objective 5.: Effective CSOs

Result 5.1.: CSO activities are guided by strategic long-term organisational planning

	62% of CSOs have developed strategic plan, 23% do not have a strategic plan
	76% use internal evaluation when employing staff in their organisation
	46% of CSOs neither have established system for assessment of efficiency of employees in their organisation, nor internal strategic plan dealing with these issues.
	75% of CSO stated that they manage to keep talented associates, and 80% believe that they manage to attract quality new people

Result 5.2.: CSOs use research and other forms of evidence to underpin their activities

	49% of CSOs active in public advocacy, mainly/frequently uses research for their advocacy actions, while 47% of them mainly/very rarely use research
	73% of CSOs believe that they have enough information at their disposal
	52% of CSOs use official data of national statistical offices, ministries, 25% conduct their own studies, 10% use academic studies

Result 5.3.: CSOs regularly network within and outside country borders and make use of coalition-building for increased impact in campaigning and advocacy

	66% of CSOs indicated that they do not belong to any international network, 20% stated that belong to one international network, 7% stated that they belong to 2 international networks, 6% belong to more than 3 international networks
	45% of CSOs indicated that they do not belong to any national network, 29% stated that belong to one national network, 12% stated that they belong to 2 national networks, 14% belong to more than 3 national networks
	55% of CSOs indicated that they do not belong to any local network, 22% stated that belong to one local network, 9% stated that they belong to 2 local networks, 12% belong to more than 3 local networks
	36% of CSOs do not find CSO networks efficient, while 61% find them efficient
	15% of CSO stated that their contributed in terms of the exchange of experience/knowledge from being member of a network, 5% gained in terms of greater visibility

Objective 6.: Financially sustainable CSOs

Result 6.1.: Fund-raising activities are rooted in CSOs' long-term strategic plans and the core mission of the organisation

	65% of CSOs believe that CSOs in Montenegro mainly adopt to donors' priorities and collect funds also for other activities not in line with their organisational strategic plan
	60% of CSOs stated that they mainly stick to their strategic plans and collects fund for activities in line with its strategic plan

Result 6.2.: CSO have a diversified funding base, including membership fees, corporate/individual giving and social entrepreneurship

	15% of CSOs stated that they did not have any donors in the past year, 20% had one donor, 20% had between 2-3 donors, 19% had 4-5 donors, and 14% over 6 donors
	28% of CSOs had income from membership fees, 24% had from citizens, 44% form local self-government and/or regional administration, 23% from other foreign private or state resources, 22% form the EU funds, 36% form governments/ministries/state administration bodies, 30% from private companies operating in the country, 8% from public companies.