

# Turkey

## Synthesis of the baseline brief

### COMPONENT 1: CONDUCIVE ENVIRONMENT

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

**Result 1.1.: All individuals and legal entities can express themselves freely, assemble peacefully and establish, join and participate in informal and/or registered organisations**

	The definitions of civil society and civil society organisations are absent in the related legislation. The legal framework only recognises associations and foundations as legal entities and other organisational forms such as platforms, initiatives, social enterprises and grant-making foundations are not recognised by law.
	Freedom of association legislation is broadly in line with EU standards, but problems still continue with primary and, more importantly, secondary legislation. The Law on Association and Foundation and respective regulations is complicated, restrictive and bureaucratic. Rather than laying down freedom of association and rights as a framework, legal framework provides very detailed regulations that provide limitations, restrictions, penalties, fines that do not meet the principle of proportionality. It also requires bureaucratic procedures.
	The Law on Associations and the Law on Foundations regulates the registration process and the timeline for registration of associations and foundations, and it varies depending on the workload of the courts.
	The necessary information and documentation that is required to found an association is comprehensive and, for many groups, is difficult to comply with.
	Concepts present in the Law on Associations and Foundations create inconsistent and arbitrary interpretation and implementation by different state institutions and even within the same organisation. Some state authorities continue to litigate for the closure of LGBTI CSOs. They base their legal thesis on the “general morality”.
	There is no legal framework for establishing other types of organisations such as platforms, networks or non-profit companies.
	Number of founding members of an association is high (7), including the requirement that within six months of operation, the association must reach at least 16 members to be able to fulfil the required number of members in the two legally required boards of the association
	There is no minimum number of founding members required to start a foundation, but a foundation must own assets of at least TRY 50,000 (approximately EUR 17,500) to be founded.
	It is not allowed to establish foundations supporting a specific race or community member (Article 101, Civil Law). Freedom of association in the form of foundations to support an ethnic or religious group and/or identity is restricted.

	The legal framework allows for freedom of international operations of associations and foundations.
	Laws do not allow the establishment of CSOs online.
	Foreign foundations and associations are required to get permission for their operations in Turkey. Only 102 foreign CSOs have received a permit to found an association, branch or representation in Turkey. While only four CSOs were given permission in 2012, the number increased to 27 in 2013.
	Monitoring and inspection of CSO activities are not clearly defined resulting in inconsistent and ad hoc implementation in frequency, duration and scope.
	Foundation and association laws provide for audit of associations and foundations to determine whether their activities are in line with the purposes set out in their bylaws. There is no special provision with respect to state protection from interference by the third party. In general, the framework, as laid down in the legal framework regarding inspections and audits to be conducted by state authorities, is quite vague. Regional disparities, disproportionate administrative and judicial practices are observed with respect to audits and sanctions. Due to lack of defined terms in the applicable legislation certain CSOs face sanctions.
	Although the applicable legislation gives the authority to prepare special accounting regulations for associations and foundations to the relevant administrative bodies, there is no such special regulation in practice. Sanctions for breaching legal requirements are regulated under applicable legislation.
	Pursuant to the Constitution, everyone has the right to organise meetings and demonstrations without having to obtain any prior authorisation.
	The Law on Meetings and Demonstrations recognises the right of citizens to organise an assembly and demonstration without having to obtain any prior authorisation. However, meetings and demonstrations must be notified to the relevant civilian authority 48 hours in advance, under all circumstances; and the places and duration allowed for meetings and demonstrations are restrictive, while the law provides the administration and security forces with wide discretionary powers. The restrictions and limitations are further intensified via secondary legislation.
	The right of assembly and demonstration may be restricted by law for national security, public order, and prevention of crime, protection of public morals, public health and the rights and freedoms of others. In addition, restrictions may apply with respect to the designated site, route and square.
	The Constitution provides for freedom of thought and opinion for all. Everyone is equal before the law without discrimination based on language, race, colour, sex, political opinion, philosophical belief, religion and sect, etc.
	Defamation is generally regulated under the Law on Misdemeanours. There are certain defamation offenses that are within the scope of the Criminal Code. The Anti-Terror Law and the Law on Misdemeanours have indirect effects on associational life.
	The Constitution guarantees freedom and privacy of communication for all. However, there are regulations granting public institutions the authority to restrict such rights to an extent that would be below the international standards. Pursuant to the relevant law, unless there is a duly issued judicial decision based on one or more of the following: national security, public order, prevention of crime, protection of public health, public moral or rights and freedoms of others, communication cannot be

	prevented or privacy violated.
	Internet censorship by the government is common and has increased in the last couple of years. The Law on the Regulation of Publications Made on the Internet and the Fight against Crimes Committed via such Publications had a significant negative impact on political freedom of expression.
	A recent amendment made to the relevant law further increased the arbitrary limitation and blocking of web sites.

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

	According to November 2013 data from the General Directorate of Foundations, only 1,831 of 4,679 foundations (39.1 percent) have paid staff, and the total number of employees working for these foundations is 16,008. Only 645 (13.7 percent) of 4679 foundations stated that they work with volunteers. The total number of volunteers is 1,007,560.
	Department of Associations does not publish any data regarding the number of employees and volunteers. Although there are statistics kept by the Department of Associations and the General Directorate of Foundations, it is not known whether information related to employment in Association and foundations is entered into the national statistics system.
	Fifty-seven percent of surveyed CSOs stated that do not have paid staff.
	Eight percent of surveyed CSOs in Turkey believe that up to ten percent of CSOs engage volunteers, five percent believe that 11 to 20 percent of CSOs engage volunteers, 29 percent believes that 21 to 50 percent of CSOs engage volunteers, 55 percent believes that over 50 percent of CSOs engage volunteers.
	Twenty-two percent of the surveyed organisations had one to five volunteers, 54 percent of CSOs over 15 volunteers, and 24 percent had between six to fifteen volunteers in 2013.
	One percent of CSOs stated that they did not conclude any volunteering contracts with volunteers, while six percent stated that they have concluded with up to three volunteers, two percent concluded with four to ten volunteers, and three percent with more than ten volunteers.
	CSOs are subject to the Labour Law as are other sectors. There are no special provisions with respect to CSO employees. There is no special employment policy of the state with respect to CSOs.
	Fifty-three percent of surveyed CSOs stated that legal solutions in Turkey do not stimulate volunteering, while 37 percent stated that the legal solution is stimulating.
	There is neither special legislation and regulation with respect to volunteering nor a holistic state policy.
	It is known that a CSO that works with volunteers has been subject to a significant monetary fine because their volunteers are treated as uninsured workers.

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

	Registration and application conditions are set out in the law.
	Space for informal associational activities is not recognised. Operating without registration is sanctioned. Laws do not allow the establishment of CSOs online
	The right of assembly and demonstration may be restricted by law for national security, public order, and prevention of crime, and the protection of public moral, public health and the rights and freedoms of others along with restrictions that may apply to a designated site, route and square. Prior notification is required under all circumstances.
	The Constitution guarantees freedom and privacy of communication for all.
	However, there are regulations granting public institutions the authority to restrict such rights to the extent that would be below international standards.

**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**

	Sixteen percent of surveyed CSOs stated that prescribed financial rules and obligations for bookkeeping and accounting for their organisations are not clear and understandable, while for 80 percent stated that they were clear and understandable.
	For 23 percent of surveyed CSOs it is not simple to implement prescribed financial rules and obligations of bookkeeping and accounting for their organisations. The rules are not clear and understandable. Seventy-one percent found the rules simple to implement.
	The Law on Associations defines 17 types of penalties and fines, that do not meet principle of proportionality, for example, association administrators who do not keep the required books or records are charged with a prison sentence of three months to one year or a judicial fine; breaching the requirement to use the Turkish language in their books, records and official institutions are charged with an administrative fine of TRY 1,000. The Law on Foundations defines three penalties with administrative fines of TRY 500.
	The Law on Collection of Aid provides very detailed regulations. Bureaucratic obligations continue to be another major obstacle for CSOs to raise funds and maintain their sustainability. Any CSO that does not have a special permit to collect aid and contribution without prior approval has to apply for permission to raise funds by submitting various sorts of information and documentation to the authorities. There are only 20 organisations that have a special permit to collect aid without prior permission. The law authorises the administration to refuse applications for collecting aid, as well to decide which organisations will receive excess funds when an organisation collects more funds or aid than stated in their applications.
	Use of foreign funds is not subject to approval, however, relevant authorities must be notified. Associations and foundations may accept cash and in kind donations from persons, institutions and organisations abroad, subject to notification requirements. They can receive funds and aid from corporations, individuals and other sources in order to realise the purposes set out in their bylaws or charters. Use of foreign funds is not subject to approval, however, relevant authorities must be notified.
	The legislative framework should be revised to facilitate corporate and individual philanthropy.

	Establishing an endowment is mandatory for foundations. There is no administrative difficulty in their establishment or operation, but the minimum endowment amount for foundations is EUR 16,200.
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**Result: 2.2. Donations are stimulated with adequate legislation and regulations**

	Tax deductions applicable to individual and corporate donations are limited.
	The Council of Ministers grants a special tax-exempt status for foundations and public interest status for associations.
	Individuals and legal persons receive a five percent tax deduction only when they donate to tax-exempt foundations. They receive a 0.04 percent tax deduction when they donate to associations with public benefit status.
	There is no tax deduction applicable to individuals who are permanent employees.
	Only organisations that have tax-exempt or public interest status may benefit from donations subject to tax deduction.
	Online giving and crowd funding are emerging as a new trend in Turkey.
	The Law on Collection of Aid constitutes a great obstacle to these online tools.
	Corporate social responsibility and its practices are still in a transitional phase in Turkey. The number of companies implementing CSR projects and sponsorship activities is increasing due to growing expectations from employees and customers.

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

	Tax exemption and public benefit statuses are granted to a very limited number of CSOs by the Council of Ministers. This is a highly bureaucratic, political and non-transparent process and the privileges provided with the status are very limited. Furthermore, The Law on Collection of Aid, with heavy limitations, bureaucratic rules and procedures, creates obstacles for the financial viability of CSOs.
	CSOs are exempt from profit and income tax on their ordinary fundraising activities, but tax is incurred on all economic activities
	Donations and grants are tax-exempt.
	Donations and collections to associations and foundations outside of their centre and income generating activities are regulated under the Law on Collection of Aid.
	Economic enterprises of CSOs are considered as businesses by the Ministry of Finance and, hence, are subject to paying the same utility rates defined by the Corporate Tax Law. Associations and foundations must establish a commercial enterprise in order to carry out revenue generating activities. This creates heavy burdens on CSOs as they implement economic activities to create social benefit.
	There is no tax benefit for the income the foundations obtain from securities.
	Foundations and associations may obtain rent from their real estate, dividends from contribution shares and share certificates, interest on bonds and Turkish Lira and from foreign currency investments. Pursuant to the Income Tax Law, all of the foregoing revenues are subject to withholding tax to be paid by the payer of the relevant revenue item.
	The legislation allows the establishment of endowments. CSOs are exempt from inheritance and transfer and corporate taxes in connection with donations made to their endowments. Establishing an endowment is mandatory for foundations, and the minimum endowment amount for foundations

	is EUR 16,200. It is free to make passive investments, however, there are different tax treatments applicable.
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**Result 2.4.: Government support to CSOs is available and provided in a transparent, accountable, fair and non-discriminatory manner**

	There is no general information on the percentage of the total budget allocated to CSOs.
	Out of the Social Support Programme of the Ministry of Development, 495 supported projects (31 percent) were implemented by CSOs with a total amount of TL 66,505,583. This was 34 percent of the total funds allocated.
	The Central Finance and Contracts Unit (CFCU) ensures that the EU administrative procedures pertaining to grants, works, supplies and procurement of services is adhered to in the context of EU funded programmes in Turkey.
	There is no holistic legislation with respect to other state support. Funds, other than EU, are individually distributed through relevant public institutions and ministries. The Ministries may set aside a budget if authorised by the law. There is no regular and continuous public funding to support the infrastructure and activities of CSOs. However, there is low budget funding transferred to CSOs by the ministries, but such resources remain insufficient.
	As there are no transparent mechanisms regulating the application for and the process of the allocation of public funds and aids to CSOs, ministries do not set out the total budget, selection criteria and selection conditions for funds and aids allocated to CSOs. There is no common practice for ministry funds other than EU funding. Furthermore, even when the total budget is announced by the ministries, detailed information with respect to the allocation of the funding is not shared with public. A lack of common understanding and practice is observed in connection with provision of financial aid to CSOs by the Ministries.
	Application for public funding does not create an additional cost for CSOs. Bureaucratic conditions vary between different funds. There is no information with respect to the fairness of the tenders.
	Public funds are allocated to CSOs through ministries and project partnership mechanisms. No subsidy, grant or any other resource may be transferred to associations and foundations from the budgets of public institutions and organisations.
	Lottery proceeds are not allocated to CSOs in Turkey.
	There is no special regulation with respect to CSO involvement in the distribution of public funds.
	The ministries distributing the funds are also responsible for monitoring the funds. There is no data regarding the way the monitoring is carried out. Although there are special monitoring and evaluation units under certain ministries, the methods adopted and the consequences are not known. There is no data as to whether public organisations carry out regular evaluations on the effects and impacts of public funds. There is no data available with respect to favouritism or discrimination by state authorities against CSOs based on their loyalties or political affiliations. Nevertheless, there are examples supporting the view that there are cases of institutional discrimination.
	A general budget audit is carried out by the Ministry of Finance. As the public funds are not distributed in a transparent manner, it is not possible to foresee the funds allocated to CSOs. The determination of the funding amount is at the discretion of the ministries and may vary from year to year.
	Different practices with respect to cooperation between CSOs and local authorities exist. There is no

	data with respect to favouritism, but there is no data on equal treatment of CSOs in comparison with other actors when providing state non-financial resources. There is no data on whether there are cases of state authorities granting non-financial support only to CSOs that do not criticize their work, or data of cases depriving critical CSOs of support. There are examples supporting the view that there is discrimination.
	The Municipality Law that gives responsibility to municipalities to assist and support CSOs limits the beneficiaries of this support to those with special status: associations with public benefit status and foundations with tax exempt status. An amendment to the Municipality Law (2012) hampers cooperation between CSOs and municipalities, since it neither provides a clarification regarding the types and nature of service activities to be supported nor provides the criteria for permission. In such a context, this revision is increasing the discretionary power of the central government and accordingly decreasing freedom of association.
	Practice of CSO involvement in service delivery is not developed. The existing legislation does not involve specific clauses related to service provisions by CSOs.
	There is no funding strategy that would ensure a variety of services, which could be provided by CSOs, including multi-year programmes.
	There is no legal barrier to CSOs receiving public funding for the provision of different services. CSOs can sign long-term contract depending on the conditions of the service contract, but there are few CSOs that provide services.

## 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 CSO inclusion in decision-making processes**

	Out of totally surveyed, twenty-five percent of CSOs in Turkey were consulted in the process of the preparation of drafts of local strategies, 16 percent in the process of preparation of local action plans, 18 percent in the process of preparation of specific laws, 12 percent in the process of preparation of national strategies, ten percent in the process of preparation of national action plans, eight percent in the process of preparation of IPA programming of EU financial support, 5 percent in the process of preparation of policy documents, 33 percent were not present in such consultations.
	Ninety-three percent of CSOs believe that they have adequate access to information.
	Eighty-three percent of CSOs believe that they have enough time for comments.
	Fifty-one percent of CSOs believe that their attitudes and positions were not taken into consideration during the consultations, while 45 percent believe that their inputs were taken into consideration.
	Seventeen percent of CSOs assessed that neither their feedback nor consultancy results were published, 58 percent believe there was no feedback, and that some consultancy results were published by public administration bodies, 25 percent of CSOs assessed that public administration provided detailed enough feedback, and consultancy results were easily available to all parties.
	There is neither a government strategy nor a relevant legal or operational framework laying out Public Sector/CSO relations. To this end, CSO participation in decision-making processes is not ensured. Furthermore, there is no specific state institution to coordinate, monitor and facilitate

	public funding. Therefore, public funding is ad hoc, inconsistent and scattered. Major criticisms of the transparency and accountability of funds allocated by public bodies exist.
	CSO involvement in the decision-making process is not required or mandated by existing legislation.. There are neither defined criteria in the legislation nor clear guidelines on how to ensure appropriate representation from civil society that is based on transparent and pre-determined criteria. Practice related to inclusion of CSOs by decision-making and advisory bodies on issues and policies relevant to CSOs varies between public institutions and ministries, and there are no objective mechanisms and procedures with respect to selection processes. There are examples that support the view on the existence of unfavourable examples related to the ability of CSOs to freely present and defend their positions in decision-making and advisory bodies.
	There are no specific, egalitarian, continuous and accessible mechanisms that regulate CSO involvement in policy-making. There is no national level institution or mechanism with a mandate to facilitate cooperation with CSOs. There are no resources at all for facilitation of the CSO/government dialogue. The relationship between CSOs and the government is regarded as one sided since public institutions do not respond to the demands for cooperation from CSOs at the same rate. Relationships are based on individual relations and not institutionalised.
	Rules with respect to CSO involvement in decision-making are set out in the Regulation on the Procedures and Principles of Legislation Preparation. As consulting CSOs is not mandatory under the Regulation, involvement of CSOs takes place through invitation and is usually limited to objecting to or approving of decisions.
	CSOs believe that a majority of civil servants do not have basic knowledge of human rights and rights based thinking and, hence, do not take the necessary precautions to protect the rights to secrecy and confidentiality, especially in cases concerning women's and children's rights. <sup>1</sup>

## CSOs Capacities

### Objective 4.: Capable, transparent and accountable CSOs

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

	31% of CSOs believe that decision making in CSOs in their country is in compliance with prescribed rules and laws of the organisation, 44% believe that decisions are made by some individual or top management, 25% that decisions are made with prescribed rules including consultations with the employees and volunteers.
	71% 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
	97% CSOs inform members of their organisation about the results of their work, 93% inform founders of their organisation, 95% inform management board, 93% inform beneficiaries of their organisation, 83% inform general public, 96% general assembly, and 92% inform supervisory board

<sup>1</sup> ibid 1, pg 30

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

	56.3% of surveyed trust to NGOs in their country, general population trust the most to the President of the state Presidency 70.1% of surveyed, and the least to media 21.0% of surveyed
	38.6% of general population do not trust to NGOs, 77.1% of surveyed do not trust to media, and 66.8% of surveyed do not trust to political parties
	53.3% of the general population believes that NGOs support dealing with problems in their country, police supports the most in dealing with problems 64.2%, and media support the least 31.3%
	57% 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 42% of CSOs believe it is due insufficient (or inadequate) CSO activities
	67% of surveyed believe that CSOs in their country are <b>not active</b> in fighting problems in rural development area, 65% believe in the area of fighting against drug abuse, and 59% in employment

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

	Eighty percent CSOs stated that they publish their statute on their web page, five percent stated that the statute is accessible to the public, 15 percent stated that the statute is not accessible to the public.
	Sixty-two percent of CSOs stated that they have a rulebook and it is available on their web page, four percent stated that they have a rulebook, 11 percent stated that have a rulebook, but it is not accessible to the public, and 23 percent stated that they do not have a rulebook.
	Twenty-seven percent of CSOs believe that up to ten percent of CSOs in Turkey publish an organisational Annual Programme Statement (APS) of Work, 37 percent believe that only 11 to 30 percent of CSOs do so, 27 percent believe that 31 to 70 percent organisations publish APS of Work, and eight percent believe that more than 70 percent do so.
	Thirty-two percent of CSOs believe that up to ten percent of CSOs publish organisational financial reports, 37 percent of CSOs believe that 11 to 30 percent publish financial report, 20 percent believe that from 31 to 70 percent believe that CSOs publish organisational financial reports, and nine percent of CSOs believe that more than 70 percent of CSOs publish organisational financial reports.
	Forty-seven percent of CSOs stated that they have audited financial reports accessible to the public on their web page, 46 percent 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**

	26% of CSOs evaluate their projects pro forma, while 74% evaluate projects with the purpose of establishing efficiency and drawing a lesson for further projects
	31% of CSOs use external evaluation for realisation of their projects
	23% use external evaluator for assessment of implementation of their organisational strategy
	76% of CSOs have established system for assessment of efficiency for realisation of conducted projects
	72% 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**

	75% of CSOs have developed strategic plan, 15% do not have a strategic plan
	79% use internal evaluation when employing staff in their organisation
	27% of CSOs neither have established internal system for assessment of efficiency of employees in their organisation, nor 28% of CSOs have established system for implementation of strategic plan
	54% of CSOs stated that they have a human resources development plan aimed at attracting and keeping talented associates, while 27% stated that they are developing such plan
	71% of CSO stated that they manage to keep talented associates, and 75% believe that they manage to attract quality new people

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

	68% of CSOs active in public advocacy, mainly/frequently uses research for their advocacy actions, while 32% of them mainly/very rarely use research
	90% of CSOs believe that they have enough information at their disposal
	9% of CSOs use official data of national statistical offices, ministries, 88% many sources of information

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

	0% of CSOs indicated that they do not belong to any international network, 17% stated that belong to one international network, 10% stated that they belong to 2 international networks, 15% belong to more than 3 international networks
	0% of CSOs indicated that they do not belong to any national network, 16% stated that belong to one national network, 13% stated that they belong to 2 national networks, 27% belong to more than 3 national networks
	0% of CSOs indicated that they do not belong to any local network, 12% stated that belong to one local network, 8% stated that they belong to 2 local networks, 27% belong to more than 3 local networks
	54% of CSOs do not find CSO networks efficient, while 46% find them efficient
	28% of CSO stated that their contributed in terms of the exchange of experience/knowledge from being member of a network, 13% gained in terms of joint projects, 18% gained in mutual support and assistance

## 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**

	Forty-eight percent of CSOs believe that CSOs in Turkey mainly adapt to donor priorities and collect funds for other activities not in line with their organisational strategic plan, 52 percent of CSOs believe that CSOs in Turkey mainly stick with their strategic plan and collect funds for activities in line with their strategic plan.
	Fifty-six percent of CSOs stated that they mainly stick to their strategic plans and collect funds for activities in line with their strategic plans, 45 percent stated that they adapt to donor priorities and collect funds for other activities not in line with their strategic plans.

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

	0% of CSOs stated that they did not have any donors in the past year, 4% had one donor, 7% had between 2-3 donors, 3% had 4-5 donors, and 24% over 6 donors
	66% of CSOs had income from membership fees, 44% had from citizens, 24% from local self-government and/or regional administration, 17% from other private or state resources, 29% from the EU funds, 23% from governments/ministries/State administration bodies, 19% from private companies operating in the country, 11% from public companies.

