



## ASSESSMENT OF THE NEEDS OF CIVIL SOCIETY ORGANIZATIONS IN SERBIA 2019

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## PREAMBLE

Before you are the results of the “Assessment of the Needs of the Civil Society Organizations (CSOs) in Serbia in 2019” report, conducted by Civic Initiatives through *The Resource Center for Civil Society Organizations in Serbia* project, with the support of the European Union. This is the first of two reports to be conducted over the three year period of project duration (2019-2021). *The Resource Center for Civil Society Organizations in Serbia* project is implemented by a consortium of organizations lead by Civic Initiatives, in cooperation with Local Resource Centers from Požega - Forca Požega, People’s Parliament from Leskovac, Bečej Youth Association from Bečej, and in partnership with the Trag Foundation, Catalyst Foundation, Serbia on the Move and the Social Policy Center. *Resource Center’s* (RC) role is to support civil society organizations and non-formal groups in Serbia through capacity building programs, mentoring support and empowerment to participate in the decision-making and the regulation processes. This research should provide credibility and the base line for RC to operate, taking into account findings on the needs of civil society in Serbia. This report should, as well, serve both donors in creating donor strategies, and public administration bodies that fund programs and projects of citizens’ associations.

The last report of this kind was published in 2016 – [CSO Needs Assessment Report, within the CSO](#) Technical Support (TACSO) project.

The areas covered by the Report concern the institutional framework for the work of civil society, as well as the practice, that is, the application of regulations at different levels of government and the assessment of the capacity of civil society organizations.

The findings of the Report will be used to monitor long-term development of civil society organizations, development of plans and strategies for the work of the Resource Center towards organizations, contributions to the creation of future sectorial, state and donor strategies, that aim to tackle a large number of different problems which citizen’ associations in Serbia deal with, as effectively as possible.

## SUMMARY

Since 2013, Civic Initiatives team has been monitoring the situation in the civil society sector and, by applying the [Monitoring Matrix](#) methodology, prepares reports on changes in the legal framework, as well as on trends and experiences from the practice of the associations, especially in the areas of freedom of association, assembly and information, financial sustainability and cooperation with the Government. Through previous reports, it is possible to determine how civil society space has gradually narrowed and how undemocratic practices have led to numerous irregularities in public tenders, funding citizens' associations, attacks and campaigns against activists and the formation of an increasing number of governmental non-governmental organizations (GONGOs) and political non-governmental organizations (PONGOs).

On the other hand, the declaratory statement of the Serbian authorities that they are committed to the values of the European Union and efforts to harmonize the legal framework through the accession process, are not evidenced by facts, as can be seen through amendments to the Law on Public Assembly, the Law on Free Access to Information of Public Importance, the election of the Commissioner for Information of Public Importance, the lack of parliamentary debate and other examples listed in the text.

These worrying trends resulted in, among other things, the creation of the [Three Freedoms](#) platform in April 2019, signed by twenty CSOs. The goal of the platform is to jointly combat attacks against CSO activists and employees, fake news and information dissemination regarding their actions, as well as to fight for stronger influence on decision-makers on topics related to CSO activities.

The most important results of this research, compared to the previous ones, are related to the increase in numbers of citizens' associations and the fact that the number is increasing year by year. However, there is still a strong polarization of the sector and an increasing number of GONGO and PONGO organizations. A large number of associations base their activities on the voluntary work of the members. A connection has been determined between the date of origin and, in regard to that, the topics covered by the associations, their technical equipment and geographical distribution, membership, funding structure, educational structure of those working in the associations. All the data obtained show us that there is a general lack of strategic directions in the work of the association, which, in addition to the strong trend of narrowing space for the civic engagement, may also result in consolidation of donor support.

A large number of associations still have high expectations of the state, both in terms of providing an enabling environment for their development (legal and tax framework) and in terms of funding, which has remained unchanged from the findings of the previous report. This information tells us that new ways of financing associations need to be provided, as well as working on strengthening their capacity to open up to alternative modes of sustainability, for example through philanthropic giving, membership, donations, social entrepreneurship, etc.

One interesting data collected shows that associations claim they regularly involve citizens in their activities, as well as in the preparation of their activities, while, on the other hand, the interviewed citizens say they did not participate in the work / activities of CSOs, except for possible donations to humanitarian organizations. This data points to the discrepancy between the understanding of the role of CSOs between citizens and CSOs themselves.

## METHODOLOGY – REPORT STRUCTURE

The data collected through desk analysis of available data in the field of civil society development - based on indicators from [the EU Guidelines for Support to Civil Society in Enlargement Countries](#) and the [Matrix for Monitoring the Enabling Environment for Civil Society Development](#) and the *Civic Initiatives (Citizens' Associations: Narrowing the space for action 2014-2018)*. This data has been complemented with consultations with CSOs and citizens, held in the form of focus groups in three cities (Leskovac, Požega, and Bečej). In addition to that, data from the survey conducted on a sample of 757 associations registered by February 15, 2019, and the Omnibus survey of the views of a representative sample of the general population, were used for the sector capacity report. These two surveys were done by Ipsos Strategic Marketing, and for the purposes of Civic Initiatives and Helvetas, as the starting document for the *Together for Active Civil Society - ACT project*, implemented by the Swiss Agency for Development and Cooperation (SDC). Since the previous report, conducted by Civic Initiatives, until this day, the number of citizens' associations has increased many times, leading to a decrease in the sample required for the survey used in the mentioned research. Information from Business Registers Agency's public database and information gathered from a [webpage](#) where it is possible to check if the association submitted its annual financial statement, which is an obligation arising from the Law on Associations, were used as a parameter for determining whether the association is really active.

The analysis monitors the areas of the institutional framework, the practice of implementing regulations at different levels of government, and the capacities of organizations.

## RESEARCH FINDINGS

## FUNDAMENTAL FREEDOMS

### FREEDOM OF ASSEMBLY AND INFORMATION

The legislative framework that directly regulates freedom of association (the Law on Associations and the Law on Endowments and Foundations) did not change during 2018. [The draft Civil Code](#) contains significant restrictions on the freedom of association: tightens the conditions for establishing an association by stipulating that the most of the founders must be domiciled or established in the Republic of Serbia - instead of pursuing a general or common purpose or interest, the pre-draft predicts that associations are formed for the purpose of achieving a particular social or common non-economic purpose, disregarding the legal ability of the economic activity to be carried on by the association. The pre-draft also contains a number of provisions that go into the ways of deciding and managing associations, contrary to the Law on Associations. The document itself has not yet been adopted, but recent announcements indicate that the Commission will consider all comments received only during 2019<sup>1</sup>.

However, by adopting the [Law on Central Records of Real Owners](#), CSOs have imposed an additional obligation whose effects are questionable. Bearing in mind that the concept of ownership in practice is related to the concept of property, the provisions of this Law are not in compliance with the provisions of the Law on Associations and the Law on Endowments and Foundations, which prohibit the division of property among the founders, members of association bodies, directors, employees or related persons. This commitment arose from the government's efforts to adopt the objections of Financial Action Task Force on Money Laundering (FATF<sup>2</sup>), an international body that raised objections on Serbia for not doing enough to prevent money

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<sup>1</sup> <https://www.gradjanske.org/wp-content/uploads/2018/12/Analiza-suzavanje-prostora.pdf>, str.34

<sup>2</sup> Financial Action Task Force On Money Laundering; međuvladino telo čiji ciljevi uključuju postavljanje standarda za borbu protiv pranja novca, finansiranja terorizma i finansiranja širenja oružja za masovno uništenje

laundrying and terrorist financing by associations. As a result, all associations are obliged to register in the online register of owners, under the threat of rather severe financial sanctions. As the practice of registering associations in different registers is characteristic of non-democratic regimes, monitoring the implementation of this law will require special attention during 2019.

The freedom of association for all legal entities and individual, as well as the freedom to act within informal groups is guaranteed by the constitution and specific laws. The very process of CSO registration is simple, fast (up to 5 days) and relatively cost-effective, and the only restrictions on the purpose of CSOs are about obeying the international law and standards. Guarantees against state interference in CSO internal affairs are foreseen by law. When it comes to implementing regulations in the area of freedom of association, abuses occur in the activities implementation, for the purpose of absurdity of existing mechanisms and reducing the impact of the critical attitude of civil society. There is a legal framework under which any person can establish a non-profit entity defined by law. Thus, it allows a potential undisclosed conflict of interest in cases where the association is funded by a political party. This is especially worrying because of the growing trend of GONGO organizations. Although one part of the registration process can be completed electronically (online), the official registration request must be submitted exclusively in the printed version.

[Nenad Stefanović](#), a Deputy Attorney General in the Third Basic Court in Belgrade, publicly advocated constitutional reform and had a keen stance on government reforms before his appointment. After the appointment, he founded a CSO called the *Association of Judicial and Prosecutorial Assistants of Serbia*, with its basic function to support the views of the Government, but also to actively campaign against its counterparts who fight for the dignity of the prosecutorial and judicial profession<sup>3</sup>. *Monitoring, Human Rights and Anti-Corruption Council Transparency* association was established in Trstenik, by Ministry of Health official Mario Spasić. This association mainly attacks critics of the regime, or independent bodies, with particular attention on the abuse of the name of the reputable organization Transparency Serbia<sup>4</sup>.

Judge Aleksandar Trešnjev, one of the founders of the *Center for Judicial Research* (CEPRIS), was excluded from the case of which he was a member of the Trial Chamber shortly after the association was founded. One of the reasons was that membership in CEPRIS could raise doubts about the impartiality of Judge Trešnjev's actions. As justification for this particular case of restriction of freedom of association, it is stated that, for example, the *Association of Judges of Serbia* (as association of judges) is a professional association, whereas CEPRIS is not, and its members are subject to other rules regarding the compatibility of judicial function and membership. However, the Law on Associations does not recognize the category of professional associations, nor does with any legal act distinguish "ordinary" and professional associations when it comes to freedom of association. This explanation is one of the most drastic violations of the right to association that has been recorded in Serbia so far. Judges right to associate is very clearly (and logically) limited only by a constitutional provision prohibiting political activity. Other affairs, incompatible with the judicial function, are determined by law, therefore the Law on Judges, or any other law, does not prescribe any restrictions on the judges right to associate, other than this constitutional one.

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<sup>3</sup> <http://rs.n1info.com/Vesti/a474353/Dragan-Popovic-Vlast-stvara-paralelni-civilni-sektor-u-Srbiji.html>

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Having in mind that registration of grass roots organizations / initiatives is not yet obligatory and that they are free in their work, the previous year was marked by the gathering and activist operation of grass root organizations / initiatives that mainly sought solutions to socio-economic issues, or had an environmental message. They are, in fact, a response to citizens' demands in a situation where there is no public debate and reaction from the authorities (*Save the rivers of Stara planina, Miljakovac spring, Moms are the law*).

Financial and tax rules are demanded in proportion to the revenues generated by CSOs. Since the beginning of 2015, in accordance with the amendments to the Law on Accounting, 3 different forms of financial reporting are applied, depending on the amount of CSO income. There is a partial support system for applying financial (including tax) rules. Certain levels of support are provided by the officers of the Tax Administration and the Business Registers Agency, as well as other legal entities, which are, however, not obliged to provide support and are very restrictive when it comes to providing additional information. In August 2018, [the rulebook regulating the manner of value added tax \(VAT\) exemption was amended](#) in a way that from the beginning of 2019 CSOs submit their request for exemption exclusively electronically, through the *ePorezi* portal, with the help of a qualified certificate valid in the Republic of Serbia. This should greatly facilitate the process, especially for CSOs outside Belgrade, bearing in mind that they submit all requests directly to the Tax Administration Headquarters, which takes a lot of time and resources.

The Ministry of Labour, Employment, Veterans' and Social Affairs published the [Draft Law on Social Entrepreneurship](#) in November 2018. However, the Draft does not recognize associations as bearers and founders of social enterprises, but as companies and entrepreneurs. That can be a particularly difficult circumstance given that associations are most often founders of social enterprises<sup>5</sup>. Also, the Draft Law proposes a very unusual solution saying that social enterprises can also be founded by a state, autonomous province or local self-government, which is a departure from the practice of European states and leaves room for possible misuse in the allocation of finances through public tenders. In addition, the Draft specifies that a company must employ at least 50 percent of users of social welfare services. These and many other objections that can be made to the Draft Law on Social Entrepreneurship (such as the list of groups that can be considered beneficiaries, exclusion of social cooperatives, the obligation to register in the Ministry, the authority of the Ministry and local government to give an opinion on what is an activity of general interest) call into question the effectiveness of the future law (if adopted in this form), but also pose a potential threat to the legal framework for the operation of civil society organizations that today operate as social enterprises<sup>6</sup>.

## FREEDOM OF ASSEMBLY AND INFORMATION

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<sup>5</sup> <http://www.smartstart4u.org/sites/default/files/Kako-osnovati-socijalno-preduzece-u-Srbiji.pdf> page 15

<sup>6</sup> <https://www.gradjanske.org/wp-content/uploads/2018/12/Analiza-suzavanje-prostora.pdf> page 39



[The Law on Public Assembly](#) (2016) is not in accordance with the Constitution of Serbia - it does not comply neither with international standards, nor civilizational heritage, because it imposes restrictions on freedom of assembly in terms of place and time of assembly, cumulative punishment and the envisaged high fines. It is noticeable that the practice of non-selective implementation of this Law and unclear reactions of the competent authorities, depending on who organizes public gatherings, is continued. It is especially evident during protests of opposition parties, organization of protest gatherings of informal groups regarding environmental protection, gatherings organized by peace and reconciliation movements, humanitarian law movements, as well as during the events that are dealing with topics which, as a rule, gather right-wing organizations.

Freedom of expression is explicitly guaranteed by the Constitution of Serbia, numerous international conventions and media laws. However, it is clear in practice that this freedom is endangered, as evidenced by numerous domestic and international documents<sup>7</sup>. Freedom of the media, as an integral part of freedom of speech, is repeatedly restricted on daily basis - from pressures on local media funding, to media campaigns against non-supporters of the governing/ruling structure on televisions with national frequency. In its [Progress Report for 2018](#), the European Commission, in the section dealing with political criteria, states that "although Serbia has achieved a certain level of preparedness, there has been no progress on freedom of speech, which is of increasing concern".

According to case studies and an analysis of the legal framework conducted each year through the Monitoring Matrix, it can be concluded that associations are increasingly exposed to pressure, especially when dealing with sensitive topics such as dealing with the past or peace activism (*YIHR, Miredita, dobar dan Festival, Women in Black*). In regard to this, it is interesting to mention that the last year's Pride Parade was organized with significantly less involvement of police officers and security measures, which may be related to the fact that the Prime Minister of the Republic of Serbia also attended the event. Recently, there has been a trend of attacks on investigative journalists, activists and humanitarian organizations, who, by their actions, criticize the work of the government and its representatives from the ruling party (*Support Life, Nurdor, BCBP, KRIK, BIRN*). Also, a trend has been noticed, increasing number of GONGO organizations and misuse of public calls for funds for associations. Absence of reaction from government authorities has been noticed in all recorded cases.

Manifestations of citizens' associations that seek to remind of abuses of human rights, as well as crimes of the past, through culture are under constant pressure and bans. The Miredita Festival, organized by a group of organizations from Kosovo and Serbia, with the idea to present contemporary Kosovo's culture in Belgrade, is regularly targeted by the extremist. In May 2018, protesters from right-wing organizations and political parties such as the Serbian Radical Party and Zavetnici tried to prevent holding of this festival. Police did not remove the hooligans from the scene, and the gathering was in fact closed to the public as police completely surrounded it with barricades. Apart from organized campaigns, civil movements are suppressed and thwarted

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<sup>7</sup> Progress report i Novinari bez granica i Freedom House

through a lack of response from competent institutions, in cases of violation of the law directed against participants or organizers.

The residents of several villages in Stara Planina Mountain in Southeastern Serbia have organized themselves into an informal movement - [Defend Stara Planina Rivers](#), aiming to stop the construction of mini-hydro plants that are destroying local small rivers, which represent a source of life for the locals of these villages. In the village of Rakita, an incident involving physical violence occurred when a group of villagers clashed with investors. The police did not protect the villagers; instead they called for a hearing of all conflicting parties. Also, an investigation of the alleged bomb planted under the barracks where the workers live has been opened.

As a part of an organized regime campaign, the daily tabloid The Serbian Telegraph published false information regarding money embezzlement of the [Support Life Foundation](#) on the front page. Minister of Health, Zlatibor Lončar in his speech at the Assembly's session referred to the tabloid's lies and publicly accused humanitarian fund to gamble with citizens' money by putting it into investment funds. The attacks continued when the Minister requested control of the work of the *Support a Life Foundation*, and become more personal when one of the Health Ministry officials filed a criminal complaint against the foundation's founder, accusing him of embezzling money, with huge publicity in pro-government media. The Higher Public Prosecutor's Office responded to this in short notice, resulting in the fact that the criminal police entered the foundation and audit its work, after only 10 days.

At the beginning of the year, the *National Association of Parents of Cancer Patients* (NURDOR) responded to a visit that state officials made to the Department of Pediatric Hemato-Oncology of the Institute for Maternal and Child Health "Dr Vukan Čupić", stating that holders of state functions should never and in no way threaten the lives of children, even out of the best of intentions. After that, the campaign against this association started through social networks.

In September 2018, a group of pregnant women, maternity wives and mothers gathered in the grass roots initiative [Moms are the Law](#) protested against the decision of the Law on Financial Support for Families with Children. In accordance with the already tried and tested methodology, Minister of Labor, Employment, Veterans Affairs and social issues, Zoran Đorđević declared this protest political and directed against the authorities.

BIA spokesman Marko Parezanović, giving his speech at a right-wing organization [National Avant-Garde conference](#) in October 2018, emphasized that the most intense threat to Serbia is actually the covert action of an external factor, in a way that individuals from opposite political parties and media outlets have been instrumentalized to carry out various misuse. He also stated that parts of the civilian sector were frequently put into some destructive and subversive function. Representatives of the civil society have assessed these statements as specious, dangerous and condemned the abuse of an institution such as BIA. Statements regarding hostile activities of CSOs, the opposition and the media were frequently made by ruling party officials; however, this was the first time that BIA representatives officially stated them. In both cases, such statements are unacceptable and represent danger to the development of democratic political culture and the rule of law in Serbia.

## FINANCIAL VITALITY AND SUSTAINABILITY

### TAX RELIEFS

For a long time there hasn't been any significant change in the Serbian tax system that would lead to an improvement in the position of CSOs and their donors. On the basis of the [Law on Corporate Income Tax](#), CSOs are exempt from taxation on grants, donations, membership fees and non-economic sources of income. Under certain conditions (Article 44) the profits generated by CSOs are exempt from income tax. However, the [Law on Personal Income Tax](#) does not yet provide property tax exemption for real estate for associations, foundations and similar CSOs that carry out activities of public interest. At the initiative of the Charity Foundation, a [Philanthropy Council](#) was established in August 2018 by the decision of the Prime Minister of Serbia. In addition to representatives of the institutions, members of the Council are also representatives of non-profit organizations. The aim of the Council is to improve the conditions (i.e. public policies and legal framework) for taxation of CSOs and benefits/giving in Serbia towards the further development of the infrastructure and the culture of giving for the common good. In order to develop a culture of giving there are three key areas in which the legislative framework needs to be changed - reporting and transparency, volunteering, and in the long run, tax policy towards CSOs and their donors (individual and corporate). So far, there haven't been too many Council meetings to determine its role and importance.

A survey by the Catalyst Foundation [Serbia donates 2018: A charity report](#) found that the number of public benefit donations has declined compared to 2017, but the estimated donated amount has remained at the same level (€ 27.3 million donated in 2018). The culture of giving exists, but it's still used inefficiently by CSOs. During 2018, the most active donors were citizens (42.9%), business sector (29.5%), individuals (15.4%) and mixed donors (6.6%). The most supported category of recipients is individuals and families (40.4%), followed by institutions and non-profit organizations.

### STATE SUPPORT

Comprehensive regulation on the CSOs funding by the state exists only partially and at a very general and by-law level. As of March 2018, a new [Regulation on Funds for Incentive Programs or a absent part of the funding for public interest programs](#) implemented by the Associations is being implemented. The key changes to the Regulation, adopted in order to increase transparency in the allocation of funds process, relate to:

- introduction of an obligation to publish an annual call for proposals no later than January 31st, so the Office for Civil Society Co-operation can publish this on its website in the section Calendar of Public Tenders of all Competent Authorities;
- more precise definition of deadlines for conducting the procedure of public tenders;
- introduction of an obligation of the competent authority to justify the decision it has made upon objection;

- expanding the list of newsletters that publish information about the public tenders and their results (official website and bulletin board of the competent authority, as well as the eGovernment Portal);
- possibility of inclusion, i.e. appointment of representatives of the expert/professional public in the commission for tendering

Key deficiencies in the application of the Regulation relate to ineffective appeal proceedings; lack of records on the effects of distributed money in the public interest area; lack of an obligation to harmonize individual regulations with the provisions of the Regulation; lack of penal provisions for authorities that do not comply with the provisions of the Regulation; and many other irregularities regarding the distribution of public money.

In practice, misuse of funds from the RS budget or local self-governments has been noticed. There has been an increase of so-called GONGO and PONGO associations - newly established and completely unknown associations whose statutes include a wide range of activities (from social protection, culture, youth policy to environmental protection). They adjust their statutes and change policies for the purposes of tender procedures, they create projects and programs for which there is no publicly available information, and there is no evidence of their past actions and accomplishments, therefore no indications that they have the capacity to use public funds responsibly.

By the [decision of the Ministry of Health](#) of April 2018 for the program "Preventive Health Care", *project 0012 - Support to the activities of citizens' associations in the field of health care* a considerable part of the funds - just over 1.5 million dinars - was allocated to [organizations established just a few days before the announcement of the tender](#). The four organizations, to which funds had been allocated, arose seven days apart and were registered on the same day (March 15th) at the Business Registers Agency. Apart from the fact that they were created during the same period (from February 28th to March 5th), all four organizations have in common the lack of contact phone, e-mail address, or any contact other than the street and number on the Agency's website.

*The Institute for Public Policy (IPP)* won the Ministry of Labor, Employment, Veterans' and Social Affairs tender for assistance to the elderly. Most of the 17 organizations that have applied for the tender, have been dealing with this topic for years, but the Ministry decided to allocate all the money, around €90,000 to the IPP. The public call for competition did not say that an organization would receive all the money, which is a very unusual solution for this type of tender.

Association *Independent Cultural Scene of Serbia* has prepared an expert [analysis of the results of the tender for the Secretariat for Culture of the City of Belgrade for financing or co-financing projects in culture in 2018](#). [The analysis](#) showed that almost a third of the total budget was allocated to organizations whose participation was suspicious for various reasons - whether they were not registered for the cultural sector, either registered shortly before of the competition or changed activity to meet the eligibility requirement.

## HUMAN RESOURCES

During 2018, there was no change in the legal environment that would alleviate or stimulate employment and volunteering in CSOs. In the areas of labor law, CSOs have the same treatment as other legal entities. However, the National Employment Service recognizes CSOs as users of national programs for the promotion of active employment, which is a significant step up from previous reports.

Although a number of organizations find it to be the subject of criticism, the [Law on Volunteering](#) has not changed since its adoption. With its overstatement and treating volunteering as a work engagement, it makes it difficult for CSOs to include volunteers in their activities. The lack of adequate and publicly available records on the number of employees and volunteers, as well as the types of volunteer activities, makes it impossible to conduct fact-based analyzes and research with the aim of developing policies and promoting CSO and volunteering practices.

Promotion of non-formal education is being done through strategy and law. [The 2020 Strategy for the Development of Education in the RS](#) is one of the strategic measures for establishing a system of certification of previously acquired non-formal and informal education. In the first half of 2018, the [Law on the National Qualifications Framework of the Republic of Serbia](#) was adopted, with a goal to facilitate labor mobility, as well as to apply the concept of lifelong learning. The law had foreseen the formation of a NQFS Council, which should include one CSO representative proposed by the body responsible for coordinating with CSOs.

## GOVERNMENT – CSO RELATIONS

The findings of the EU Guidelines for Supporting Civil Society in Enlargement Countries<sup>8</sup> indicate that the legal framework for the operation of civil society organizations is still correct, with the need to increase transparency for passing a law, the establishment of working groups and severely reduce passing laws by emergency procedure. There is also room for improving the legal framework and cooperation with the institutions. Although there is no law that directly threatens the functioning of the association, there is a possibility of abuse of regulations by the authorities to prevent the influence and operation of the association.

## COOPERATION FRAMEWORK

Although the mechanisms for cooperation between CSOs and the Government have long been established at the national level (Government Office for Cooperation with Civil Society, the SEKO mechanism, the National

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<sup>8</sup> [https://civilnodrustvo.gov.rs/upload/old\\_site/2012/10/ELARG-Guidelines-CS-support-Final-14102013.pdf](https://civilnodrustvo.gov.rs/upload/old_site/2012/10/ELARG-Guidelines-CS-support-Final-14102013.pdf)

Convention on the European Union, contact points in the ministries) and at the local level (contact points in the LSG), but in practice, there is a significant lack of capacity and their limited impact on decision makers.

A key mechanism for supporting the development of a dialogue between the Government of Serbia and CSOs, the [Office for Cooperation with Civil Society](#) (KSCD) was, within the state administration, recognized as an advisory body for engaging CSOs in the regulatory process. An increasing number of state authorities are turning to the Office for support when it comes to conducting consultative processes, public hearings and other forms of cooperation with CSOs, rather than to invite CSO representatives independently to participate in the activities and to directly cooperate with them. KSCD has a similar position when it comes to JLS and CSOs relation. All this indicates the weakening influence of this institution on political decision making. Since 2016 the work of the Office is characterized primarily by the support for other institutions in carrying out their regular tasks (forwarding information on public hearings, co-organizing events, etc.) and lack of results in essential improving of the environment for civil society development.

[The National Convention on the European Union](#) (NCEU) is a permanent body conducted by representatives of state administration, political parties, non-governmental organizations, experts, industry, trade unions and professional organizations, dealing with the accession of Serbia to the European Union. It brings together over 720 members working through 23 working groups and one horizontal cross-sectoral group on freedom of speech and the media (coordinated by Civic Initiatives). During the previous year, NCEU submitted comments on 6 drafts on negotiating positions (for Chapters 2, 4, 14, 17, 18, 21).

[The SEKO mechanism](#) (the mechanism of cooperation between sector civil society organizations) has been established with the idea to enhance the constructive dialogue between state authorities and civil society in the process of programming and increasing the efficiency when using development funds, especially EU funds. For years, the Ministry for European Integration has been organizing trainings for the members of the SEKO Consortium, meetings conducted with the goal to present the process of drafting relevant documents, as well as the roles and responsibilities of participants in the process. Meetings of the Sector Working Groups were organized to define proposals for a broader list of sector specific goals and measures for co-financing from development assistance funds. A significant novelty in the last cycle of IPA support ([Multiannual planning document for international assistance 2019-2025](#)) is the fact that support is provided for 9 sectors (public administration reform, justice, home affairs, transport, environment, energy, competitiveness, human resources development and social development, agriculture and rural development). This act brings the civil society sector, media and culture sectors to the level of topics that are the subject of other sectors: civil society in public administration reform, media in justice, and culture in competitiveness.

## **PARTICIPATION IN DECISION-MAKING PROCESSES**

The framework for CSOs' participation in decision-making process is consisted of provisions contained in several different regulations: the Rules of Procedure of the National Assembly, the Rules of Procedure of the Government, the Law on Planning System, the State Administration Law, the Local Government Law, Guidelines for CSOs' involvement in the legislative process (which constitutes a non-binding document in this field). This indicates that even within the same level of government this issue is governed by different regulations and legal solutions. Other than that, there are no mechanisms that would ensure substantial dialogue between CSO representatives and decision-makers, there are no mechanisms for feedback on

suggestions and comments made by CSOs, and there are no adequate sanctions for violation of existing provisions.

Although the number of meetings, consultations or public hearings is formally increasing, practice shows that the influence on decision making is still limited, which leads to further decline of trust in mechanisms for participation. In the last 2 years, there has been a trend of GONGO and PONGO organizations participating in these processes whose sole purpose is to legitimize the Government's proposal. It is also noticeable that even in cases when the institute of public debate is respected; its function is often formal rather than substantial, rendering the whole process useless.

The Constitution of the Republic of Serbia guarantees citizens the right to propose laws. On the other hand, the Law on Referendum and People's Initiative guarantees citizens the right to propose changes to the Constitution, laws, other regulations, as well as general acts under the jurisdiction of the National Assembly, that is, the assembly of an autonomous province, municipality or city. It also guarantees the right to call a referendum on a particular issue and to submit other proposals, in accordance with the Constitution, law and statute. However, citizens do not have the opportunity to get involved in these processes in a quick, easy and simple way, having in mind that the existing legal framework provides for extremely strict conditions when it comes to involving citizens in these processes. However, the proposals to change the law, collected in this way, tend to be ignored and remain unanswered by the competent ministry, especially when it comes to changes that require strong political will. However, a very rapid reaction of the state to such citizens' proposals is possible, as evidenced by the amendments to the Criminal Code.

We list below some case studies illustrating the various gaps in the institutional framework which governs the involvement of CSOs and citizens in decision-making processes:

- Amendments to the RS Constitution: Although in October 2017 [professional associations and CSOs refused to further participate in the consultations](#) due to a non-transparent and conductive public debate process, as well as the apparent unwillingness of the authorities to discuss essential proposals to amendment (such as strengthening the independence of the judiciary and the prosecution), the Ministry of Justice did not give up its proposals. In April 2018, the [Draft Constitutional Amendment](#) was published. The support for the Ministry of Justice's proposal was provided by 40 civil society organizations. [Analysis conducted by the Insider web portal](#) found that almost a third of listed CSOs could not be found in the Business Registers Agency (BRA) registry, or by searching the internet. Support was also provided by bakeries, shoemakers and hairdressers associations, as well as organizations represented by government officials such as the Director of the Agency for Restitution or officials in the Ministry of Justice.
- Free Legal Aid Law: After more than 10 years of CSOs and the public demanding free legal aid law, the Government of Serbia finally adopted the [Free Legal Aid Act](#) in 2018. Ignoring the fact that for over 20 years citizens' associations have been successfully providing free legal aid to the vulnerable (victims of violence and war crimes, members of marginalized and minority asylum seekers, and others), the Government has decided to exclude them from the circle of legal aid providers, except on the basis of



the [Law on Asylum and Temporary Protection](#) and [the Anti-Discrimination Act](#). As legal aid providers, the law recognizes only lawyers and legal departments of local self-government units. This drastically narrows the circle of legal aid providers and reduces it only to attorneys registered in the Free legal aid providers' register. For all others - even for lawyers and attorneys who have been working in associations for years – penalties are foreseen in case of any legal aid provided. The circle of recipients of legal aid has also been unjustifiably narrowed, given that groups receiving legal aid from citizens' associations are completely excluded from the free legal aid system, while one of the criteria for using free legal aid has become property census. [More than 30 citizens' associations have warned the Government](#) about the unacceptability of the solution in the draft law. It was pointed out that the Law discriminates against providers of free legal aid, that the proposed solutions deviate from the current legal norms in different laws, and that the people who need legal aid will be endangered. Despite the objections, the Government adopted the Bill and sent it to the National Assembly for adoption. The National Assembly passed the [Free Legal Aid Act](#) in November 2018.

- Law on Social Entrepreneurship: In November 2018 The Ministry of Labor, Employment, Veterans' and Social Affairs published the [Draft Law on Social Entrepreneurship](#). From the CSOs perspective a key problem is the fact that the Draft restricts the legal forms in which a social enterprise can operate and stresses that it can only be companies and entrepreneurs. In this way, citizens' associations, foundations and cooperatives/collectives, which make up almost all social enterprises in Serbia today and employ more than 10,000 people, are excluded from social entrepreneurship. Allowing local self-governments to set up businesses causes the loss of the entrepreneurial spirit and opens up space for misuse of public money. [The Coalition for Solidary Economy](#) called on the Ministry to change the name of the law into the Law on Social Enterprises for Work Integration in order to clearly define that it applies only to this type of social enterprise, as well as to improve the text in the problematic sections, so they would not seek withdrawal from the procedure. The Ministry of Labor, Employment, Veterans' and Social Affairs did not take into account the key conceptual remarks listed in the general remarks and comments to individual article of the Draft Law sent by the Coalition and other CSOs and representatives of the social entrepreneurship sector (in total 310) to the Ministry during the public debate. Adoption of this law was halted thanks to the efforts of Civic Initiatives and the Coalition for Social Economy Development, after which a new working group was formed to draft the bill.
- Amendments to the Penal Code: As a member of the Working Group, The Autonomous Women's Center sent [comments and suggestions](#) to the Ministry of Justice on the Draft Penal Code. However, the Ministry of Justice did not accept any proposals, which were primarily aimed at perpetrators committing crimes for the first time or perpetrators of a milder offense to be under longer and stricter control of state bodies, in order to prevent them from committing more serious forms of crime, such as murder and rape. (The Autonomous Women's Center points out that it does not agree with the proposal to impose a life sentence of imprisonment without the possibility of parole for the most serious offenses, if it will be stipulated that those crimes may be sentenced up to 20 years imprisonment or life imprisonment.) On the other hand, amendments to the Criminal Code of the



Republic of Serbia were initiated by the Tijana Jurić Foundation. The Foundation submitted a proposal to the National Assembly for amendments to the Criminal Code that was supported by 158,460 citizens of the Republic of Serbia through the process of the people's initiative. The essence of the proposal was to stipulate rules for harsher punishment of perpetrators of crimes when it comes to returnees and multiple returnees. Although there was no serious public debate on the proposed changes prior to the drafting, sufficient political will to incorporate proposals supported in this way was evident.

- Emergency legislation: **The number of laws adopted by emergency procedure has increased** even though interested parties and CSOs have had the opportunity to participate in public hearings and to some extent contribute to changes to the proposed laws. This practice suffocates democratic debate and the effective involvement of CSOs in the consultation process. Between April and September 2018, the Assembly adopted 82 laws. In 28 cases, the Assembly accepted the Government's requests to implement the emergency procedure. Also, despite [The National Assembly Resolution on legislative policy](#), the Assembly continued to accept drafts that never went through public debate, although such debates are mandatory in accordance with the Law on Public Administration. For example, the amendments to the Law on the Security Information Agency and the Law on the Construction of Housing for Members of the Army, Police and Security Forces have not gone through a public debate process. Also, grouping different legislative documents under one item on the agenda and spending time scheduled for a parliamentary debate on reading hundreds of amendments is a technique used to obstruct the work of the Assembly. This practice continued in 2019 - until June, out of 87 laws passed, 27 (1/3) were adopted by emergency procedure<sup>9</sup>.

## FOCUS GROUPS

The results obtained through discussion in focus groups with CSOs and citizens can be considered relevant, despite of existence of geographical and thematic diversification, and various occupations of CSO representatives and activists, CSOs face same problems in their communities. Also, focus group participants have very different experience in civic activism.

The overall impression is that the work of CSOs has been obscured - previously active and recognizable organizations are being shut down because they have run out of funds, despite their proven success and the fact that they have been operating for 20 years. In addition to that, GONGOs are expanding and are being financed extensively from the state bodies or local self-government units' budgets. Problems in the society have accumulated to such an extent that CSOs cannot handle it. The revitalization of the sector through strong financial support from local organizations, as well as organizations based in Belgrade is necessary.

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<sup>9</sup> source: <https://otvoreniparlament.rs/statistika/zakoni-po-hitnom-postupku>

Cooperation and networking among CSOs is weak, they lack solidarity and synergy. Strong support for networking is needed, at local and national level, which would also be accompanied by organizing joint activities, in order to strengthen the sector.

Co-operation with local self-government units is poor or nonexistent, either due to the weak capacities / competences of LGUs or due to the various reasons CSOs refuse to cooperate with the authorities. Different ways need to be considered in approaching LGUs, through pressures from the media, or civil protests.

Regarding citizen awareness, interviews showed low level of knowledge regarding CSO activities. The media is rarely reporting on CSO activities, and even when it does, it is often in wrong context. CSOs do not have systematic access to the media, which is common to the whole sector and is something that needs to be worked on.

When it comes to the quality of services provided by CSOs, it has been shown that they do not have enough capacity (licenses, continuous sources of funding) to provide social care services, something that is recognized as a community need. CSOs usually provide support when it comes to services such as education, information and legal assistance.

As key problems in their communities', participants in focus groups pointed out high level of unemployment, young people moving away from small communities, employment through political parties, and the fear citizens feel when it comes to facing some community problems. Citizens are generally sceptical of CSOs, they rarely volunteer, and when they do, it is mostly young people in humanitarian organizations.

All CSO representatives in focus groups in all 3 cities agree that the financial sustainability of CSOs is very difficult and uncertain. This reflects in poor infrastructure in which they work, old equipment, uncovered overhead costs. They also say that there is a trend of aggregation of donations that always go to large organizations, mostly from Belgrade.

## CSO CAPACITIES

The research conducted by Ipsos Strategic Marketing within the ACT project as its focus had CSO capacities. The survey was conducted on a sample of 757 associations, what makes 2,3% of registered associations (according to the Agency for Business Registers as of February 15, 2019, a total of 32,318 associations were registered). The findings of this survey are complemented by findings from the Omnibus citizens attitudes survey (Omnibus) on a sample of 1,000 citizens.

One of the key findings of the research indicates that most CSOs lack strategic orientation and action (reduced number of CSOs with a Strategic Plan), and that they do not recognize the need for written rules and procedures governing the structure and mode of action, nor do they understand the necessity of their public availability.

On the other hand, CSOs recognize the relatively high level of their capacity when it comes to writing and submitting projects to donors. In 42% of those examined CSOs claim that they involve citizens in their activities, while only 6% of citizens say they are involved in CSO activities. Citizens claim to be the most involved in humanitarian activities and CSOs claim that they involve citizens predominantly in public events.

The research shows that 68% of CSOs think that citizens have a generally or extremely positive attitude about their work, while only 32% of citizens would agree with that statement. When it comes to neutral opinion, 26% of CSOs think that citizens have neither a negative nor a positive opinion about CSOs, while 46% of citizens have this view. This indicates existence of a general misunderstanding of the CSOs role among citizens, but more importantly, the fact that CSOs have a misconception about how their work is being interpreted among citizens.

In relation to cooperation with the state, there is a polarization of attitudes (51% of CSOs designates it as good or excellent), which differs from the attitudes resulted from focus groups. This can easily be explained by the increase in activity of GONGO organizations. The problem of financial sustainability continues to be significant, with reliance on donors and government support, which coincides with focus group research.

A significant number of organizations do not participate in capacity building and strengthening programs, mostly due to lack of information about these programs. This indicates that there is a need for increase in communication, collaboration and the transfer of information that may be relevant to CSOs.

## CONCLUSIONS

The narrowing of the space for CSO's activities is evident, as well as the diminishing influences of independent civil society organizations. Serbia is following generally poor global trends when it comes to adoption of legislation which limits the space for action and influence of civil society on making and adopting decisions.

There is a growing trend of endangering basic assumptions for CSOs in the public interest, i.e. the realization of the three basic freedoms - association, expression and assembly.

There is a lack of understanding and as well as abuse of the mechanisms for cooperation and influence of CSOs on decision-makers, while the Government calls for cooperation with CSOs solely for the purpose of strengthening their own image, mainly in the process of European integration.

On the other hand, there is a strengthening of informal civic movements that mobilize citizens on the basis of specific problems or phenomena to which CSOs do not respond, because there is no political arena for dialogue.

The strong polarization of sectors and an increased number of GONGO organizations has been observed, as well as the diminishing influence of the so-called liberal or proEU organizations on national and local level.

General trends in the grouping of other organizations are also recognized: GONGO and PONGO organizations, illiberal organizations promoting the so-called "traditional social values", extreme groups and organizations informally linked to formal centers of power, the so-called "traditional civil society organizations" with decades of existence and a strong budget-funded base (mainly by LGUs), Think-tank organizations based on expertise, formally registered business associations, charities, foundations and endowments.

At the local level, there is a decline and / or shutdown of CSOs due to the lack of financial and human resources. Regardless of the subgroup they belong to, most CSOs do not have a clearly defined "base" whose views they would represent. Relations with informal civic movements are especially weak.

Cooperation and value networking of CSOs remains weak, lacking in solidarity and synergy. A significant number of CSOs perceive cooperation with the state solely through funding. The need for financial diversification is strong.

Confidence in the sector is generally still weak, with no visible indication that organizations are ready to change their communication approaches and synergies.

There is a lack of systematic approach to organizational development of CSOs - structure, capacities, human resources.

## RECOMMENDATIONS

The following recommendations address the identified CSOs' needs for improvement in several key areas where they face the greatest challenges and will form the basis for planning the activities of the Resource Center by the end of 2021.

### **Citizens' attitudes towards CSOs**

- Constant support for building citizens' trust in CSOs is needed - as well as encouraging CSOs to first define "who their people are" (constituency building), to develop a plan for citizen involvement in their work, to send clear messages, regularly and appropriately inform them of the concrete results achieved, point to problems, rights and the need for citizens to influence problem solving, etc.

### **Visibility of CSOs**

- The systematic approach of CSOs in addressing and informing the public should be supported;
- A greater presence of CSOs in the media is needed;
- Support approaches that involve the involvement of a PR person in CSOs need to be supported;
- More direct contact with citizens is needed, with targeted and tailored use of social networks, but not in a way that is dominant over other CSO activities.

## **Quality of service**

- It is necessary to support regular consultations with target groups, collecting information on their needs and the level of satisfaction with the services provided;
- Regular monitoring and evaluation of service delivery (internal and external) should be supported;
- Special attention should be paid to providing support for social protection services - compliance with the social protection system and set standards (for example: services for which there is an identified need of beneficiaries but not enough providers, such as geronto housewives to support the elderly, personal escort, community living room, and more).

## **Problems in the local community**

- CSOs should be supported in addressing identified key problems in a community (unemployment, poverty, migration, social care services, the position of the most vulnerable target groups, etc.);
- Encouraging civic activism should be in the function of solving these problems;
- In this context, it is necessary for CSOs to be empowered to implement umbrella strategic documents at the local level (National Action Plan for Roma Inclusion, NAP for Youth, NAP for Employment, ie to monitor whether activities are in line with existing LAPs in their communities).

## **Informal movements**

- Having in mind the significant number of informal movements, their diversity and speed of response to daily community problems, as well as the identified lack of links with traditional civil society organizations, encouragement and support in their establishment is needed. This should be done in a way to utilize efficient resources, but also to retain all the specifics of approaches and methodology as well as informal movements and traditional organizations (for example: CSOs involved in policy making legitimize their positions through the demands of informal movements, formulating them in a manner acceptable to decision makers).

## **Volunteering**

- In addition to young people, the middle and older generations, who have the time and knowledge, should be targeted more as potential volunteers, as this age group is currently an untapped volunteer resource;
- Volunteer engagement through a funding model similar to "Youth are Law" and "Active Communities" should be encouraged (small grants, local ideas, citizen volunteer engagement, mentoring support provided, funding provided for material costs).

## **Collaboration with decision makers**

- It is necessary to work on strengthening the representatives of the state administration and the LSGs on the role of CSOs in the society, competencies needed for project management, meeting the formal donor requirements, establishing partnerships, applying the principles of good governance, etc. The forms of support that require CSOs to cooperate with the state administration and LSGs should be carefully considered on a case by case basis because of the growing trend of illegal work of LSGs in the area of financial business, obstruction of CSOs by representatives of the state administration and LSGs, negative reports of SAs, etc. It is necessary to ensure that CSOs are not deprived of support based on strengthening their influence on decision-makers, but that they are not conditional on formal cooperation.
- CSOs need to be strengthened for alternative ways of influencing decision-makers in LGUs, which involve greater citizen participation.

### **Collaboration and networking of CSOs**

- Dialogue at all levels and among all actors should be encouraged as a first step in developing cooperation, rather than the practice of supporting project-based networks developed so far;
- It is necessary to enable meetings, peer support exchanges, connecting people from different parts of Serbia, renewing broken ties and strengthening the sense of belonging to the sector;
- It is necessary to encourage networking at the municipality / city as well as at the national level (e.g. through providing financial support for the use, purchase or arrangement of common space, as well as by financing running costs - secretariat work, meetings, gatherings, travel).

### **Participation of persons from public administration in the work of CSOs**

- Prior to approving and awarding funding or other types of support, it is necessary to check whether any of the LSG employees has established CSOs, as well as whether the CSO founders / employees are in any way related to a conflict of interest related to the decision makers in LGU.

### **Training of CSO staff**

- It is necessary to enable the acquisition of additional knowledge for work in the organization (strategic planning, organizational development, project proposal writing, public relations);
- Various programs need to be implemented that offer knowledge of democracy, the role of CSOs in society, the conditions and models for active civic participation, modeled on [the Civic Initiatives "Become a Citizen" program](#);
- English language training and courses for CSO employees and volunteers should be supported;
- The licensing of CSOs as providers of social protection services, as well as the introduction of innovative services, should be encouraged and supported;

- It is necessary to build the legal capacities of CSOs, either within CSOs or through the payment of legal services, which is of great importance not only for successful implementation of advocacy campaigns, but also for timely and adequate support for citizens in the realization of their rights, as well as for adequate response of CSOs in different inspection procedures, administrative disputes, litigation, bearing in mind the trend of increasing state pressure on CSOs.

### **Financial sustainability**

- CSOs should be encouraged to reduce the share of state funding in their budgets, having in mind the practice of non-transparent allocation of funds, developed corruption and abuse of GONGOs and PONGO organizations in public procurement competitions;
- It is necessary to provide space for the work of CSOs through the award of contracts / funds that would allow the purchase or adaptation of the premises (in local communities these are relatively small funds - from EUR 5,000 to EUR 50,000);
- This type of support and incentives could be conditioned by networking of CSOs (e.g. Human Rights and Democracy House - HRC, Belgrade, Civic Alliance for Social Inclusion - GASI, Požega), and could also include an element of social entrepreneurship (for example, revenue-generating space - hostel, conference / seminar tourism and also serves as an office space for CSOs);
- The procurement of work equipment, which is already outdated in many CSOs should be enabled;
- It is necessary to establish a practice of granting institutional financial support to CSOs (funds intended for payment of overheads, travel, gatherings, work of the network secretariat, attendance at meetings and trainings outside CSO headquarters, engagement of PR persons, etc.);
- Administrative requirements need to be reduced when applying for funding (the requirements should be proportionate to the size of the funding requested);
- Most financial resources need to be channeled to CSOs outside Belgrade;
- It is necessary to establish and secure mechanisms for identification of so called GONGO and PONGO organizations in the funding support processes. CSOs should be encouraged to use alternative sources of fundraising (crowdfunding, citizens' and / or the business community donations, etc.);
- Cooperation with the business sector (especially in relation to employment programs for vulnerable groups) should be encouraged;
- It is necessary to empower LSGs to understand the importance of financing CSOs providing social protection services through the regular public procurement process.