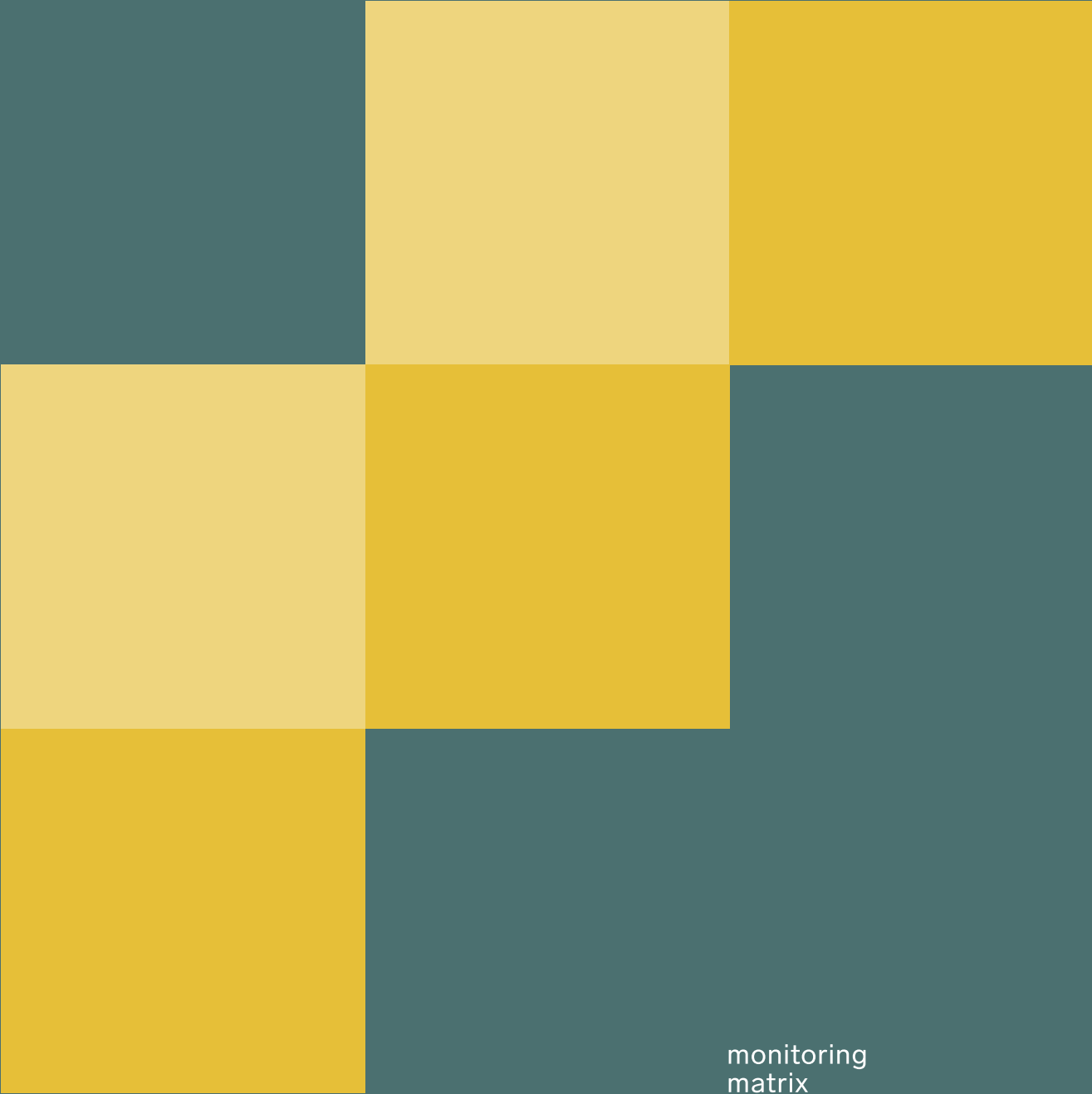


# Monitoring Matrix on Enabling Environment for Civil Society Development

Country Report:  
North Macedonia  
2021





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

Country Brief for North Macedonia 2021

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# Executive summary

## Civil Society Overview

	2021
Number of registered organizations	11134 (new registered organizations in 2021: 467)
Main civil society laws	Law on Associations and Foundations
Relevant changes in legal framework	<ol style="list-style-type: none"> <li>1. Law on Prevention of Money Laundering and Financing of Terrorism</li> <li>2. Law on lobbying</li> <li>3. National Strategy for Development of Social Enterprises in the Republic of Northern Macedonia (2021-2027)</li> <li>4. Law on Volunteerism</li> </ol>
State funding (for the previous year)	total amount of 308.532.488 MKD (approx. 5 million EUR) from the Government and governmental bodies
Human resources (employees and volunteers)	1665 employees
CSO-Government Cooperation (relevant body/consultation mechanism)	Council for Cooperation with Civil Society and Government
Key challenges	<ol style="list-style-type: none"> <li>1. The comprehensive reform of the system for state funding for CSOs has progressed slowly</li> <li>2. Criminal code poses certain risks to the freedom of association.</li> <li>3. Law on Donations and Sponsorships in Public Activities should be amended so that the procedure for donations is more stimulating.</li> <li>4. Cutting of the state funding for CSOs from the Budget of the General Secretary</li> <li>5. The inclusion of CSOs in decision-making processes should progress in practice.</li> <li>6. Not perceiving CSOs as a real partner by the state institutions.</li> </ol>

## Key findings

Key findings of the report	
1.	<p><b>Freedom of association</b> is guaranteed for all in legislation and exercised in practice without limitations. Registration is not mandatory and for those that decide to register a CSO, the process is clear, easy and inexpensive. The process of amendments of the LAF did not started in 2021 even though it was expected. Also, provisions in the Criminal code poses certain risks to the freedom of association. Also, there were some obstacles for the CSOs regarding the obligation of registering the final owner of the CSOs. Namely, according to the amendments in the Law on Prevention of Money Laundering and Financing of Terrorism each legal entity needs to register the final owner of that entity.</p> <p>The financial reporting of CSOs is regulated by the Law on Accounting for Non-Profit Organizations, but the law was not amended during 2020 even though its improvement was envisaged in the Strategy. Due to the COVID-19 crisis, securing financial resources was a challenge for the CSOs having in mind that the state did not predict support measures for CSOs.</p>
2.	<p>The comprehensive reform of the framework for <b>state funding</b> for CSOs has progressed slowly. The establishing of the working group for state funding for CSOs was delayed and happened on the last day of 2021. The Ministry of Labor and Social Policy and the Agency for Youth and Sport have the largest budgets for distribution to CSOs concerning social protection, sports and youth. The legal framework for public funding for CSOs still does not provide: institutional support; prepayments; multi-annual contracts; and (co)financing EU and other projects. Furthermore, there is a non-binding procedural document (Code) that regulates the funds distribution based on best practices. State funding continues to be almost a non-recognizable source of income for CSOs and only available for a limited number of organizations. The lack of available funding is a serious challenge for CSOs.</p>
3.	<p>The first mandate of the <b>Council of cooperation</b> ended in June 2021 for which period the Council made a full Report for the work of the Council for period April 2018- June 2021. In April 2021, the Government published an open call for election of 16 members of the Council for Cooperation with and Development of the Civil Sector from the ranks of associations and foundations and started the process of elections of the members of the Council. The process was open and transparent and the new members were elected.</p>
4.	<p>The implementation of the <b>Strategy for Cooperation with and Development of the Civil Society and the Action Plan</b> for 2018-2020 have been completed in 2020. Information about the implementation of the measures and the activities is regularly collected and published by the Unit for Cooperation with NGOs, and the Council is engaged in oversight. However, the Strategy was for the period until 2020 and it was expected that in 2021 a new Strategy will enter in force but that did not happen until the end of 2021.</p>
5.	<p>According to the data gathered from monitoring ENER and the Parliament sessions in 2021, 117 laws that were drafted by the Government were reviewed in the Parliament. Out of them, 48 (41%) draft-laws were published on ENER for public consultations which is an improvement in comparison to 2020 (34,3%). ENER also provides option for CSOs and citizens to submit their initiatives electronically, still this option is hardly used by CSOs and the public, since no initiatives were submitted on ENER in 2021. Part of the state institutions continued to invite <b>and involve the public/CSOs to comment on laws and policy initiatives at an early stage</b>. According to the survey results, 44% of CSOs agree that CSOs are involved in early stage of law preparation and creation of policies. However, minority of CSO's proposals are fully considered.</p>

## Key recommendations

Key recommendations of the report	
1.	The long awaited and discussed comprehensively reform to the state funding for CSO to fully start in 2022 and to enable open and transparent discussion for the issue.
2.	The Government should implement standards of involvement of CSOs in law-making and policy creation process and to implement even in state of crisis/emergency. Participation should start at an early stage, with adequate access to information and time for a quality and substantial response, and provision of feedback. ENER to be used according to the Governmental standards and to start discussions for improvement of this tool.
3.	The Council should dedicate most of its sessions to influence institutions to implement the priority areas for sectoral development and to start, without delay, direct communication and consultations with other CSOs. In addition, as a consultative body, the Council should reconsider the legality and effectiveness of adding a task to nominate civil society representatives in different bodies and events upon request from state institutions.
4.	A comprehensive law on CSOs providing services should be drafted and adopted.
5.	The process of amendments of the LAF to start as soon as possible and to provide consultation mechanism in the process.
6.	The process of changes of the Law on Donations and Sponsorships in Public Activities to start as soon as possible. Although the Strategy has foreseen changes for this issue this process is pending for many years.

# Findings

## Area 1: Basic Legal Guarantees of Freedoms

### Sub-area 1.1. Freedom of association

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

The legal framework for establishing and participating in CSOs provides guarantees for exercising the right to freedom of association in line with international standards on freedom of association. The right to establish and participate in formal and informal ways of association remains guaranteed in the Constitution of the Republic of North Macedonia and is further elaborated in the Law on Associations and Foundations (LAF). In 2021 the process of changes of the LAF was supposed to start according to the Strategy for Cooperation with and Development of the Civil Society. However, that process once again was delayed and by the end of 2021 the working group was not even formed.

Registration is not mandatory and registration rules are prescribed and allow for easy and timely registration. The Central Registry of the Republic of North Macedonia (CRNM) remains the only institution where registration is available within 5 days of the day of submitting a request on a paper form (online submission is still unavailable for CSOs). However, in 2021 there were some obstacles for the CSOs regarding the obligation of registering the final owner of the CSOs. Namely, according to the amendments in the Law on Prevention of Money Laundering and Financing of Terrorism each legal entity needs to register the final owner of that entity. This is an obligation for the CSOs too. CRNM gave possibility for free of charge registration until 27.04.2021. After this period charges applies for the entities. However, some CSOs were not aware for this obligation and having in mind that charges go up to approximately 1000 EUR they are facing with difficulties to fulfil this obligation. If CSOs don't fulfil this obligation their bank accounts are frozen and they are not able to operate with their finances. This obstacle is especially burdening for small CSOs that are operating with small funds during the year. According to the Central Register statistic, a total number of 6960 CSOs registered final owner, which of the total number of CSOs registered in 2021 (11134) is 62,5%.

#### 1.1.2. State Interference

The legal framework provides guarantees against state interference in internal matters of associations, foundations, and other types of non-profit entities. According to the LAF, CSOs are autonomous from the state and the law provides guarantees to regulate their internal structure and operating procedures.

Many of the previously open issues still remain challenges. One of the main issues that is burden for many years is the Article 122, paragraph 4 of the Criminal Code. Namely, this provision provides for liability by authorized persons, representatives of various organizational

forms, although they do not perform any official duty or activities of public interest or use state funds. There is an active working group for changes of this law, however official proposal where this paragraph is amended in 2021 was not publicly available.

In 2021 Law on lobbying was adopted in which CSOs are excluded from the law which is in line with the demands from the CSOs from 2020.

The cooperation between the civil society sector and the Financial Intelligence Office (FIO) continued throughout 2021 on the matters of risk assessment of financing of terrorism. Some concerns that were raised in 2020 regarding the monitoring of the banks over the CSOs' bank accounts and their transactions remains to be an issue in 2021. According to the bank rules, CSOs are classified as entities with high-risk transaction.

### 1.1.3. Securing Financial Resources

The legislation allows for CSOs to generate income through economic activity. The LAF regulates the activity of associations and foundations, and when the activities of the organizations generate income, it should be used to achieve the goals set out in their statute (including all organizations' regular activities, including payroll costs). The conducting of economic activity is further regulated with labor and tax laws, laws in the area of obligations, payment operations, foreign exchange operations, and other laws.

When it comes to receiving funding from individuals, corporations and other domestic sources there are not restrictions for CSOs. However, for many years CSOs are expecting the process of changes of the Law on Donations and Sponsorships in Public Activities to start. This process was supposed to begin in 2018 but not even in 2021 the process begun. Although the Strategy has foreseen changes for this issue this process is pending for many years.

Having in mind that the financial viability of the CSO sector deteriorated slightly in 2020 due to the reduction of state funding for CSOs from both the central and local budgets, in 2021 the situation remained to go down. CSOs were not detected as part of the real sector in the state and many of the economic challenges that private sector faced in 2021 were visible for the CSOs too. Namely, financial difficulties due to the COVID-19 continued to be challenge in 2021 and more over there were many reductions of funding's from the local budgets.

One of the main concerns in 2021 is the fact that the CSO's received very limited financial support for dealing with the COVID-19 crisis.

CSOs continues to mostly receive foreign funding. The majority of CSOs continued to had foreign donors as a source of funding. Some of the issues from 2020 remains in 2021 such as the requirement to register with a state body to obtain foreign funds as well as complex procedures for VAT exemption for foreign funds (long period of waiting for project registration which influences the beginning of the project implementation, especially because of the pandemic; the process is not online and only available in the capital city; lack of understanding on the side of businesses of the procedure; need to open special bank accounts; lack of ability to ask questions concerning the procedure over the phone).



## Sub-area 1.2. Related-freedoms

### 1.2.1. Freedom of Peaceful Assembly

The legal framework provides guarantees for exercising the right to freedom of assembly in the Constitution, and the key law is the Law on Public Assemblies (LPA), according to which the citizens have the right to spontaneous, simultaneous and counter-assembly, with no prior notice requirement. The LPA provides for clearly listed limitations on the places of gathering. The LPA has certain shortcomings which were not improved throughout the year: the obligations and responsibilities of the organizer of the rally are not clearly defined, high fines for the organizer in case of damages, foreigners need to ask for approval to be able to gather with severe penalties for non-compliance with the provisions.

Bigger challenges in 2021 regarding the freedom of peaceful assembly were not detected.

According to the records of Ministry of Internal Affairs, a total number of 496 announced and 108 unannounced public gatherings were recorded which is a decline from 2020. Announced 333 public gathering were record regarding the local elections and 129 unannounced.

The locations of where the gatherings were held varies and gatherings were held in almost all special interior sectors in the country within the Ministry of Internal Affairs. In 2021, most of the gatherings were done on the territory of Skopje, namely 388 announced and unannounced gatherings were held in the capitol city. In 2021, according to the Ministry of Internal Affairs, no limitations were detected in relation to the regulation and no complaints were detected by the police.

### 1.2.2. Freedom of Expression

The legal framework guarantees the right to freedom of expression to all. CSOs engaged in human rights and democracy promotion are allowed to speak freely and engage in advocacy. The freedom of expression is guaranteed through comprehensive legislation: The Constitution, The Law on Media, the Law on Broadcasting Activity, the Law on Civil Liability for Insult and Defamation, as well as the Law on Free Access to Public Information.

No significant progress was made during the year in the legal framework regulating the freedom of expression, in particular, to change the shortcomings identified in the Urgent Reform Priorities.

Following the global and regional trends of fake news and disinformation campaigns, the government in 2019 prepared an Action Plan to tackle the issue of disinformation and fake news and the civil society was invited to take part. The response by the journalist organizations to these developments was that the government should allow for self-regulation (for which several activities were undertaken already by relevant organizations). Despite this pledge for self-regulation, the Government started implementing the Action Plan. In 2020, there were no official reports on the implementation, same as in 2021. Some improvements have been registered, such as the Register of Professional Online Media which has about 70 members that was created by the Council of Media Ethics (CMEM) and AJM. The initiative promotes self-regulation of online media by committing them to respect the Code of Journalists and publishing decisions by the CMEM.

The key legal act is the Law on Civil Liability for Insult and Defamation, which does not require the need to obtain permission to speak publicly or deliver presentation/lecture; and there is no requirement that publications of organizations must be pre-approved. In 2021 new draft law was provided. In the draft text that is in the parliamentary procedure of first reading, there is an intervention in more than 1/3 of the existing articles in the current Law. An important

novelty provided by the new legal text is the significant reduction of the maximum amounts that the court can award as compensation for non-pecuniary damage, caused by insult or defamation by a journalist in the journalistic profession, by an editor or the person replacing him or by a legal entity. Thus, for a journalist this limit is 400 euros, for the editor 2,000 euros, and for the legal entity 5,000 euros in denar counter value. This draft law was not published on ENER in accordance to the governmental procedure.

### 1.2.3. Access to Information

The legal framework contains certain guarantees against illegal monitoring of communication channels. In regards to the state of protection of personal data, the system is functional and starting from the beginning of 2020 the Direction for protection of personal data has assigned a new director and deputy director. Challenges that were detected in 2020 remains in 2021. Namely, there were no significant developments to the sustainability and quality of journalism. The challenges regarding the rise of fake news and disinformation on social media remains even though, in accordance with NATO standards and protocols, the memorandum on cyber security has already been completed. A register of professional online media, consisting of around 70 members, is active but that is not enough to solve the challenges, same as it was in 2020.

Media continues to be used by CSOs to advocate for certain issues, raise awareness, and generally, to present their work and contribute to the debate. Certain CSOs and think-tanks have been continuously recognized by traditional media outlets, as CSO representatives are regularly invited to TV debates and informative programs.

According to the State Statistical Office, in the first quarter of 2021, 83.7% of households had Internet access from home. The share of households by type of settlement with broadband internet in the total number of households is 87.1% in 2021. In addition, in the first quarter of 2021, of the total population aged 15 to 74, 86.4% used the Internet, and 80.5% used it every day or almost every day. Also, 46.3% of people ordered / bought goods or services online in the last 12 months.<sup>1</sup>

<sup>1</sup> State Statistical Office, press release: <https://www.stat.gov.mk/PrikaziSoopstenie.aspx?rbtxt=77>

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

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

#### 2.1.1. Tax Benefits

When it comes to fiscal treatment of CSOs, in 2021 there were no significant improvement of the position detected in 2020.

The progressive tax reform adopted in 2018 was suspended in 2019 for the next three years. Fortunately, there were no changes in regard to the provisions concerning CSOs. Namely, CSOs are not subjects to the Law on Profit Tax and the new Law on Personal Income Tax exempts them in respect of the compensation paid to volunteers, all accommodation, food and transportation costs for attendees of events organized by the CSOs, as well as travel expenses for attending educational activities and events by educational institutions and organizations abroad.

Having in mind that the Law on Value Added Tax (VAT) was amended in 2019 and became more favorable for CSOs, this positive approach is mostly used by the CSOs. In 2020, this Law was amended to implement the necessary changes for the fight against COVID-19. With the adopted amendments sales of goods and services that are donated to a budget user to deal with the COVID-19 are VAT exempt. Also, exempt from VAT is the turnover of goods and services performed to a budget user in order to deal with the coronavirus, which is paid with funds from received donations to a budget user. These provisions were still in force in 2021.

#### 2.1.2. Incentives for Individual/Corporate Giving

In 2021 the Law on Donations and Sponsorships in the Public Activities (LDSPA) continues to be the main law for individual/corporate giving and to provides tax incentives for this issue. Even though, this law was supposed to change in 2019 in cooperation with CSOs this was not even done in 2021. Namely, there is a growing trend in the number of companies that have appeared as sponsors and donors in recent years and there is room for further stimulation of donations in the country by expanding the provisions for tax incentives in the regulation. New law with improved solutions will raise the social responsibility not only of the business community but also of the citizens who will be more and more motivated to be active in everyday life in the community.

What was noted in 2020 continues to be trend in 2021. Individual and corporate giving is insufficiently practiced, particularly towards the civil sector. Also, the administrative procedure for tax incentives continues not to be supportive.

According to Catalyst Balkans, the donations in 2021 were mainly in the health sector and support to marginalized groups<sup>2</sup>. Most of the donations are coming from companies (363 donations) and individuals (147 donations). 32 CSOs are recorded as donors and 152 CSOs are recorded as users of donations.

Another issue that was not overcome in 2021 is the obtaining of CSOs as a public benefit status (PBO). Same as in 2020, only 3 CSOs had PBO status and again this shows that the public benefit

<sup>2</sup> <https://catalystbalkans.org/en/report/donations-per-country>

status is not seen as relevant both for the CSOs and the State.

Social entrepreneurship is a key area where CSOs can participate in socio-economic development. Although there is a broad consensus that legislation is needed to promote this tool and the first bill was proposed in 2015, no other legislative efforts have been made.

However, a significant impetus in this area is the adoption of the National Strategy for Development of Social Enterprises in the Republic of Northern Macedonia (2021-2027). The Strategy and Action Plan envisage an assessment of the need for legal regulation of social entrepreneurship.

Finally, the concept of corporate social responsibility (CSR) is understood as potentially encouraging for corporate giving, thus is still of interest to the Government. The Ministry of Economy adopted a Mid-term strategy for CSR (2019-2023) aiming to define and implement a comprehensive approach towards the promotion and advancement of the CSR with a focus on businesses. 54 CSOs are listed as implementers of some of the measures/activities in the action plan of the Strategy. However, same as in 2020, the progress in 2021 was slow on this issue and not many CSOs were part of the CSR process.

## Sub-area 2.2. State support

### 2.2.1. Public Funding Availability

The public funding remains to be one of the biggest issues of the CSOs related to the state support. The legal framework regarding public funding for CSOs was not substantially improved throughout the year. The measures related to the comprehensive public funding reform foreseen in the Strategy and expected by the first trimester of 2020 were not implemented even by the end of the year of 2021<sup>3</sup>. Expectations were that the process will start in 2021, however by the end of the year that did not occur. An open call for participation of CSOs members in the working group for the reforms was opened in July 2021 by the Council for cooperation between CSOs and the Government and on the last day of 2021 the working group was finally established by the General secretary of the Government.

The remarks of the CSOs refer to the amount of financial support and the procedures for its distribution which are insufficiently transparent and accountable.<sup>4</sup> Also, the budget allocation mechanism for CSOs is decentralized. The main budget expenditure line for CSOs, which is 463 - Transfers to Non-Governmental Organizations (NGOs), continues to cause confusion since the greatest budget allocation from that line goes to political parties and sports clubs. The confusion arises due to lack of public access to the amount of funds allocated per sub-items in the budget (or final account) published by the Ministry of Finance. In addition, other budget lines are used to allocate funds by different state institutions such as 464 – Various transfers.

In the last three years, the share of state funding from the central level in the total revenues of civil society organizations remains around 5%.<sup>5</sup> According to the Strategy of the Government for cooperation with CSOs this percent should gradually raise up to 30%.

What is even more important is that there is still a lack of institutional support for the development of civil society organizations as well as support for co-financing that should be provided for projects funded by other donors, which have a positive impact on citizens and local communities. Unfortunately, in Northern Macedonia, the efforts to change the system and establish accountable and transparent funding processes are only declarative. However, the European Commission's annual reports on the country's progress consistently state that the civil society sector plays a constructive role in supporting democratic processes and in ensuring control and balance of state power. However, it is also concluded that the financial assistance to the civil society sector by the state is not sufficient to meet the needs of the citizens and it is not accompanied by clear and transparent criteria for selection of support projects. This situation is a limiting factor for the further development of the civil society sector and makes civil society organizations continue to depend exclusively on foreign donors.

The procedures prescribed for CSOs' participation in all phases of the public funding cycle have shortcomings. Namely, the Code of Good Practices stipulates clear procedures on applying and implementation of projects by CSOs, but not on consultations over funding priorities, nor participation in the selection of projects, monitoring and evaluation. The Council, within its mandate, gives proposals to the planning and the specific priorities for financing activities of organisations from the state Budget. In December 2021 the Budget of the Republic of North Macedonia was adopted in which for the first time in the Budget of the General Secretary there were not allocated funds for CSOs but 15 million denars for Red Cross of North Macedonia. A

<sup>3</sup> Unit for Cooperation with NGOs in the General Secretariat in the Government of the Republic of North Macedonia (2018) Strategy for Cooperation with and Development of the Civil Society, with Action Plan 2018-2020 [Internet] Skopje, Unit for Cooperation with NGOs. <https://www.nvosorabotka.gov.mk/?q=node/250>

<sup>4</sup> <https://mcms.mk/en/news-and-publicity/news/2356-docnat-reformite-vo-sistemot-na-drzhavno-finansiranje-na-gragjanski-organizacii-na-centralno-nivo.html>

<sup>5</sup> <https://www.otcetnigo.mk/wp-content/uploads/2021/09/Infografik-04.jpg>

novelty is the distribution of 20 million denars through the Ministry of Political System and Inter-Community Relations.

State funding continues to be almost a non-recognizable source of income for CSOs and only available for a limited number of organizations. The lack of available funding is a serious challenge for CSOs.

Within, the budget item 463-Transfer to NGOs, according to the data provided by state institutions (excluding local self-government) a total amount of 308.532.488<sup>6</sup> MKD (approx. 5 million EUR) were distributed as financial support for NGOs in 2021.

### 2.2.2. Public Funding Distribution

In 2021 same as in 2020, there was no progress in the preparation of a law to standardize the procedure of allocation of public funds, although this was foreseen in the Strategy. Numerous legal acts contain provisions on different parts of the process for the distribution of public funding. Provisions on announcing the grant procedure are included in the Law on Execution of Budget, Law on Environment, Law on Culture and more specifically when it comes to publishing an open call for a specific type: Law on Sports, Law on Games of Chance and Entertainment Games, Law on Social Protection. When it comes to the decision making part, the criteria and procedure for selection of the CSOs are set in several legal acts (Code, MLSP, AYS). Furthermore, various legal acts prescribe the grounds for establishing expert bodies (commissions, council) and for assessing and deciding on applicants, but fail to provide sufficient details. The majority of state institutions that allocate funds to CSOs fail to provide publicly available information on the procedures for funding and information on funded projects, or cover only basic details. The Unit for cooperation with NGOs sets a good example by publishing more detailed information on the financial support provided to CSOs through the General Secretariat of the Government.

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

Improvements in this area were not detected in 2021. Namely, there are legal acts that provide certain measures for accountability, monitoring and evaluation. According to the Law on Budget, every expenditure and transfer from the budget must be corroborated with credible accounting documentation. The grounds why reporting is needed is given in the LAF, according to which, when receiving funds from the Budget, a financial report is to be submitted to the relevant state institution. Finally, various regulation provides an obligation to submit a report within a month following the end of the project. The legislation does not prescribe specific and proportionate sanctions for CSOs that misuse public funds. The Criminal Code considers the legal representatives of CSOs to be public officials, thus the same sanctions apply<sup>92</sup>. The Code of Good Practices does not suggest sanctions, rather regular monitoring of the spending and in case of failure to fulfil the contractual obligations the funds must be returned to the institution. Monitoring is implemented rarely and for the sake of providing information to the Government. The field visits are also rare.

### 2.2.4. Non-Financial Support

The legislation provides the basis for allocation of non-financial support to CSOs. The key law is the Law on Usage and Disposal of Government Owned Items, which stipulates that movable

<sup>6</sup> Submitted data from requests for access to public information. The Ministry of Political System and Relations between Communities, the Ministry of Justice, the Ministry of Health, the Agency for the Promotion and Support of Tourism, the Ministry of Local Self-Government, the Directorate for Rescue and Protection, responded that in 2021 they did not allocate funds to civil society organizations.

and immovable property owned by the government bodies is granted following a government decision to use or transfer the right of ownership, with or without compensation to CSOs. CSOs can also receive real estate for temporary or permanent usage, with or without compensation, and use movable items owned by the Government. Yet, there are no provisions with criteria for the transparent allocation of the non-financial support. In addition, the Law on Local Self Government determines that the ownership of the municipalities can be transferred to other entities via public auction.

## Sub-area 2.3. Human resources

### 2.3.1. Employment in CSOs

Even though, there are existing laws and policies that apply to CSOs as employers, yet they do not reflect the specific nature of CSO operation (Law on Labour Relations, Law of Employment and Insurance in Case of Unemployment<sup>1</sup>) and there is the unequal treatment when it comes to benefits available for businesses (Law on the Employment of disabled persons). Furthermore, the civil society sector remains as not represented in the employers' unions and it is unclear which collective agreement covers it.

Employment data for the civil society sector is collected and published by the CRNM. The data is extracted from the financial reports of the CSOs submitted annually (number of full-time employees, expenditures for salaries, etc.). There is still no data available on part-time employees, people with short-term contracts and volunteers. The total number of employees in associations and foundations according to the CRNM is slightly decreased from 1,799 in 2020 to 1,665 in 2021.

Also, in 2020 and in 2021 there were many economic measures from the Government for dealing with COVID-19. However, CSOs were not directly recognized by these measures and only few CSOs used some of the measures. Many CSOs are facing with issues connected with retaining employees in whom knowledge and resources are invested.

### 2.3.2. Volunteering in CSOs

There are certain incentives for both volunteers and organisations and state-supported programs for the development and promotion of volunteering. According to the Law on Volunteerism, volunteers are entitled to tax-free reimbursement of costs associated with volunteering (food, transportation and training), which is a minimum of 15% of average gross salary in the country. Also, CSOs can access incentives if they engage interns, through the employment programs that subsidize the involvement of interns.

In May 2021 were adopted changes in the Law on Volunteerism which clarifies the existing provisions in the part of organizer of volunteer work, determines the procedure for issuing consent for volunteer work in public institutions, state authorities, municipalities, municipalities of the City of Skopje and the City of Skopje, the rights of volunteers, etc. In addition, it is envisaged the establishment of a National Council for the Promotion and Development of Volunteering, as well as the issuance of a volunteer certificate for volunteering.

The state discussed about preparation of the National Strategy for Promotion and Development of Volunteering 2020 – 2025 that should enhance and promote the volunteering in the country. After the process of preparation started in 2020, the Strategy was adopted in 2021 for the period 2021- 2025. According to the Strategy it is necessary to provide support for the CSOs to engage more volunteers and to build infrastructure that will connect CSOs with them.

### 2.3.3. Non-Formal Education

The legislation allows for non-formal education and for CSOs to take part in the informal education system, however, with certain difficulties. There are limited examples of CSO-related topics being integrated in informal education. The legal basis for regulation of the non-formal education by CSOs is provided in numerous laws, such as the Law on Adult Education, the Law on Bureau for Education Development, the Law on Procurement, etc. In 2021, the Ministry of



Education and Science published the new Draft-law on Adult Education for electronic consultations, aiming to include: validation of non-formal and informal education, improved process of verification of special programs for adults' education, etc. This draft of the law is still not adopted and the Ministry did not inform the public for any new developments in this process. One of the providers of adult education, the Economic Chamber of North Macedonia, continues to express concerns that the procedures of the existing Law on Adult Education are burdensome and rigid, and that the law needs to be changed. There is existing Strategy for adult education for period 2019-2023 adopted by the Ministry of education and science but there is not publicly available information about the process of implementation and the status. Subjects related to civil society are included in the official curriculum in both primary and secondary levels of education. At university level, students are obliged to undertake an internship, which is differently regulated under each institution. It also includes the possibility for students to undertake an internship in a CSO. As per the civic education, discriminatory content was discovered in various curriculum textbooks, which were published decade ago. Following the reactions of CSOs and concerned citizens, the Government placed the materials on the list of materials that needed revision and published it on the Ministry for Education and Science website.

## Area 3: Government-CSO Relationship

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

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

The implementation of the Strategy for Cooperation with and Development of the Civil Society and the Action Plan for 2018-2020 should have been completed in 2020. Information about the implementation of the measures and the activities is regularly collected and published by the Unit for Cooperation with NGOs, and the Council is engaged in oversight. However, the Strategy was for the period until 2020 and it was expected that in 2021 a new Strategy will enter in force but that did not happen until the end of 2021.

Throughout the year 2021 the Council was collaborating with the EU-funded project Technical Assistance for improving the enabling environment for CSOs in the Republic of North Macedonia regarding the preparation of the new Strategy. The process for preparation of the Strategy was open for consultations and many CSOs were able to give their input in the phase of preparation of the Strategy.

At the 130th session, held on 28.12.2021, the Government adopted the Strategy of the Government for cooperation with and development of civil society, with Action Plan 2022-2024<sup>7</sup>. The strategy is a result of the recognized need to improve the mechanisms for cooperation with civil society, and the measures taken with this strategy at the institutional level are aimed, inter alia, at maintaining continuity in the work of an independent, representative, operational and effective Council for cooperation between the Government and civil society and to improve communication and cooperation practices with civil society organizations.

Having in mind that the new Strategy was adopted in December 2021 for the period of 2022-2024, 2021 was left without a Strategy for Cooperation with and Development of the Civil Society.

According to the procedures, CSOs are included in the monitoring of the implementation of the Strategy, through the Council, whose mandate is to follow the Strategy implementation.

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

Three main institutions and mechanisms continues to be responsible for facilitation of the cooperation between the Government and the CSOs: the Council for Cooperation with the Civil Society and the Government, the Unit for Cooperation with NGOs, and the network of public servants for monitoring the Strategy implementation.

The first mandate of the Council ended in June 2021 for which period the Council made a full Report for the work of the Council for period April 2018- June 2021<sup>8</sup>.

The Council, from its establishment until April 2021, held a total of 32 sessions, of which 8 sessions were held during 2018, 10 sessions during 2019 and 9 sessions during 2020, while in 2021, as of June, 5 sessions were held. In the period from 2018, until June 2021, the Council

<sup>7</sup> <https://www.nvosorabotka.gov.mk/?q=mk/node/561>

<sup>8</sup> [https://www.nvosorabotka.gov.mk/sites/default/files/Dopolnet%20Izvestaj%20Sovet%202018-2021\\_0.pdf](https://www.nvosorabotka.gov.mk/sites/default/files/Dopolnet%20Izvestaj%20Sovet%202018-2021_0.pdf)

reviewed a total of 63 materials, of which 38 on the proposal and / or prepared by the Department for Cooperation with Non-Governmental Organizations of the General Secretariat of the Government, 5 on the proposal of a member of the staff in state administration bodies (Ministry of Labour and Social Policy, Ministry of Local Self-Government, Secretariat for European Affairs and the Ministry of Information Society and Administration) and 20 at the proposal of members from the ranks of organizations.

In April 2021, the Government published an open call for election of 16 members of the Council for Cooperation with and Development of the Civil Sector from the ranks of associations and foundations<sup>9</sup> and started the process of elections of the members of the Council. The process was open and transparent and the new members were elected. The first constitutional session was conducted in September 2021 and by the end of the year the new Council had conducted 2 more sessions.

<sup>9</sup> <https://vlada.mk/node/24624>

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

### 3.2.1. Standards for CSO Involvement

The legal framework clearly defines the standards on the involvement of CSOs in all policy-making processes. Various documents provide the basis for the involvement of CSOs in policy-making and legislation preparation at the level of the Government and at the level of the Parliament (Constitution<sup>10</sup>, Law for Referendum and Other Forms of Direct Vote of the Citizens<sup>11</sup>, Law on the Government<sup>12</sup>, Law on Organization and Operation of State Administrative Bodies<sup>13</sup>, Rulebook of Procedure of the Government<sup>14</sup>, Strategy for Cooperation with and Development of the Civil Society Sector<sup>15</sup>, Code of Good Practices for Participation of the Civil Society Sector in Policy-Making Process<sup>16</sup>, Methodology for Regulatory Impact Assessment<sup>17</sup>, and the Guidelines for the ministries on the way to proceed in the process of regulatory impact assessment<sup>18</sup>). The Government Rulebook stipulates that draft-laws are to be published on the website of the line ministry and the ENER<sup>19</sup>. Furthermore, the Rulebook provides to the CSOs and the public a minimum of 20 days for consultations of the draft-acts<sup>20</sup>. The overall mandate for monitoring the CSOs' involvement in the policy making process is given to the MISA, to prepare an annual report on the conducted consultations based on the inputs provided by the different institutions with the mandate to propose laws, however, such report is not publicly available for 2021 or 2020.

According to the data gathered from monitoring ENER and the Parliament sessions in 2021, 117 laws that were drafted by the Government were reviewed in the Parliament. Out of them, 48 (41%) draft-laws were published on ENER for public consultations<sup>21</sup> which is an improvement in comparison to 2020 (34,3%). ENER also provides option for CSOs and citizens to submit their initiatives electronically, still this option is hardly used by CSOs and the public, since no initiatives were submitted on ENER in 2021.

Part of the state institutions continued to invite and involve the public/CSOs to comment on laws and policy initiatives at an early stage. According to the survey results, 44% of CSOs agree that CSOs are involved in early stage of law preparation and creation of policies, and this percentage is almost the same as in the previous year (43%). According to the survey results, 43,8% of CSOs were involved in the preparation of certain laws, or policy initiatives including Law on Volunteering and Strategy on development of volunteering, Government Strategy for cooperation and support to civil society with action plan 2022-2024, Law on Gender Equality, National Development Strategy 2021-2041, Strategy on anti-corruption, etc. However, minority of CSO's proposals are fully considered.

<sup>10</sup> The Constitution of the Republic of North Macedonia ("Official Gazette of the Republic of North Macedonia", no. 52/91)

<sup>11</sup> Law on Referendum and Other Forms of Direct Vote of the Citizens ("Official Gazette of the Republic of North Macedonia", no. 81/05).

<sup>12</sup> Law on Government of the Republic of North Macedonia ("Official Gazette of the Republic of North Macedonia", no. 59/00, 12/03, 55/05, 37/06, 115/07, 19/08, 82/08, 10/10, 51/11, 15/13, 139/14 и 196/15, 142/16 and 140/18).

<sup>13</sup> Law on Organization and Operation of the State Administration Bodies ("Official Gazette of the Republic of North Macedonia", no. 58/00, 44/02, 82/08, 167/10, 51/11)

<sup>14</sup> Rules of Procedure of the Government of the Republic of North Macedonia ("Official Gazette of the Republic of North Macedonia", no. 36/08).

<sup>15</sup> Unit for Cooperation with NGOs in the General Secretariat in the Government of the Republic of North Macedonia (2021) Strategy for Cooperation with and Development of the Civil Society, with Action Plan 2022-2024

<sup>16</sup> Code of Good Practices for Participation of Civil Society in the Policy Making Process ("Official Gazette of the Republic of North Macedonia", no. 99/11).

<sup>17</sup> Regulatory Impact Assessment Methodology ("Official Gazette of the Republic of North Macedonia", no. 107/13).

<sup>18</sup> Guidelines on the Manner of Acting in the Work of Ministries in the Regulatory Impact Assessment Implementation Process ("Official Gazette of the Republic of North Macedonia", no. 106/13).

<sup>19</sup> Article 71, Rules of Procedure of the Government of the Republic of North Macedonia

<sup>20</sup> Rules of Procedure of the Government of the Republic of North Macedonia

<sup>21</sup> Civil Society Resource Center (2021) Monthly reports from monitoring of ENER [Internet] Skopje, MCIC. Address: <https://ogledalonavladata.mk/vesti/sledenje-na-ener/mesechen-pregled.html> [Accessed on 10.03.2021]

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

Most of the institutions publish some of the draft and/or adopted documents on their websites and/or on a centralized online platform. All draft laws subject to consultations with the public should be published in the centralized unified portal ENER. Other policy documents can be published on ENER, however, this was rarely practiced in 2021 (three decisions, one Code).

Free access to information, freedom to access and transmit information is a basic freedom and right provided in the Constitution and operationalized with the Law on Free Access to Public Information<sup>22</sup>. The Agency for Protection of the Right to Free Access to the Right to Public Information has the key role in the protection and realization of the constitutionally guaranteed right to free access to public information. According to the Annual report on its work, the Agency acted on all 798 cases submitted to it. In 2021 the right to free access to public information, according to the number of initiated appeal procedure before the Agency, was mostly used by CSOs (608 times or 76.19%), as a tool for achieving goals related to the realization of their own work programs. Thus, in practice there are examples of CSOs that use the opportunity to access information.

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

The Code of Good Practices for the civil sector's participation in the policy-making processes stipulates working groups established by the Government which would, inter alia, serve as an instrument of participation<sup>23</sup>. However, there is no standardized mechanism for selection of representatives in cross-sector bodies. There are different legal acts that require establishment of Councils, committees, etc. which would oblige that CSOs are included in the mechanism. Most often the Council for cooperation with civil society is used as a body to nominate CSOs' representatives in cross-sector bodies, either through an open call or directly. In 2021, the Council nominated two Council members, as observers, in the Commission for distribution of funds for CSOs from the state budget, nominated one CSOs' representative in the working group on monitoring the progress of the implementation of the Strategy on Government transparency (2019-2021), nominated three members of the National Coordination body for implementation of the Convention of the Council of Europe for prevention and combating violence against women and domestic violence, nominated CSOs' representatives in the working group for drafting changes and amendments to the Law on Associations and Foundations, nominated CSOs' representatives in the working group on reform of the system of state funding for civil society organisations, representative in the Operational coordinative group on the project "Improvement of the quality of education".

As a continuation to the Council for Coordination and Monitoring of the Open Government Partnership process and the National Action Plan for OGP 2018-2020, established in 2020, in December 2021 there was an open call for selection of CSOs' representatives in the Council for coordination and monitoring the National Action Plan for OGP 2021-2023.

Although in November 2020 the Main Body for Crisis Management included CSOs in their work, their presence did not have much impact as these two members were without the right to vote.

Also, in the survey, the organisations stated many examples when different institutions invited interested organisations to join an established working group on Laws or other legal acts or specific cross-sector bodies.

<sup>22</sup> Law on free access to information from public character ("Official Gazette of the Republic of North Macedonia", no. 101/2019).

<sup>23</sup> Code of Good Practices for Participation of Civil Society in the Policy Making Process ("Official Gazette of the Republic of North Macedonia", no. 99/11).

## Sub-area 3.3. Collaboration in service provision

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

Existing legislation allows CSOs to provide services in various areas including social services, education, healthcare and it creates basic preconditions. The Law on social protection<sup>24</sup> determines the social services that can be provided by associations, the conditions and the procedure for granting funds for providing social services and introduces administrative contracts for providing social services. Ministry of Labour and Social Policy keeps register of licenced social service providers available on its official web-site. There is a significant increase in the number of registered licenced service providers in 2021<sup>25</sup>, i.e. there were 21 newly registered licenced service providers in 2021 compared to 10 in 2020. Six out of these 21 service providers are associations registered in line with the Law on associations and foundations. Still, non-institutional services are provided mainly by public institutions.

Although the LAF enables associations and foundations to perform public authorization by transferring competences from a state institution, municipal bodies, Skopje municipalities, the City of Skopje and other public authorization bodies, still not many municipalities transfer competences to CSOs in practice.

The Law on Free Legal Aid<sup>26</sup> stipulates a possibility for the involvement of CSOs in providing pre-trial legal aid. According to the Register of associations that provide free legal aid<sup>27</sup>, kept by Ministry of Justice, there are four new associations registered in 2021 and the total number now is 15 registered associations for providing pre-trial legal aid. These associations are entitled to receiving grants from the Ministry of Justice for providing legal aid.

There has been significant development regarding the social entrepreneurship in the past year. Thus, in September 2021 the National Strategy for Development of Social Entrepreneurship in the Republic of North Macedonia 2021 – 2027<sup>28</sup> was adopted by the Government. The drafting of a new Law on Social Entrepreneurship is in progress and it should be adopted in 2022. In November 2021, National Centre for Support of Social Enterprises was established in Skopje.

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

The legal framework provides partial funding for basic social services provided by CSOs. The amount/percentage of allocation of funding for basic services is a separate process and depends on the subject matter. However, with the social and health services being the most developed, at least funds can be obtained from the budget planned for the following years and under the expenditure budget line intended for institutional programs.

Based on an open call, in January 2021, the Ministry of Labour and Social Policy awarded five contracts for providing social services to the following organisations: Center for social rehabilitation of persons who use or abuse drugs and other psychotropic substances THERAPEUTIC COMMUNITY - POKROV, Strumica; Center for assistance to people with mental disabilities PORAKA NEGOTINO- Negotino; Red Cross of the Republic of North Macedonia; Association for promotion and development of inclusive society INCLUSIVE Kumanovo; and Association for support and development Humanost.<sup>29</sup>

Furthermore, in January the Government passed a Decision for distribution of the funds from

<sup>24</sup> Law on social protection, Official Gazette of RNM, No. 264/19)

<sup>25</sup> [https://www.mtsp.gov.mk/content/images/2021/registar\\_objava\\_oktomvri2021.jpg](https://www.mtsp.gov.mk/content/images/2021/registar_objava_oktomvri2021.jpg) (accessed on 01.04.2022)

<sup>26</sup> Law on free legal aid ("Official Gazette of the Republic of North Macedonia", no. 101/2019)

<sup>27</sup> <https://www.pravda.gov.mk/bpp>

<sup>28</sup> [https://www.mtsp.gov.mk/content/pdf/2021/trud/Strategija\\_socijalni\\_pretprijatija\\_2021\\_2027.pdf](https://www.mtsp.gov.mk/content/pdf/2021/trud/Strategija_socijalni_pretprijatija_2021_2027.pdf) (accessed on 01.04.2022)

<sup>29</sup> Report on the implementation of the Annual Work Plan of Ministry of Labour and Social Policy for the period 1-12 2021, <https://www.mtsp.gov.mk/dokumenti.nsp>

games of chance and entertainment games (70 million MKD or approx. 1,133,000 EUR) to support: the annual program of the Red Cross, National Council of Disability Organizations of Macedonia, national disability organizations and the national coordination body for equal rights of persons with disabilities, as well as support for associations that help victims of family violence.<sup>30</sup>

Based on the 2020 open call for funding of municipalities and other potential service providers, the Ministry of Labour and Social Policy signed 24 contracts. This is financially supported by the International Bank for Reconstruction and development and one of the main goals is to develop and improve the quality of social services in local communities, according to the needs of citizens and increase access to social services for vulnerable groups of citizens, the elderly, people with disabilities and others, for which a total of 10.8 million euros are provided for a implementation period of 5 years.

The legal framework does not allow for long-term contracts. Even though the same CSOs (e.g. in social service provision, health-related service provision) are supported each year, they have to go through the process of application and signing new contracts again.

### 3.3.3. Procedures for Contracting Services

There are certain transparency provisions for distribution of funds among service providers, but with minor issues that are not regulated. Few laws contain provisions for open competition (Law on Public procurement<sup>31</sup>, Law on Free Legal Aid<sup>32</sup>, Law on Social Protection<sup>33</sup>, etc). Price is not the lead criteria for the selection of service providers. With the Law on Public Procurement, the existing criteria of the lowest price was replaced with the best value offer.

There are guidelines on how to ensure transparency in the evaluation and selection of service providers and managing conflicts of interests. The Law on Public Procurement defines clear guidelines on how to ensure transparency and avoid conflicts of interest<sup>34</sup>, as it provides that the commission signs statement of no conflict of interest. Furthermore, the Law on Public Procurement established a State Appeals Commission for Public Procurement with the mandate to decide upon appeals in public procurement, concession contracts and public-private partnerships. No appeals procedure is possible against the decision of the State Appeals Commission, but the process can be pursued further through the Administrative Court.

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

Different laws provide different processes of monitoring of the spending. According to the Law on Public Procurement the control over the use and spending of public procurement funds is done by the State Audit Office. All institutions and users of the budget funds are subject to control by the State audit. According to the MLSP, as part of provisions in the Law on Social Protection<sup>35</sup>, the Ministry executes oversights over the work of the CSOs that use funds from the Ministry. Various articles in the Law, provide details on how the process is organized. When it comes to monitoring quality standards, according to the Law on Social Protection<sup>36</sup>, the monitoring procedure for the services provided by contractors is undertaken by the Institute for Social Affairs, which has different profiles of staff with various expertise to assess the quality standards.

<sup>30</sup> <https://dejure.mk/zakon/odluka-za-rasporeduvanje-na-prihodite-od-igri-na-srekja-i-od-zabavnite-igri-vo-2021-godina-za-finansiranje-na-programskite-aktivnosti-na-nacionalnite>

<sup>31</sup> Law on Public Procurement ("Official Gazette of the Republic of North Macedonia", no. 24/2019)

<sup>32</sup> Law on free legal aid ("Official Gazette of the Republic of North Macedonia", no. 101/2019).

<sup>33</sup> Law on Social Protection ("Official Gazette of the Republic of North Macedonia", no. 104/19, 146/19 и 275/19)

<sup>34</sup> Law on public procurement

<sup>35</sup> Law on Social Protection

<sup>36</sup> Ibid.

# Annex 1

## Background & methodology

This report is part of a series of country reports covering six countries in the Western Balkans: Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Montenegro, Serbia and Turkey. A Regional Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country.

The Monitoring Matrix, developed in 2013 by BCSDN, with the support of its members and partners, sets the main principles and standards crucial for the legal environment to be considered supportive both for the operations and for development of CSOs. The Monitoring Matrix is organized around three main areas, each divided by sub-areas:

1. Basic Legal Guarantees of Freedoms;
2. Framework for CSOs' Financial Viability and Sustainability;
3. Government – CSO Relationship.

The areas are elaborated by standards, which are further specified through legal and practice indicators. The legal indicators are measured by coding the presence or absence of rules, costs, procedures, and obligations enshrined in legal regulation (primary and secondary) and policy frameworks enacted in the respective countries. To assure standardization and comparability of the data gathering process regarding the practice indicators, country researchers follow a methodology plan in which each of the 80 indicators are further operationalized in concrete mandatory and additional data types (i.e. operationalized dimensions of a practice indicator) to be reported across the countries.

The principles, standards, and indicators rely on internationally guaranteed freedoms and rights and best regulatory practices at the EU level and in European countries. The Matrix aims to define the optimum situation for effective operation and development of civil society, as well as set a realistic framework that can be implemented by public authorities. Having in mind that the main challenges lay in implementation, the indicators have been defined to monitor the situation by taking into consideration both the legal framework and its practical use.

The research undertaken aims to provide evidence on the enabling environment for civil society development and to influence the support of governments, the European Union and other donors towards more sustainable and strategic development of the sector.

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