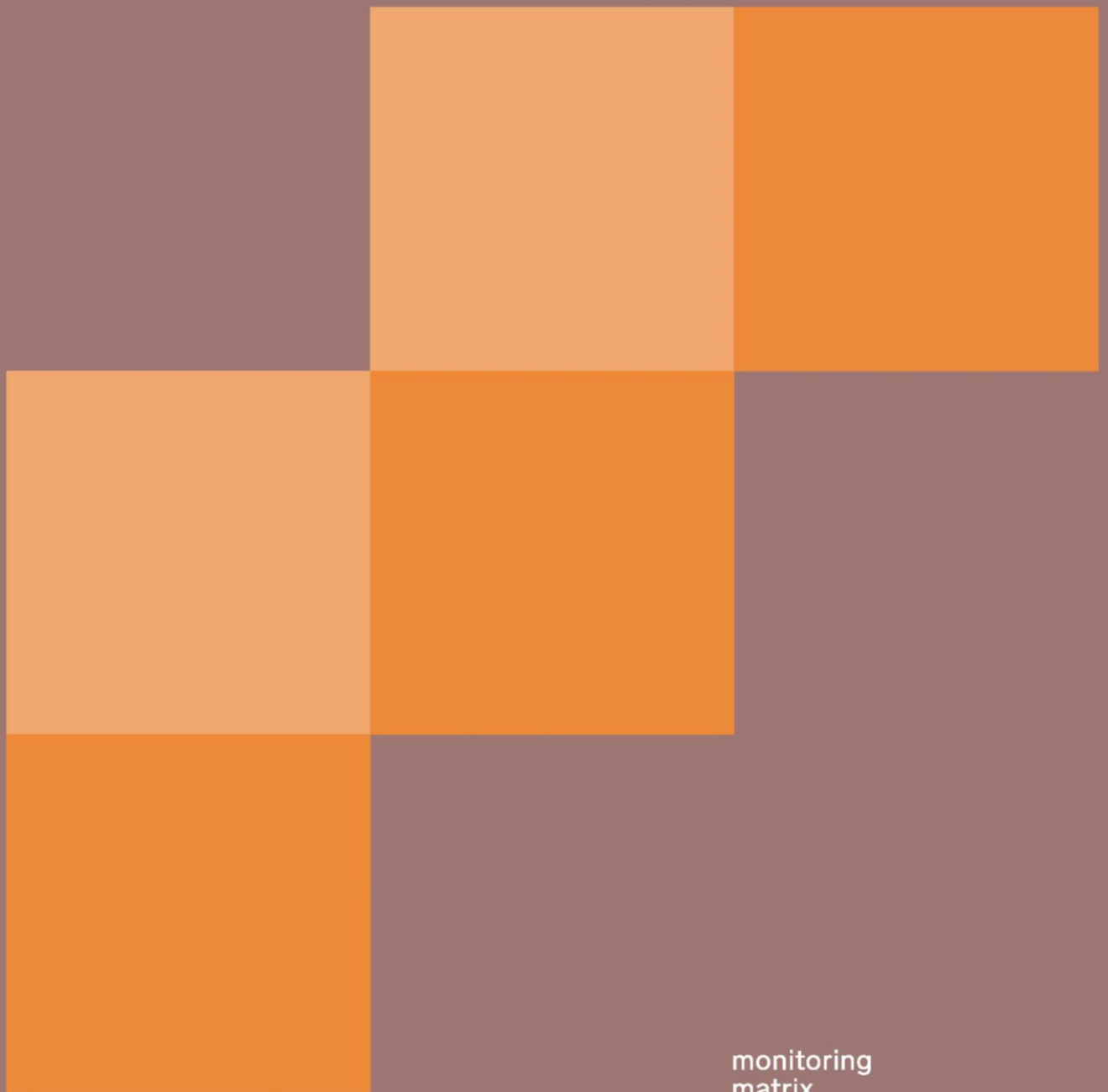


Monitoring Matrix on Enabling Environment for Civil Society Development

Country Report:
Albania
2020



monitoring
matrix

Monitoring Matrix on Enabling Environment for Civil Society Development

Country Report for Albania 2020

Partners Albania for Change and Development

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List of abbreviations

AASCA	Agency for the Administration of Sized and Confiscated Assets
ASCS	Agency for the Support of Civil Society
ASP	Albanian State Police
BCSDN	Balkan Civil Society Development Network
CoE	Council of Europe
CSO	Civil Society Organization
EU	European Union
FY	Fiscal Year
GDPML	General Directorate for the Prevention of Money Laundering
GDT	General Directory of Taxation
ICT	Information and Communication Technology
MoJ	Ministry of Justice
MoHSP	Ministry of Health and Social Protection
NCCS	National Council for Civil Society
NRC	National Resource Centre
NBC	National Business Centre
MM	Monitoring Matrix
PA	Partners Albania
RDT	Regional Directorates of Taxation

Introduction

Partners Albania, the National Resource Centre for the Development of Civil Society, and the Balkan Civil Society Development Network are pleased to present the eighth edition of the *Monitoring Matrix on Enabling Environment for Civil Society Development*, covering developments in Albania for 2020.

This report is part of a series of country reports covering seven countries in the Western Balkans and Turkey: 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 country¹.

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 principles, standards, and indicators rely on internationally guaranteed freedoms and rights and best regulatory practices at the European Union 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 with the Monitoring Matrix aims to provide evidence on the enabling environment for civil society development and to influence the support of governments, the European Union² and other donors towards more sustainable and strategic development of the sector.

¹ www.monitoringmatrix.net

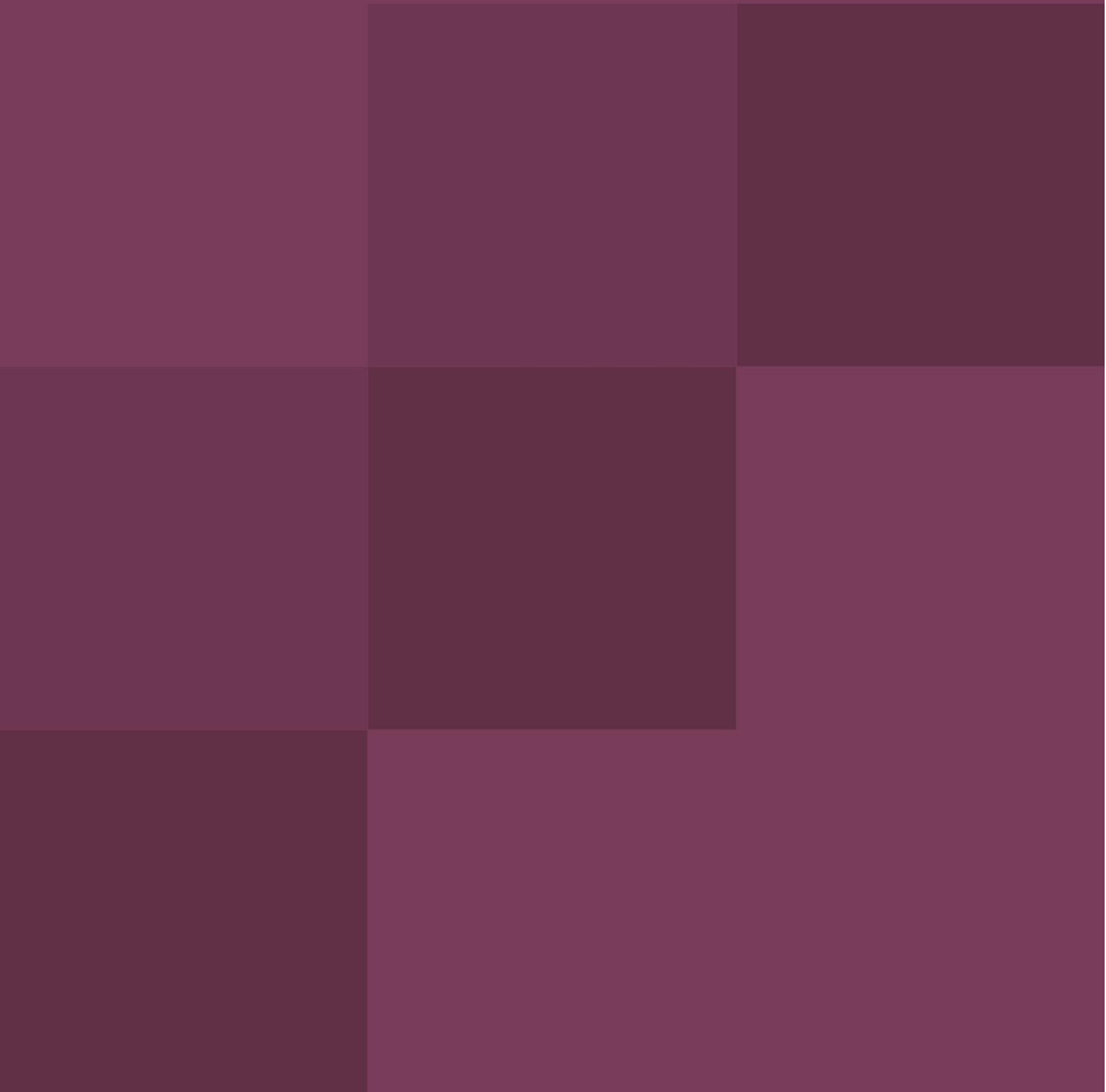
² For these purposes, within the findings part, the report further makes references and correlations to the Guidelines for EU Support to Civil Society in Enlargement Countries, 2014-2020.

Acknowledgments

The Monitoring Matrix on Enabling Environment for Civil Society Development – Country Report for Albania 2020 is prepared by Partners Albania for Change and Development and the National Resource Centre for Civil Society in Albania (NRC) with collaborative effort and support of CSOs.

Partners Albania and NRC would like to express their gratitude to the executive directors and high-level managers of CSOs for their cooperation, contribution, and time devoted to the survey with 121 CSOs, and to the public institutions that responded to the requests for information.

Executive Summary



Background | Country Overview

In March 2020, the members of the European Council endorsed the General Affairs Council's decision to open accession negotiations with Albania and in July 2020 the draft-negotiating framework establishing the guidelines and principles governing the negotiations with the country were presented to the Member States³. Following the adoption of the frameworks, the first intergovernmental conference for Albania should be convened, prior to which Albania is called on to make further progress on electoral and judicial reforms and in the fight against organized crime and corruption.

On March 9, 2020, the first two cases from the coronavirus pandemic have been announced in Albania. At the start of the pandemic, the Ministry of Health and Social Protection and the Public Health Institute prepared an Action Plan for Prevention, Preparation, and Response towards COVID-19 scenarios. The plan was followed by the decision of the Council of Ministers No.243 of 24 March 2020 "On the Declaration of Natural Disaster Situation"⁴, which enabled the Albanian government to impose preventive and precautionary measures to prevent the spread of the infection. These measures included the closure of public activities such as the closure of educational institutions (nursery, kindergarten, schools, and universities); forbidden internal travel; suspended sea, air, and land movement to neighbouring countries except for goods; closure of bars, restaurants, mosques, churches and the banning of all sports and large people gatherings. Weekday curfew hours and weekend lockdown measures were imposed to minimize and restrict citizen movement. As a result of measures taken to cope with the situation of COVID-19, which may be interpreted as a violation of article 8 and article 11 (freedom of assembly and organization) of the European Convention on Human Rights (ECHR), the Albanian authorities notified a derogation from the convention (article 15 – Derogation in time of crisis). The State of Emergency for Natural Disaster was extended until June 2020, and after that, based on the recommendations of the Technical Committee of Experts on the COVID-19 situation, a series of legal acts were approved.

³ https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/albania_en

⁴ <https://www.tatime.gov.al/shkarko.php?id=7793>

To support people and companies affected by the pandemic situation, the government adopted two financial packages of a total size of 45 billion ALL, about 2.8% of Albania's GDP. The first package consisted of additional funding for the health sector, support to small businesses who were forced to close activities, human aid, and sovereign guarantee fund for companies to be able to receive loans, while the second package consisted in financial support for the provision of a single payment to the employees of the affected small businesses, and a sovereign guarantee for the provision of loans to all private companies that have paid their tax obligations and were able to pay before the pandemic. Financial support was also approved for the public transport sector affected by the COVID-9 lockdowns. CSOs, including those having social entrepreneurship activity, were not included in any of the financial schemes of the government to address the impact of the COVID-19 pandemic situation in their activity.

Regarding CSOs, considering the “new reality” created from COVID-19 and all the restrictions which have been applied since March 2020, CSOs have been faced with several challenges in their operation and projects’ implementation. Despite that, the majority of CSOs have adapted to the new reality and currently are fully engaged with online and “hybrid” activities. They have been very active in responding to the needs of their beneficiaries by developing alternative approaches to deliver their services to individuals, families, and groups in need. They have supported the government, especially the local government, in the identification and delivery of support provided to the marginalized groups in society.

Moreover, CSOs have been very active in their monitoring the developments in the legal framework impacting the fundamental rights and freedoms of citizens, the life of their constituencies, and their operation. On several occasions, CSOs have raised their concerns calling for a higher level of transparency and accountability of state institutions and government with regards to several important legal initiatives that were undertaken during 2020 with the accelerated procedure and without proper consultation processes with citizens and civil society. To be mentioned are the amendments proposed in the Penal Code for the prevention of the COVID-19 pandemic, which was opposed by a group of 30 CSOs that issued a public declaration considering that the proposed amendments infringe fundamental human rights and freedoms. Moreover, approval of the amendment through an accelerated procedure by the parliament was found in contradiction with the Albanian Constitution (article 83, point3). As a result of these efforts, the government backed up from the initial proposals and eased some measures.

A series of legal initiatives with a direct impact on the operation of CSOs were initiated by the government in 2020, to respond to the MONEYVAL (the Committee of Experts on the Evaluation of Anti-Money Laundering Measures), recommendations provided in the

Mutual Evaluation Report of July 2018, as follows: Law No. 112/2020 On the Register of Beneficial Owners, Law No.154/2020 On the Central Register of Bank Accounts, and the draft-law On the Registration of Non for Profit Organisations". All these initiatives, despite their crucial importance for the sector, have been initiated and prepared without the participation and effective consultation with CSOs. Regardless, under the coordination of the National Resource Centre for Civil Society, NPOs provided their comments on Law No. 154/2020 before its approval some of which were considered in the final draft approved by the parliament. The draft law "On the Registration of Non-Profit Organisation" was the one that attracted most CSOs attention because of its implication with the operation of the sector and a set of issues identified, some of them affecting the freedom of association, duplication, and unjustified reporting requirements, including disproportional and unjustified penalties. The draft law is still pending approval by the parliament.

Civil Society Overview

	2019	2020
Number of registered organizations	11,739 CSOs (313 new CSOs registered in FY 2019)	11,962 CSOs (223 new CSOs registered in FY 2020)
Main civil society laws	Law No. 8788 "For the Non-Profit Organization" Law No. 8989 "For the Registration of Non-Profit Organization" Civil Code of Albania National Accounting Standard for Non-Profit Organizations Law for the Right of Information Law for Notification and Public Consultations	
Relevant changes in the legal framework	Instruction No. 34, dated 02.12.2019 "On a Modification of the Instruction No. 6, Dated 30.01.2015 "On The Value Added Tax in The Republic of Albania", as amended" (VAT Refund) Roadmap for the Civil Society	Law No. 87/2019 on "Invoice and Circulation Monitoring System" amended Draft Law "For the Registration of Non-Profit Organizations" Law no.112/2020 "On the Register of Beneficial Owners" Law No.154/2020 "On the Central Register of Bank Accounts" Law No. 162/2020 "For Public Procurement".
State funding) (key bodies and amounts)	For FY 2019 the budget of ACSC in grants for CSOs was approx. 100 million ALL (approx. 793,000 EUR).	For FY 2020 the budget of ACSC in grants for CSOs was approx. 61 million ALL (approx. 491,000 EUR).
Human resources (employees and volunteers)	9,966 employees No information on volunteers	9,793 employees No information on volunteers
CSO-Government Cooperation (consultation mechanism)	National Council for Civil Society	
Other key challenges	<ul style="list-style-type: none"> - Lack of unified data and accurate information for CSOs - The financial viability and sustainability of the sector remain weak. The sector is donor-dependent, and the foreign donor support. 	<ul style="list-style-type: none"> - Over-regulations of the sector on AML/TF. - Lack of unified data and accurate information for CSOs - Financial viability and sustainability of the sector remain weak. The sector is donor-dependent, and the foreign donor support - Regress on transparency and accountability of public funding support to CSOs

Key findings

Key findings of the report

1.	The new draft law “On the Registration of Non-Profit Organisations”, introduced the electronic registration of CSOs. It was prepared through a non-inclusive process that disregarded some important recommendations which represent a restriction of freedom of association and operation of CSOs.
2.	CSOs were subject matter of the laws part of Anti-Money Laundering / Combating Terrorist Financing (AML/CFT) package that was enacted during 2020. The package was passed swiftly, without going through any consultation process.
3.	The legal framework in place continues to not recognise philanthropic activity and individual donations as tax-deductible for purposes of personal income tax. There is no system in place to collect official data on business and individual donations to CSOs.
4.	Public funding allocated to CSOs by public institutions was decreased by almost 40% and as such it hardly met the needs of the sector to address COVID-19 related issues. The public funding distribution continues to be non-transparent.
5.	Most of the measures in the Action Plan of the Road Map for the Government Policy towards a More Enabling for Civil Society Development planned for 2020 were not implemented.
6.	The new Law 162/2020 “On public procurement” introduces a separate chapter for social services and other special services, allowing for greater and meaningful participation of CSOs in public tender procedures.

Key recommendations

Key recommendations of the report	
1.	The Albanian parliament should be engaged in an open and constructive dialogue with CSOs to address all concerns regarding the draft law 'On the Registration of Non-Profit Organisations' before its approval.
2.	The state should employ a risk-based approach with regard to measures on AML/CFT for the CSOs sector.
3.	The legal framework and regulation should be amended to recognise philanthropic activity and provide incentives for corporate and individual giving to CSOs.
4.	The state should increase public funding to support CSOs' activities with a special focus on challenges created because of COVID-19. Public institution should increase the transparency of public fund allocated to CSOs.
5.	The government must show stronger political will and engagement in the implementation of the action plan of the Road Map for the Government Policy towards a More Enabling for Civil Society Development.
6.	CSOs should increase their understanding and capacities for greater involvement in the public tender procedure for social services, benefiting from the new opportunities offered by the new law on public procurement.

Findings

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1. Freedom of association

1.1.1. Establishment and Participation of CSOs

Albanian CSOs are governed in compliance with the relevant existing legislation which includes, but is not limited to: the Albanian Constitution, as amended⁵ Civil Code, as amended⁶, Law no.8788 dated 07.05.2001 "On Non-Profit Organisations", as amended (Law 8788/2001)⁷ and Law no. 8789 of 07.05.2001 "For the Registration of Non-Profit Organisations" (Law 8789/2001)⁸.

The registration and re-registration process is centralized and can be completed only at the Tirana Judicial District Court, making the process time-consuming and costly for CSOs residing outside Tirana. In total, there are **11,962 CSOs** registered based on the information provided by the register of Tirana Judicial District Court. For 2020, there are **138 associations, 63 centres, and 22 foundations** registered. In addition, *68 requests for registration have been rejected by the Court, while 44 requests have been returned to the applicants.*⁹ No information was provided from the Court on the reasons for rejections or returns.

After registration in Court, CSOs should also register at the tax authorities. Data from *the General Directory of Taxation (GDT) shows that there are 4,972 CSOs* registered, out of which only **2,185 have the active status**. During 2020 at the GDT were registered **186 new CSOs**. In addition, according to Law no.9920, dated 19.05.2008 "On tax procedures in the Republic of Albania", as amended,¹⁰ CSOs registered at the tax authorities should open a bank account, and declare it to the tax authorities. New registered CSOs, should open a bank account within 20 days from the day of their registration (Article 59(1/3)).

⁵ <https://qbz.gov.al/preview/635d44bd-96ee-4bc5-8d93-d928cf6f2abd>

⁶ <https://qbz.gov.al/preview/f010097e-d6c8-402f-8f10-d9b60af94744>

⁷ <https://qbz.gov.al/eli/fz/2013/36/9b9fbd51-02a4-4cc5-8295-c6d6770b0582;q=ligji%2092%2F2013>

⁸ Law no 8789, dated 07/05/2001 "For the Registration of Non-Profit Organizations"

⁹ No information from the Court has been provided on the time when these rejections have occurred

¹⁰ <https://qbz.gov.al/preview/18d5cd2e-41ac-4ab9-b176-94c3965ab469/cons/20200925>

Regarding the registration process in practice, due to the measures applied to prevent the spread of the COVID-19 pandemic, Tirana Judicial District Court suspended its operation from March till May 2020, which might have influenced the decrease in the number CSOs registered compared with one year before (313 associations, centres, and foundations in 2019, versus 223 in 2020).

Regarding informal groups, apart from the difficulties coming from the COVID-19 pandemic, no cases of prohibition to exercise their activities have been identified in practice. Only through LevizAlbania project¹¹, 18 informal groups have been supported to implement their local action plans during 2020, and through the EU call "Support to Active Citizenship"¹², other informal groups are expected to be supported in 2021.

Referring to coalitions and networks, the fact that the legal framework does not provide any provision on their formation and registration has not impeded CSOs to establish and/or participate in networks or coalitions, being domestic or outside the country. Data from the MM survey shows that 85% of 121 surveyed CSOs are members of national networks and coalitions, while 64,5% of them are members of international networks and coalitions. Participation in these networks is done without any restriction from the state. Still, there are uncertainties among CSOs about the best legal form to be used in cases of the registration of a network.

The pandemic situation impacted the work of CSOs, where 88% of 121 surveyed CSOs declared to face challenges due to the pandemic situation. Some of the major challenges they have mentioned include difficulties to reach out to their beneficiaries (71%), shortage in funding opportunities (57%), and interruption of project implementation (36%).

In June 2020, the Ministry of Justice published in the electronic register for consultation the new draft law "For the Registration of Non- Profit Organisations", that introduces the creation of electronic register and electronic registration of CSOs, administered by Tirana Judicial District Court. The electronic registry is intended to be publicly accessible. The draft law considers the CSO Registry as the central domain where all statutory documents, financial and activity reports are deposited.

The electronic registry has been a long-standing demand of the CSOs in Albania, recognising its importance in ensuring transparency of the sector and public trust. It is also included in the former Road Map for Drafting Policy and Measures for Enabling Environment to Civil Society 2015 – 2018 and the Road Map 2019 - 2023 as one of the measures under Priority 7: Collection and availability of data for civil society development.

¹¹ <https://www.levizalbania.al/sq/nisma-te-mbeshtetura>

¹² <https://bit.ly/2BpgWwk>

Despite that, the draft law in its initial stage was not consulted with CSOs. The government went through a speedy process in the need to respond to the recommendations of MONEYVAL.

The draft law was welcomed by the CSOs sector but the process was not inclusive and responsive to CSOs proposals. The Ministry of Justice (MoJ) entitled with the design of draft law, limited the consultation process in publishing it in the electronic register of consultation. A group of CSOs under the leadership of PA and NRC submitted a set of recommendations and issues of concern about the draft law and manage to get in the last-minute meeting with the representative of the MoJ, before the draft law was sent to the Council of Ministers. The MoJ agreed with the issues raised and promised to revise the draft law. Only when the draft law was sent to the Parliament the sector realised that very few recommendations were considered. The group followed up with a request for a hearing session with the Committee on Legal Issue, Public Administration, and Human Rights but no response was received from the parliament as per the date of this report. The draft law is pending approval by the Albanian parliament in 2021.

The draft law comes against one of the provisions of the law on CSOs and the principle of freedom of association based on which registration is not a pre-condition to exercise the right of the association. The draft law was characterized by a high number of penalties, which were assessed as unproportioned against the consequences caused. Another concern raised by CSOs was the right to data protection and increased bureaucratic and unjustified reporting by CSOs to state agencies.

1.1.2. State Interference

The legal framework provides guarantees against state interference in internal matters of CSOs. The Law 8788/2001 “On Non-Profit Organisations” in its Articles 6 and 7 stipulates that CSOs independently exercise their activity from state organs and interests, and state bodies do not interfere in the activity of a non-profit organisation. In practice, 4 out of 121 surveyed CSOs expressed to have faced unannounced inspections by state authorities, and 4 CSOs working on journalism and media have experienced online restrictions, mostly blocks and attacks of social media accounts and websites.

Under Articles 43 and 44 of the Law on Non-Profit Organisations, a CSO may be dissolved voluntarily through a decision of the highest decision-making body. Additionally, the Court may force the dissolution of a CSO when its activity contravenes the Albanian Constitution when a CSO has carried unlawful activities, when it has not been established in compliance with the requirements of the law, or when a foundation has become insolvent. After the dissolution, the remaining assets of the organisation

will go to other organisations as stipulated in the decision of the highest decision-making body. When the dissolution is ordered by the Court, the remaining assets will go to organisations pursuing similar goals to those of the dissolved foundation. The Court shall decide which these organisations are.

According to Law no. 97/2018, “For some changes and amendments to the Law on Tax Procedures in the Republic of Albania”¹³, the Court may proceed with the de-registration request of a foundation only when tax authorities confirm no pending obligations from the foundation. However, if pending tax obligations are found out after de-registration, the tax authority may assess or collect them by force (Art.45, point 8), holding the legal representative accountable even after the foundation has ceased existing. Based on the information received from the Tirana Judicial District Court, the total number of *deregistered CSOs is 156 CSOs*.

Regarding the reporting of CSOs to state authorities, CSOs have to submit annual financial statements. The concepts and key principles for the preparation of financial statements for CSOs are provided in the National Accounting Standard for Non-Profit Organisations.¹⁴ It introduces lighter reporting requirements for small organizations with annual revenues below 5 million ALL (approx. 40,650 EUR) that are required to apply cash-based accounting, and submit only the statement of cash flow with explanatory notes on the type of activity or services provided.

According to Law No. 25/2018 For Accounting and Financial Statements, Article 22, point1, after 7 months from the reporting date, CSOs have to submit for publication to the Court their annual financial statements, consolidated report of their activity, and the audit report, in case such documents are mandatory, according to the legislation in force. CSOs with a value of total assets or income over 30 million ALL (approx. 241,000 EUR) should publish the annual financial statements on their webpage. They should also prepare a performance report and publish it along with their annual financial statements. In June 2020, the National Accounting Council issued the CSOs performance report template¹⁵, which is organised in five chapters as below: 1) Objectives and activities; 2) Achievements and performance; 3) Financial report; 4) Structure, leadership and supervision; and 5) Others issues that CSO has the interest to share.

With regards to sanctions, in 2020 the GDT has issued 91 fines to CSOs for breach of their obligations towards the law. Most of the fines are issued for non – declarations of employees (43%) and failure to provide information (30%), as shows in the table below.

¹³ <https://www.tatime.gov.al/shkarko.php?id=4458>

¹⁴ Directive no. 62, date 17.09.2015 “For the Announcement of the National Accounting Standard for Non – Profit Organizations and for its mandatory application”, issued by the Ministry of Finance, Official Gazette 171/2015 [Online] https://qbz.gov.al/share/msVHnvi8QI-INGH_26ccqQ

¹⁵ http://www.kkk.gov.al/foto/uploads/File/Udhezuesi%20per%20raportin%20e%20performances_publikuar.pdf

Table 1: Sanctions applied to CSOs by the General Directorate of Taxation in 2020

Reasons for breaching the law	Number of sanctions
Penalty for not equipping with fiscal devices for the first time	1
Non-declaration of employees	40
Issuance of inaccurate tax invoices	4
Penalties for incorrect documentations of finance books, registers and other documentations	9
Fiscal evasion and concealment of liability	2
Non-declaration of the second bank account	4
Failure to provide information	28
Fines of evasion from rental tax	1
Other incomes tax evasions	2

Source of information: General Directory of Taxation

From the 121 CSOs included in the MM survey, 17% of them (20 CSOs) have responded that they have been subject to a sanction, of which 80% have agreed that the sanction has been proportional to the breach while 20% agree that the sanction was excessive to the breach. The reasons comply with those provided by the tax authority, with the delay in declarations being the most frequent one. In some of the cases, the delays have been because the online system did not work. Only one organisation has appealed the section to the Court.

In 2020, several legal initiatives that affect the CSO sector were enacted to address MONEYVAL recommendations, as Law No. 112/2020 "On the Register of Beneficial Owners" (RBO Law)¹⁶, and Law No. 154/2020 "On the Central Register of Bank Accounts"¹⁷.

According to RBO Law, which became effective in December 2020, the beneficial owner shall be considered any individual holding the shares or ultimately controlling the entity, and/or the individual under whose name a transaction or activity is being performed, including the founding person or legal representative or the individual exercising the ultimate effective control in the administration and supervising of the CSO (Article 3(1) (1.1.2) Law 112/2020). All CSOs should register their Beneficial Owners. As evidenced also by CSOs in other countries where this law has been introduced, in Albania the terminology and the concepts used in the law do not consider and reflect

¹⁶ <https://www.tatime.gov.al/shkarko.php?id=8716>

¹⁷ <https://www.tatime.gov.al/shkarko.php?id=9590>

the nature and characteristics of CSOs. As a result, it is expected that there will be difficulties from CSOs during the registration process. As the register will be managed by the National Business Centre (NBC) and the information part of the register is already held by Tirana Judicial District Court for CSOs this is considered an increased administrative burden for the sector. As of today, each CSO has the responsibility to refresh information about its decision-making body and at the same time within the Court and NBC.

The Law “On the Central Register of Bank Accounts” constitutes an additional tool in the fight against money laundering and financing of terrorism. It enables the creation of a central register of bank accounts, including information on the bank account and saves deposit box holders. The register will also include bank accounts hold by CSOs. All banks of the second level should report daily to GDT about the status of bank accounts and their holders. The GTD will be responsible for administrating this register. The draft law didn't go through a proper consultation process. Entities subject to the law, including businesses and CSOs representatives expressed concerns regarding privacy and data protection, without prior notification to the subject, and the fact that the institution in charge was GTD and not the central bank. The latter one as an independent institution would guarantee the constitutional rights with regards to data protection and interest of partners involved. These concerns and some others were part of a position paper sent by the NRC and PA to the Ministry of Finance and Economy. The final draft law reflected some of the recommendations given.

In addition, GTD has the right of the body to provide information to other interested institutions without prior confirmation from the Court and this is the most problematic issue in the law.

CSOs are also subject to supervision and control from state bodies concerning money laundering and financing of terrorism. Based on the instruction for the supervision of CSOs in support of anti-money laundry and financing of terrorism issued by the Minister of Finance and Economy¹⁸, the Regional Directorates of Taxation (RDT) report to the GDT every six months on CSOs that are unregistered, that have passive status and CSOs that have not submitted tax declaration. After evaluating the case, within 15 days, the central unit in the GDT, forwards it to the General Directorate for the Prevention of Money Laundering (GDPML) for in-depth analyses of the cases. The instruction also stipulates that if RDT during their work (field control; review of financial statements, operational control), identify cases of financing that pose a risk, reports the suspected cases to the GDT central unit. After assessing the cases, the GDT forwards them to the GDPML following the legal provision of money laundering and financing of terrorism.

¹⁸ Instruction no. 19, date 9.7.2019 “For the supervision of non-profit organizations in function to prevention of money laundering and terrorism financing”

1.1.3 CSOs can freely seek and secure financial resources

The legal framework allows CSOs to freely seek and secure financial support for their activities from various domestic and foreign sources, without pre-screening and pre-approval from the state. The legislation in place allows CSOs to engage in economic activity, receive public and foreign funding support and funding from corporates. Persistent with previous MM reports, no legal provision recognizes individual donations.

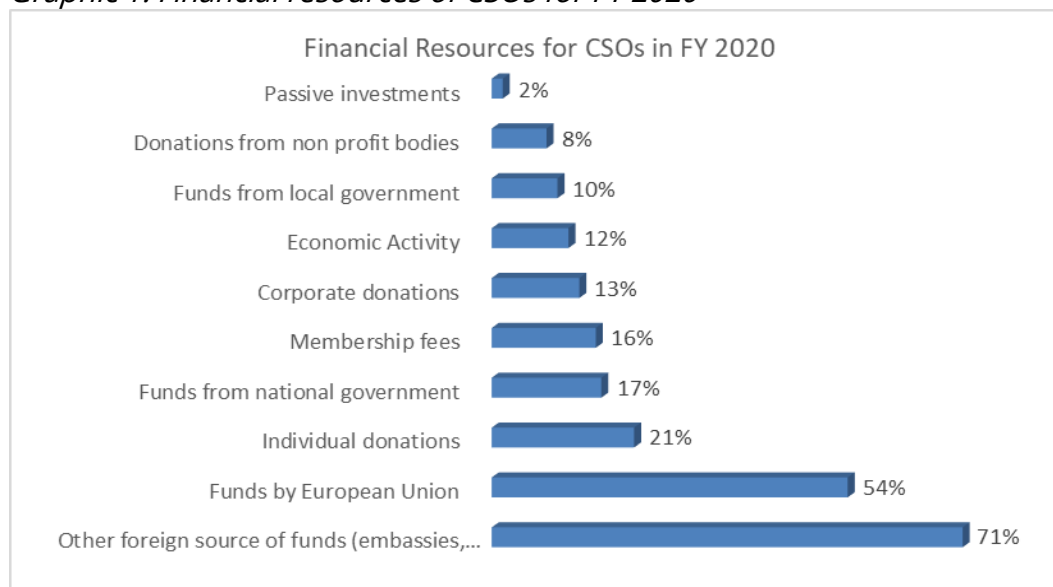
CSOs are allowed to generate incomes from fees for services, sales, rents, etc. The economic activities can be conducted within the legal structure of the CSOs without the entity having to register as a separate legal person. However, the economic activity or activities (i) must comply with the foundation's purpose and goals, (ii) must have been declared as one of the sources of income, and (iii) must not be the main activity or the main goal for which a CSO is established. (Art.36 of CSO Law and Art.56/1 of ACC).

As mentioned in previous MM Reports the legal framework for social enterprises is not favourable for their operations. The procedure to obtain "social enterprise" status, absence of fiscal incentives even for social enterprises employing marginalized groups, accompanied with the vagueness and the restrictions posed by the legal framework in place put a big question mark on the future growth of social enterprises in the country.

For CSOs engaging in economic activity, it is applicable also the requirement stated in item 55.1 of Instruction of Minister of Finance no.24 dated 2.09.2008 "On Tax Procedures", as Vis-à-vis, Law no.87/2019 dated 18.12.2019 "On the invoicing and systems of monitoring of turnover" complements the legal framework regarding the documentation of any transaction and payment, regardless of whether it is performed through the banking system, non-bank financial systems, or cash payments. Starting from July 2021, all invoicing for CSOs will be electronic and will be performed through the E-Albania platform.

Foreign funds constitute the major source of funding for the operations of CSOs. Graphic 1 shows the financial resources of CSOs during FY 2020. As shown, 71% of 121 surveyed CSOs declared to have received foreign funding by embassies, foreign private institutions, etc. The funds from European Union are ranked in second place with 54% and although there is no legal regulation for individual donations, 21% of CSOs declared to have received funds from the latter. Referring to public funding, 17% of CSOs stated that they have received funds from National government institutions, while 10% of 121 surveyed CSOs from Local Self-Government Units.

Graphic 1: Financial resources of CSOs for FY 2020

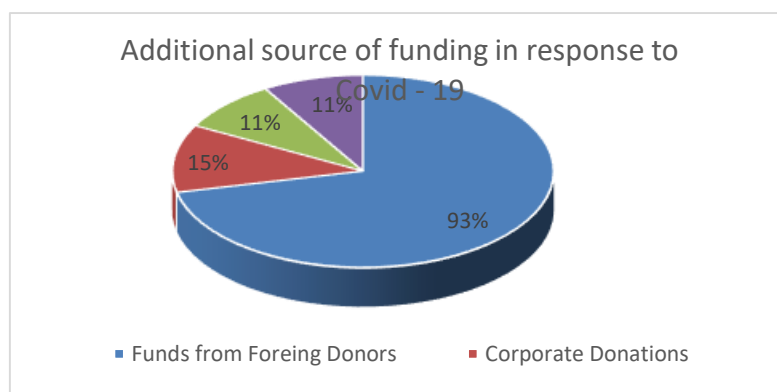


According to the survey, 12% out of 121 of the surveyed CSOs do engage in economic activity. Findings from the baseline study on the characteristics and challenges of social enterprises show that most social enterprises either have no willingness to apply for the status of social enterprise or hesitate due to the bureaucracies and uncertainties deriving from the law¹⁹.

Concerning the additional source of funding to CSOs in response to COVID-19 pandemic situations 27 out of 121 surveyed CSOs stated to receive additional funding. Asked on the source of funding to COVID-19 (multiple choices), funds from foreign donors constitute the most source of funding for this poll of CSOs.

¹⁹ http://partnersalbania.org/wp-content/uploads/2020/09/Characteristics_and_Challenges_of_Social_Enterprises_in_Albania_baseline_study.pdf

Graphic 2: Additional Source of Funding to CSOs in response to COVID-19



Box 1: EU Guidelines assessment

1.1.b. Quality assessment of existing legislation and policy framework

1.1.c. Progress with the adoption and implementation of relevant legislation

Concerning freedom of association, the draft law “On the Registration of Non-Profit Organization” was welcomed by CSOs sector, but the process was not inclusive and responsive to CSOs proposals. The draft law comes against to one of the provisions of the law on CSOs and the principle of freedom of association based on which registration is not a pre-condition to exercise the right of the association. The registration costs, including the legalization of the documents, payment of a legal person to follow the process, etc., are too high and varies at the amount of 70,000 ALL (approx. 560 EUR).

With regards to state interference, during 2020 several several legal initiatives that affect CSO sector were enacted to address MONEYVAL recommendations. Despite their crucial importance for the sector, have been initiated and prepared without participation and effective consultation with CSOs.

Sub-area 1.2. Related-freedoms

1.2.1. Freedom of Peaceful Assembly

The pandemic situation from COVID-19 impacted fundamental rights and related freedoms.

In the frame of the measures of the government to prevent the spread of the COVID-19 pandemic, based on the Normative Act no. 3, dated March 15, 2020²⁰, all public activities, including gatherings and assemblies were banned until April 3, 2020, to protect public health. Within the same day, the Albanian Government through its Permanent Representative to the Council of Europe (CoE), sent a verbal note, informing the Secretary General of the CoE, that it will exercise its right to derogate from Article 15 of the European Convention of Human Right (ECHR), as a result of measures taken to cope with the situation of COVID-19. The banning period was extended through the several orders issued by the Ministry of Health and Social Protection (MoHSP), until the 17th of November 2020, when the ministry issued Order 633, date. 17.11.2020, through which public gatherings in open and closed spaces were allowed with the participation of up to ten (10) persons. This order is still in force.

Despite the restrictions, during 2020, people organized or participated in assemblies. Based on the information received by the Albanian State Police (ASP), 399 assemblies in total were organized for different issues, including the opposition of the normative acts and orders issued by the MoHSP to prevent the spreading of COVID-19 infection. Only for 90 (22.5%) of them, the organizers submitted a notification to the ASP, as requested by the law, and from them, 37 were submitted by CSOs. 49 notifications have been rejected by the ASP, and the main reason for rejection has been the COVID-19 pandemic situation, during which the gatherings have been banned. In addition, 112 organizers and participants in 10 assemblies were detained by the ASP for the violation of different criminal offenses in the Penal Code.

Referring to the situation created as a result of the measures related to the spread of COVID-19, and their impact on the right of citizens to free assembly, the Ombudsman issued a letter²¹ with recommendations on necessary measures that public institutions should take to respect the right to freedom of peaceful assembly. The letter was addressed to the Civil Emergency Inter- Ministries Committee, General Prosecution Office, Ministry of Health and Social Protection, and to the General Director of State Police. The letter provided a set of recommendations stressing necessary measures that the State Police should take to interrupt the up-to-date practice of not allowing non-

²⁰ <https://partnersalbania.org/publication/effectiveness-in-covid-19-response-albania-case-study-report>

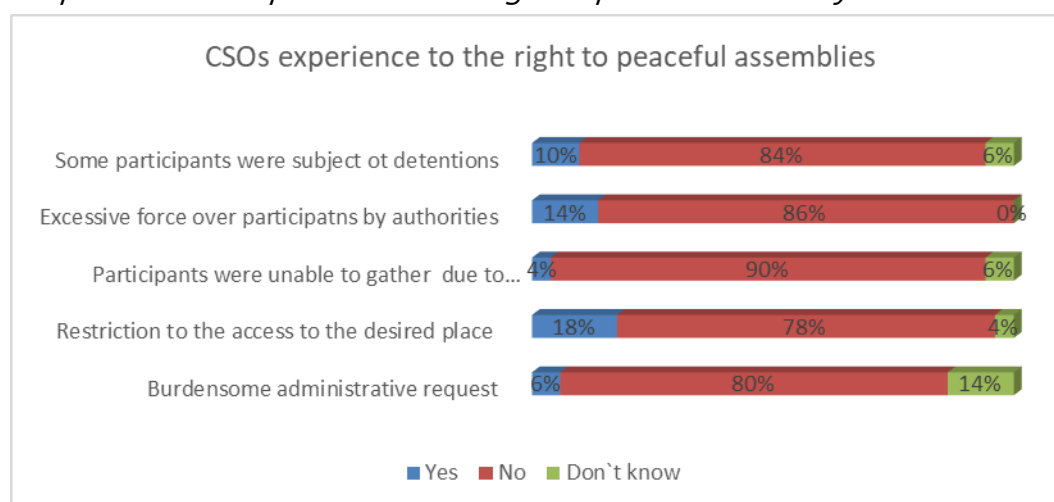
²¹ Ibid, 10

mass gatherings indoors or outdoors, as well as to guarantee the right of journalists to report events on assemblies and other activities of this nature. In addition, it recommended the need for the amendment of Law No. 8773 “On Assemblies” to guarantee the right of spontaneous and counter assemblies, and the need to improve normative acts of public institutions issued on assemblies. Yet, no legal action has taken place to amend the law on assemblies. With regards to the detention, the Ombudsman recommended preparation and approval of an instruction by the General Prosecutor's Office, in cooperation with the High Judicial Council and High Prosecutorial Council for the unification of practices by the prosecution and judicial bodies in line with article 262 “Organization and participation in an illegal gathering” of the Criminal Code of Albania.

The data from MM survey show that 43% of the 121 surveyed CSOs expressed to have participated in an assembly either as organizers or as participants. The nature of assemblies has been diverse and CSOs have organized several assemblies on issues related to the protection of human rights, girl`s rights against sexual abuse, environmental issues, protest against government decisions considered as illegal, etc.

As shown in graphic 3 below, the majority of CSOs have not faced challenges when organizing or participating in an assembly. Only 18% of the surveyed CSOs have faced restriction to access the desired place for the organization of an assembly, 14% have experienced use of excessive force by police and 10% of the surveyed CSOs reported cases of protestors being detained. Cases of excessive force used by police and detentions of protesters were reported in the cases of protests against the demolition of a national theatre building and a murder case of a youngster by a police officer.

Graphic 3: CSOs experience to the right to peaceful assembly



1.2.2. Freedom of Expression

The “anti-defamation” package proposed by the Government stirred a strong public debate in the last two years, especially from media representatives, journalists, CSOs, and international organisations as it undermines freedom of expression and gives extensive administrative powers to the Audiovisual Media Authority. In June 2020, the Venice Commission published an opinion on draft amendments to Law 97/2013 On the Audiovisual Media Service. While in the opinion, the Venice Commission acknowledges the efforts of the Albanian authorities to be transparent, to respond to the criticism, and to improve the text of the draft amendments, it considers that the draft amendments are not ready for adoption in their current form. The law suffers from vagueness and would likely have a “chilling effect” suppressing free discussion and political speech in the Albanian sector of the internet²². Following this, the Government withdrew from the legal initiative for further improvements, in line with Venice Commission’s opinion.

Related to the freedom of media, the 2020 Reporters Without Borders Index²³ ranked Albania in 84th position, dropping two positions from last year. The report underlined that the government had stepped up its attempts to control the media under the guise of the fight against fake news and disinformation.

In practice, media and human rights organizations have criticized the government for monopolizing the information related to the COVID-19 pandemic. On this issue, it has been almost impossible to obtain independent information and have reliable verification sources of information. Media and human rights organizations have decried these restrictions as unconstitutional and harmful²⁴.

Based on their response, most of the 121 surveyed CSOs (94%) do not have any problem with the freedom of expression. Only seven CSOs (6%) have faced pressures for critical speech against the government and private entities, and eight of them (7%) have censored themselves. Most of the organizations facing such pressures are media and “watch dog” CSOs.

1.2.3. Access to Information

The legal framework provides the possibility to communicate via and access any source of information, including the internet and ICT. In September 2020, the Electronic and Postal Communications Authority, the national authority responsible for supervising,

²² [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)013-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)013-e)

²³ <https://rsf.org/en/albania>

²⁴ <https://partnersalbania.org/publication/effectiveness-in-covid-19-response-albania-case-study-report/>

controlling, and monitoring the activities of Internet service providers in Albania²⁵, approved the Regulation on Protection of Consumers and Public Electronic Communications Users.²⁶ It aims to create and provide better protection for the consumer and users that use electronic communications.

With regards to access to internet penetration, there are 2.07 million internet users in Albania, and internet penetration stands at 72%²⁷.

In times of COVID-19 when the need for IT solution and literacy was high, CSOs need to be up to this challenge, proper financing planning and skill investment in ICT solutions was a priority for CSOs in Albania. In response to this, PA and the NRC provided a rapid support package for the sector. The support package had two main interventions:

(1) One-year access on the Zoom Platform, the costs of which are covered by PA and the National Resource Centre for Civil Society in Albania.

(2) Online training for the use of a series of online platforms and creative tools. Given the wide range of applications, tools, and platforms available, in most cases, it is difficult to choose the right one. As part of these training, participants have the opportunity to be acquainted with the platforms, assess which ones are appropriate and most economical for the needs they have.

Box 2: EU Guidelines assessment

1.1.b. Quality assessment of existing legislation and policy framework

1.1.c. Progress with the adoption and implementation of relevant legislation

The pandemic situation from COVID-19 impacted fundamental rights and related freedoms.

With regards to freedom of assemblies, 399 assemblies were organized during 2020, and 112 112 organizers and participants in 10 assemblies were detained by the ASP for the violation of different criminal offences in the Penal Code. Cases of excessive force used by police and detentions of protesters were reported even by CSOs surveyed through MM report, in the cases of protests against the demolition of national theatre building and a murder case of a youngster by a police officer.

With regards to freedom of expression, media and human rights organizations have criticized the government of monopolizing the information related to the COVID-19 pandemic. On this issue, it has been almost impossible to obtain independent information and have reliable verification sources of information. Media and human rights organizations have decried these restrictions as unconstitutional and harmful.

²⁵ https://www.akep.al/wp-content/uploads/2020/09/Rregullore-per-Mbrojtjen-e-Konsumatoreve-te-komunikimeve-elektronike_Keshillim-Publik.pdf

²⁶ <https://www.akep.al/wp-content/uploads/2020/09/Vendim-nr.20-date-25.09.2020-per-Miratimin-per-Keshillim-Publik-te-Rregullore-per-Mbrojtjen-e-Konsumatorit-komunikime-elektronike1.pdf>

²⁷ <https://datareportal.com/reports/digital-2020-albania>

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

Fiscal treatment and VAT refund was one of the issues raised by CSOs at the “National Conference for Civil Society in Albania 2020”²⁸ organized by the National Resource Centre for Civil Society in Albania in December 2020. *The fiscal treatment of the sector (including VAT refund for grants) still constitutes a concern and is negatively affecting CSOs' operations by shrinking the CSOs' activities.*

Priority 9 of the Road Map for the Government Policy towards a More Enabling Environment for Civil Society Development 2019-2023, is related to the financial reporting/accounting and tax treatment of CSOs. There are 4 measures under this priority, as follows: (i) abolition of the legal obligation for CSOs to have a paid staff even in cases where they work voluntarily, (ii) harmonisation of the sub-legal acts with the new VAT law for the VAT treatment of CSOs, (iii) preparation of a Manual for Tax Control for tax inspectors in charge with reporting and supervision of CSOs sector, (iv) changing the Law on Sponsorship and other fiscal laws to recognise a tax deduction incentives for all donations made to CSOs. None of these measures have been addressed within 2020, as planned in the Action Plan of the roadmap.

CSOs can engage in economic activity, but it should not be the primary activity of the CSOs and the annual revenues from the economic activity should not exceed 20% of the total annual income. Like any taxable person, CSOs have the right to claim VAT reimbursement for their economic activity, if they meet both criteria outlined in the VAT law: 1) have a VAT credit surplus for three consecutive months; and, 2) the amount of VAT required must exceed 400,000 ALL (approx. 3,300 EUR). Concerning administrative requirements for accessing tax benefits on their economic activity, 46% of the surveyed CSOs that are engaged in economic activity (6 CSOs out of 121 surveyed CSOs) expressed that they are difficult to meet while 31% responded that the administrative

²⁸ <https://resourcecentre.al/publication/monitoring-matrix-on-enabling-environment-for-csos-development-country-report-for-albania-2019/>

requirements for accessing tax benefits are somehow difficult to meet.

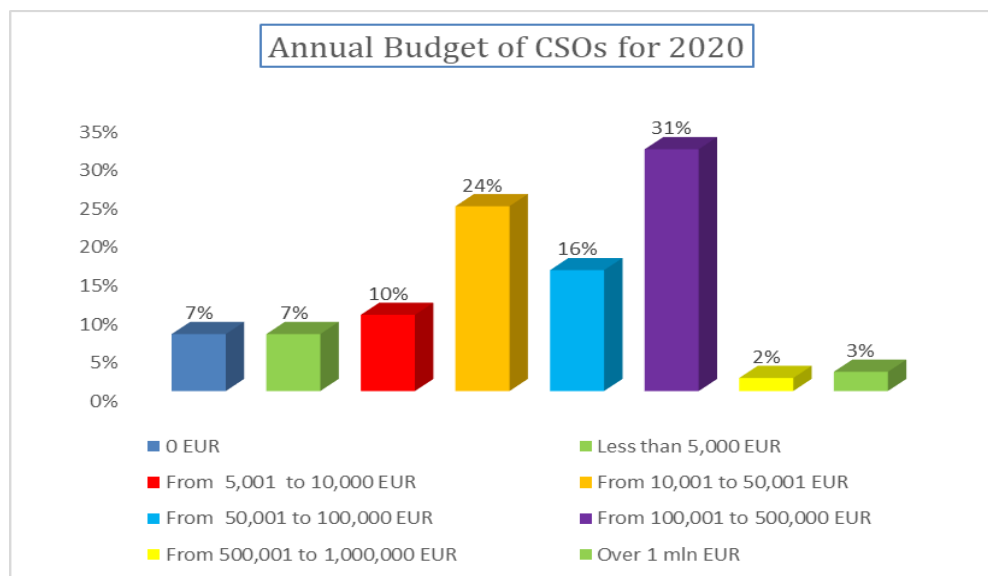
CSOs should meet three criteria simultaneously to qualify for VAT exemption: 1. The governing bodies should not have a vested interest in the activity of the foundation, 2. the non-for-profit activity should precede the economic activity, 3. the total income from economic activity, as a secondary activity of the foundation, should not be higher than 20% of the total annual income. The VAT exemption procedure (Art.3) requires submission to the RDTs of a set of documents like a registration court decision, statute and incorporation act, statement of all services and goods offered and price list, mission statement and main programmatic areas, list of beneficiary groups, financial resources including expected income from economic activity.

The VAT exemption is valid for 3 (three) years with the right of renewal. When applied for the first time, the status is valid for 1 (one) year. The Decision No. 953, dated 29.12.2014 "For Implementation of Dispositions of Law no. 92/2014", "On the Value Added Tax in the Republic of Albania", amended (Art. 13), abrogated the Government Decision no. 1679, dated 24.12.2008, "Criteria and Procedures for Determining the Public Benefit Status of Non-profit Organizations", and established new criteria for VAT exemption of supply activity of the CSOs (Art. 2). This type of activity should have a social, educational, cultural, or sports nature. CSOs that perform economic activity exempted from VAT by law such as health, and education services in compliance with the Art. 51, Law no 92/2014 date 24.07.2014 On VAT in the Republic of Albania, are exempted from this procedure. Services and goods should be offered based on approved prices by competent authorities. In cases when the prices are not approved, they have to be lower than market prices for the same services. VAT exemption status is not applied to services and goods purchased by the CSO as part of its economic activity, but it does apply to imported goods for the sake of its non-profit activity.

In addition, if the annual turnover of the CSO exceeds the limit of 2 million ALL (approx. 36,000 EUR), they are obliged to register for tax liability for VAT according to the law on tax procedures, as amended in 2018. Due to the pandemic situation, starting from 1 January 2021, the threshold to register to VAT scheme is 10,000,000 ALL. Based on the information received from the GDT, **1,262** CSOs are with **VAT responsibility**, while the number of CSOs that are **unregistered from VAT scheme is 1,590**. In 2020, four (4) CSOs out of 121 surveys for the MM report have stated to unregister from the VAT scheme.

Out of 121 surveyed CSOs, 24%, or 29 CSOs declared to have an annual budget ranging from 0 – 10,000 EUR, out of which 7% of them declared no income for the year 2020.

Graphic 4: Annual Budget of CSOs for the year 2020



The instruction issued in 2019 from the Ministry of Finance and Economy on VAT reimbursement procedure for foreign donations to CSOs, which are part of all bilateral and multilateral agreements ratified by the Albanian Parliament or grant agreements approved by the Council of Ministers, qualify for VAT reimbursement. The subject of VAT reimbursement is also sub-granting schemes. Based on the information received by GDT no CSO has received reimbursement of VAT.

No legal changes occurred concerning social enterprises (SEs). Similar to findings from the previous MM report, the legal environment on tax treatment is not favourable to support SEs. Asked if they have benefited from any tax relief during 2020, 83% declared that they have not benefited from any kind of tax relief, while others have not responded to the question.

The government had not come up with any supporting scheme for CSOs related to the COVID-19 pandemic situation.

2.1.2. Incentives for Individual/ Corporate Giving

The only law that provides some incentives on corporate donations is Law no.7892/1994 "On Sponsorship", as amended. The law recognizes as a deductible expense, up to 5 (five) percent of profit before tax, for the press publishers and publication of literature, scientific and encyclopedia, and for cultural, and artistic activities up to 3 (three) percent of profit before tax. For sports activities, in 2020, the Ministry of Education and Sports proposed some legal amendments to the Law on sponsorship, still pending approval.

Based on it, the following tax exemptions were stipulated:

1. For sponsorships in the cases of the most popular team sports, a deduction of up to 20 % on profit before tax is recognized, and
2. for sponsorships in the case of less widespread sports, a deduction of up to 10% of profit before tax is recognized.

For companies with a taxable profit of more than 100 million ALL (approx. 805,000 EUR) for sponsorships of sports team's activities, part of sports federations recognized by the relevant legislation, the amount of sponsorships is recognized as deductible expenses up to 3% of pre-tax profit. To benefit from this incentive, qualifying companies must follow special procedures to obtain the "sponsorship authorization" from the GDT, by providing several documents for the beneficiary of sponsorship and by the company, which is doing the sponsor.

The existing laws do not recognize donations from the individual as tax-deductible for purposes of personal income tax.

After the devastating earthquake that hit Albania in November 2019, the Council of Ministers issued a Normative Act (Normative Act no.5, dated 30.11.2019), approved by the parliament with Law no. 79/2019, according to which cash donations above the level of 5% of pre-tax, made for the cases of the declaration of "state of natural disaster" within the prescribed period and transferred to the state treasury accounts, are not recognised as expenses to determine the taxable profit. If donations are in the form of real estate, the assessment of the contribution up to the level of 5%, in the pre-tax profit ratio is calculated according to the procedures determined by the decision of the Council of Ministers.

PA monitoring of donation report for 2020 in the country shows that the total value of donations is 103,688,004 ALL (844,411 EUR)²⁹. According to this annual report, CSOs were the second most frequent channel of donation with 148 cases (34%).

From the MM survey with 121 CSOs, corporate donations and individual donations constitute 34% of the financial resources according to the surveyed CSOs (13% corporate donations and 21% individual donations).

²⁹ http://partnersalbania.org/wp-content/uploads/2021/04/Facts_on_Philanthropic_Activity_2020.pdf

Box 3: EU Guidelines assessment

2.2.a. Number and kind of donations to CSOs from individual and corporate donors (specified in monetary values)

2.2.b. Quality and applicability/ 'implementability' of deductibles for individual and corporate giving stipulated by legislations and regulations (including disaggregation on types of deductible donations)

PA monitoring of donation report for 2020 in the country shows that the total value of donations is 103,688,004 ALL (844,411 EUR). According to this annual report, CSOs were the second most frequent channel of donation with 148 cases (34%).

The existing laws do not recognize donations from individual as tax deductible for purposes of personal income tax. The Law no. 79/2019, stipulates that cash donations above the level of 5% of pre-tax, made for the cases of the declaration of "state of natural disaster" within the prescribed period and transferred to the state treasury accounts, are not recognised as expenses for the purpose of determining the taxable profit. If donations are in the form of real estate, the assessment of the contribution up to the level of 5%, in pre-tax profit ratio is calculated according to the procedures determined by decision of the Council of Ministers.

Sub-area 2.2. State support

2.2.1. Public Funding Availability

For 2020, it is noticed a regress with regards to transparency of state funding for the support of CSOs

One of the measures under Priority 8: Establishment of a public funding framework in support of CSOs' programs in compliance with best EU practices is: Revision of the existing legislation for the financing of CSOs initiatives from local and central government institutions based on the analysis of shortcomings, including the specification of procedures for call for proposals. There are three activities planned to be implemented to achieve this measure, two of which to be completed in 2019, such as 1) conduction of the analysis of the legal shortcomings, 2) identification of the laws that need changes, while the other one and 3) changing and approval of the legislation is planned for 2022. None of the activities has been completed. As a result, measure 8: *ensuring full information for public funding opportunities for CSOs' programs, planned*

for 2020 has not been achieved either.

The Agency for the Support of Civil Society (ASCS) remains the main public institution at the national level that provides financial support to CSOs. The mandate of ACSC is to support the institutional development of civil society in the country, provide funding to sector initiatives in line with its strategy designed through a consultative process with the sector, and provide co-funding for EU-funded projects. The public funding allocated by ASCS in 2020 was *decreased by almost 40%* compared with the previous years. Based on the information provided from ASCS, initially for 2020 the planned budget for grants to support CSOs operations was approx. 100 million ALL (approx. 825,000 EUR), but after reviewing the budget, the government approved a reduced budget of 61,000,000 ALL (approx. 491,000).

In 2020, only one (small) call for proposals was launched by the Agency. At the beginning of the year, the ASCS announced the call for proposals for CSOs focused on four priority areas: social development and social services; fight against corruption and legal education of the public; environment, tourism and sustainable development, and integration. Due to the COVID-19 pandemic, the call for proposals was cancelled and ASCS published another call in June 2020 with a reduced budget where the priority issues were mostly to address services and activities in response to COVID-19 emergency. A number of 88 CSOs applied in this call (47 applications for co-financing of EU-funded projects), out of which 46 CSOs (21 for co-financing of EU-funded projects) were awarded a grant³⁰. The call provided no information on the minimum amount of grant size, while the maximum amount was up to 1,000,000 ALL (approx. 8000 EUR). Even for this year, the Agency did not provide any institutional development grants.

Another source of public funding for CSOs is the Ministry of Culture. The Ministry launched one call for proposals in 2020 for cultural projects, open for physical and judicial persons, and CSOs.³¹ The guidelines published on the webpage of the ministry provided information on the minimum and maximum size of grants, but no information was provided on the total amount of budget allocated to this call³². Based on the notification on the results of the first phase of the evaluation of the project proposals submitted, published by the ministry,³³ 148 project proposals were submitted, out of which 43 project proposals passed the first phase. Following this notification, other information is publicly available on the webpage of the ministry concerning the call. In addition, the ministry did not respond to the request for information sent.

³⁰ The information is retrieved from the webpage of the Agency for the Support of Civil Society [Online] Agjencia për Mbështetjen e Shoqërisë Civile (AMSHC)

³¹ <https://kultura.gov.al/hapen-thirrjet-per-projekte-kulturore-per-vitin-2020/>

³² <https://kultura.gov.al/wp-content/uploads/2020/01/1.-Udhezuesi-i-Thirrjes-2020-4-1.docx>

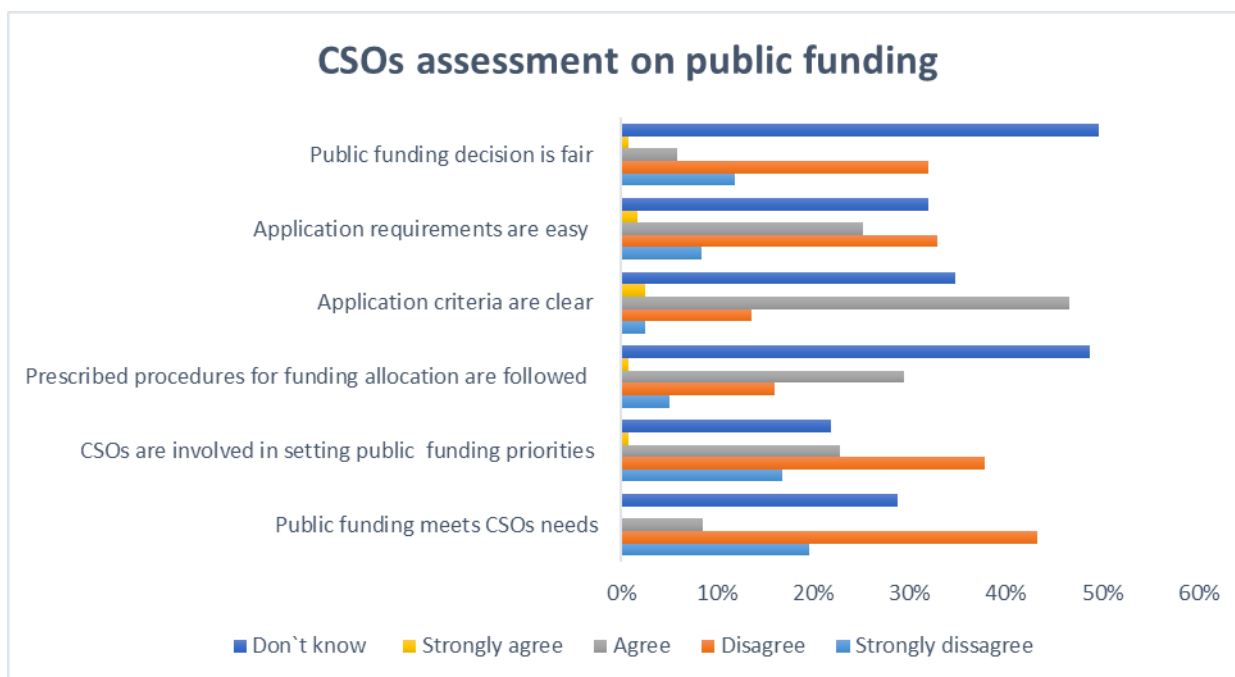
³³ https://kultura.gov.al/wp-content/uploads/2020/02/Njoftimi-per-web_Projektet-propozimet_Faza-II.docx-2.docx

The National Lottery Fund launched one call for proposals in 2020³⁴. Based on the information available on its webpage, 5 project proposals are awarded, among which 3 from CSOs³⁵. There is no information on the amount of funds awarded to each project and the focus of the projects funded.

As stipulated in Law 39/ 2019 “For Administration of Sequestered and Confiscated Assets”³⁶ the Agency for Administration of Sequestered and Confiscates Assets is allowed to create a special fund approved by the Ministry of Defence to distribute and allocate it to entities and CSOs³⁷. For 2020, the Agency created a fund of 93. 4 million ALL (approx. 756,000 EUR), out of which 80% was given to benefiting public entities, as the State Police and the Special Anti-Corruption and Organized Crime Structure - SPAK. The remaining percentage (20%) was dedicated to projects by CSOs. In December 2020, the AASCA launched one call for proposal targeting CSOs with a total budget of 18,680,000 ALL (approx. 153,000 EUR)³⁸. The call was opened for four weeks and the awarded CSOs will be selected the next year.

As presented in Graph 6, 43% of the respondents agree that available public funding does not meet the needs of CSOs, 20% total strongly agree and only 9% disagree.

Graphic 6: CSOs assessment on public funding



³⁴ <https://lotaria.al/wp-content/uploads/2020/03/Njoftimi-per-Pjesemarrje-Viti-2020.pdf>

³⁵ <https://lotaria.al/kreu/ceshtjet-e-mira/>

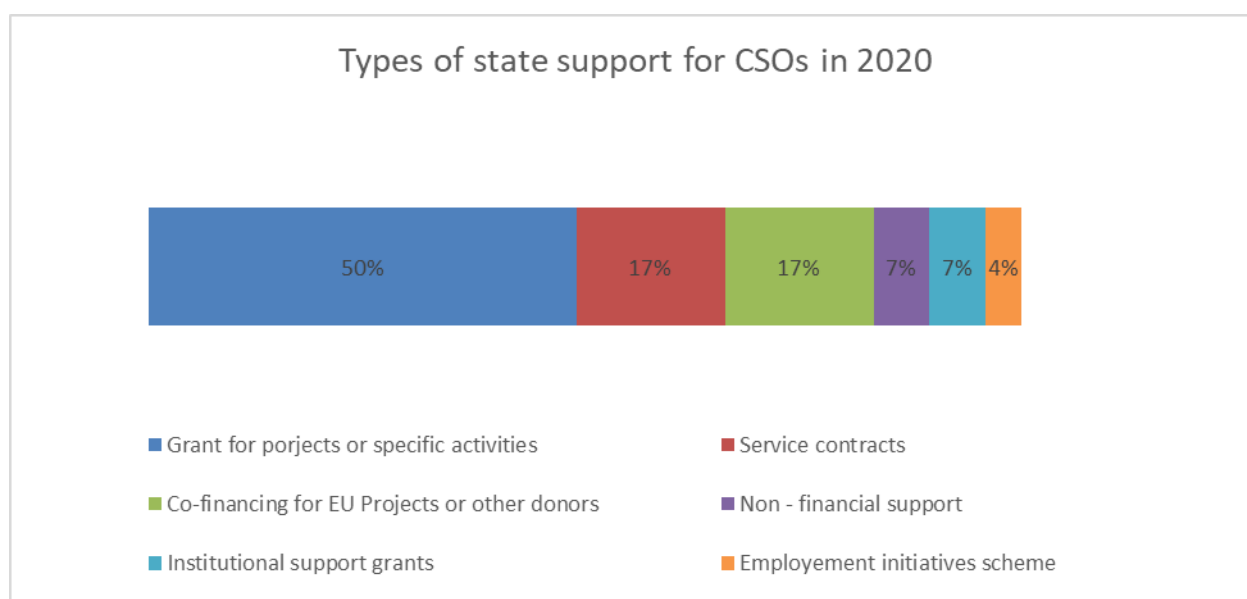
³⁶ Law 39/ 2019 “For Administration of Sequestered and confiscated Assets” [Online] <http://parlament.al/Files/Akte/20190624141111ligj%20nr.%2034,%20dt.%2017.6.2019.pdf>

³⁷ Ibid, article 25

³⁸ [https://www.facebook.com/aapskalbania/?_cft__\[0\]=AZXyTrv-dagzbvpvZKuhqEjH-8ry1_5A-PY-MKxYe5GD0qD5DZZ_N3vEqKn9ghtEWvqIH1rzBbBnZbPpA5iphwwy-5pMUOYrsanZaczKVp1HujH_7IcnmKQsggmJjHl3s23OoonRkAqPmyXAqyFcw7ZD8&__tn__=-UC%2CP-R](https://www.facebook.com/aapskalbania/?_cft__[0]=AZXyTrv-dagzbvpvZKuhqEjH-8ry1_5A-PY-MKxYe5GD0qD5DZZ_N3vEqKn9ghtEWvqIH1rzBbBnZbPpA5iphwwy-5pMUOYrsanZaczKVp1HujH_7IcnmKQsggmJjHl3s23OoonRkAqPmyXAqyFcw7ZD8&__tn__=-UC%2CP-R)

When asked about the type of state support received in 2020 from national and local institutions (17% from central government, and 10% from local government), most of CSOs (50%) have benefited “grants for projects or specific activities”, followed by “service contracts” and “co-financing for EU projects or other donors” with 17%, as shown in the graphic 7 below.

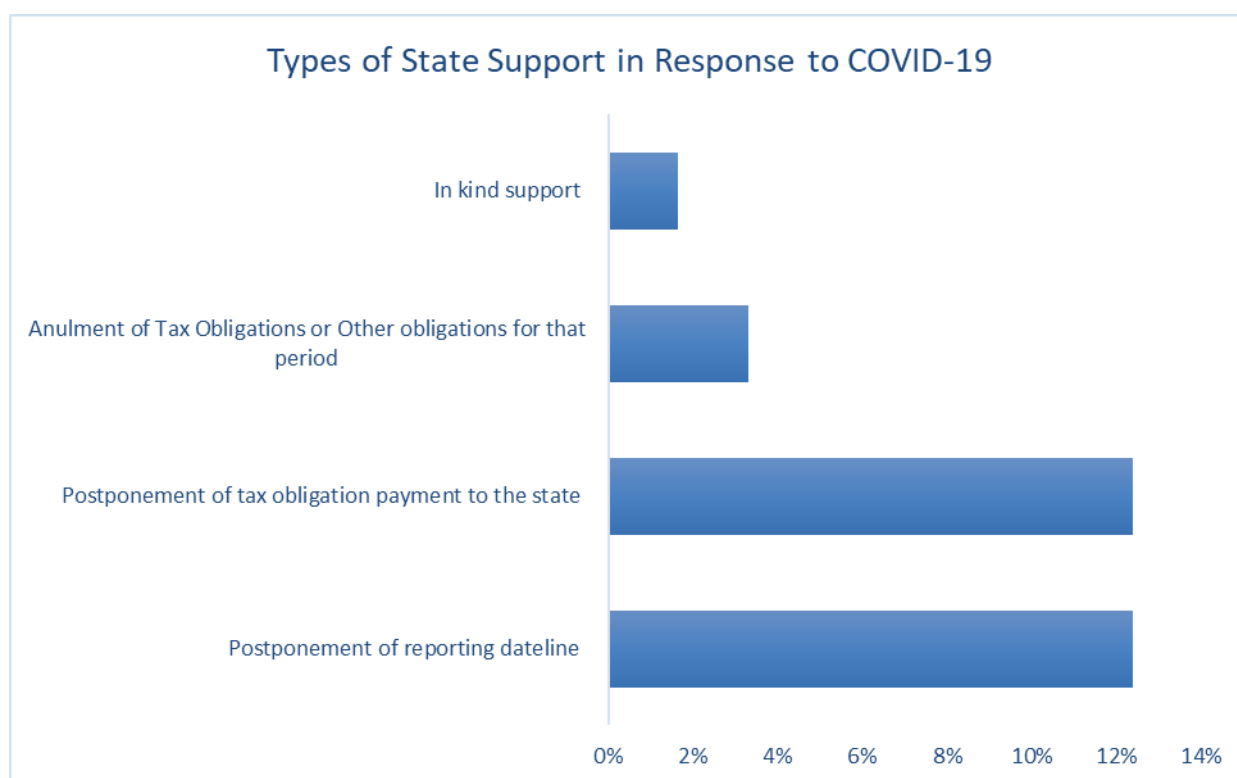
Graphic 7: Types of state support for FY 2020



Concerning state support to alleviate the pandemic situations to the operations of CSOs, 23% out of 121 surveyed CSOs declared that have received additional funding to cope with the COVID-19 pandemic situations. From this poll of CSOs, only 2% stated to have received additional funding from the ASCS and Municipality of Tirana, 21% of them from donor support, and 5% of them from individual and business donations.

Concerning types of state support in response to COVID-19, 15 out of 121 surveyed CSOs (12% of the sample) declared to have benefited from the postponement of reporting datelines. The same number of CSOs declared to have benefited from the extension of tax payment deadlines.

Graphic 8: Types of State Support in Response to COVID-19



2.2.2. Public Funding Distribution

The ACSC has clear regulation in place through which the whole process of announcing the grant procedure and selecting the supported projects is carried out. The announcement for the procedure is public and it provides sufficient time to prepare (more than 30 days) and submit project proposals and all required documents. Nevertheless, 40% of the surveyed CSOs consider that the application requirements are not easy to meet.

The criteria and methodology for the evaluation of proposals are made available with the launch of the call for proposal. In addition, conflict of interest rules are prescribed in the internal regulation of ASCS³⁹. Each year before launching the call for proposals, ACSC organised consultations with CSOs to determine the priority areas of the call. The consultation process in 2020 (concerning the first call that was cancelled) was organised online where CSOs were invited to send their suggestions via email within three weeks, and through meetings in seven cities. Regardless, when asked in their level of agreement with the statement “CSOs are involved in setting public funding priorities” 38% of the surveyed disagree and 17% of them totally disagree. The transparency of

³⁹ “Internal Procedure on the grant financing”, ACSC, December 2016 [Online]
<http://www.amshc.gov.al/web/doc/Vendim-per-Miratimin-e-Rregullores-Mbi-Procedurat-e-Financimit-Me-Grante.pdf>

public funding distribution is considered weak, as 44% of the surveyed CSOs responded that decisions on fund allocations are not fair.

2.2.3. Accountability, Monitoring and Evaluation of Public Funding

The only legal documents publicly available and known to CSOs that regulate the accountability, monitoring, and evaluation of public funding are those of the ASCS. The Law⁴⁰ and the Regulation of ASCS on grant financing procedures⁴¹ have clear rules about how the project funding will be evaluated and monitored, and they are an integral part of the distribution system/process. All recipients of state funds are required to submit reports detailing the use of funds received.

From the monitoring of all web pages of identified public institutions that have provided financial support to CSOs (including the ASCS), it was noticed that there are no evaluation reports on the impact of public funding distributed to CSOs. According to the data gathered from the MM report survey, 25 out of 32 CSOs that have benefitted from public funding in 2020 have been subject to monitoring by state authorities for the implementation of the project supported through public funds. All of them stated that the monitoring was in line with criteria set in advance.

2.2.4. Non-Financial Support

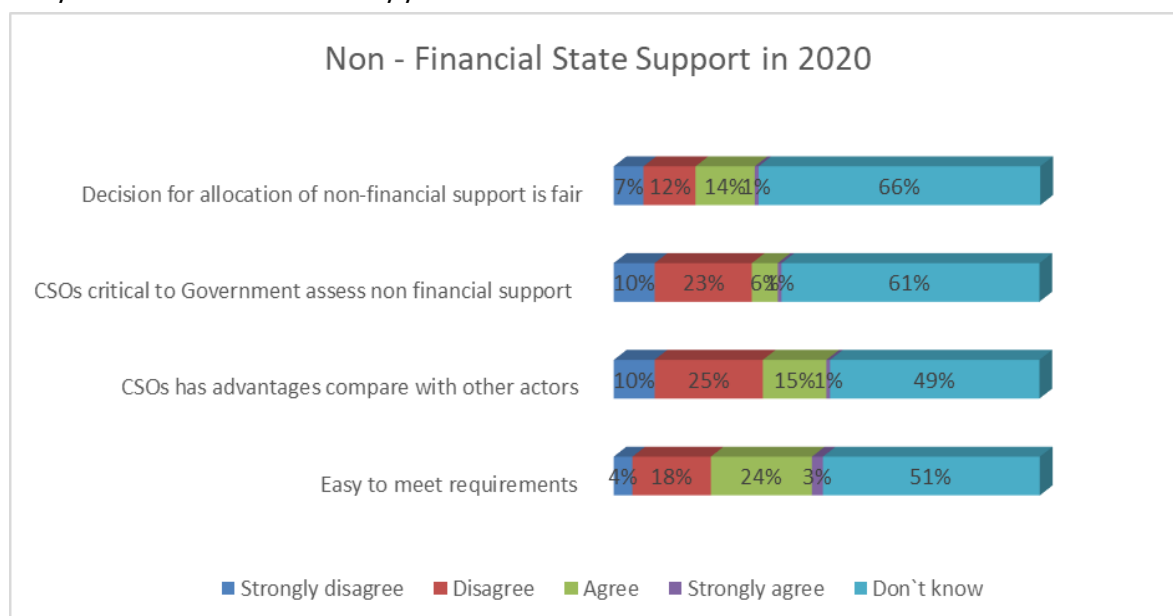
There is no legal framework or regulation in place with specific provisions that authorize state authorities to provide non-financial support to CSOs. Regardless, based on the existing legal framework and internal regulations ruling the operation of state institutions, some of them have provided such support to CSOs, but this is also very limited, as only 12% of the surveyed CSOS (14 out of 121 surveyed CSOs) have benefited from this type of support.

CSOs were also asked to provide their input on some of the elements of the non-financial state support, as presented in graph 8 below. It is to be noted that 50% don't have an answer for all the answers which indicates the level of their information which indicates that they lack information on the opportunity to benefit from state non-financial support.

⁴⁰ Law no. 10093, dated 9.3.2009 "For the Organization and Functioning of the Agency for the Support of Civil Society" [Online] http://www.amshc.gov.al/web/doc/ligjore/LIGJ_Nr._10093_date_9.3.2009.pdf

⁴¹ Regulations of the Procedures with Financing of Grants [Online] <http://www.amshc.gov.al/web/doc/Vendim-per-Miratimin-e-Rregullores-Mbi-Procedurat-e-Financimit-Me-Grante.pdf>

Graphic 9: Non-Financial Support for CSOs in 2020



Box 4: EU Guidelines assessment

Result 2.4.a. CSO's perception of the provision of funds in terms of transparency, fairness and non-discrimination

- Public funding is limited for the support of CSOs. Based on the survey with 121 CSOs, their perception is that public funding does not respond to CSOs needs (42 % of CSOs disagree that public funding responds to CSOs needs, and 21% strongly disagree).
- Decisions on fund allocations aren't considered fair by 30% of the surveyed CSOs.

Result 2.4.c Quality of state funding frameworks for civil society organizations (focusing on procedural document)

- There is no unified framework for all state funding dedicated to CSOs. Therefore, all public institutions design and implement their framework based on the legislation and practices in place.
- Regarding public funding dedicated to CSOs through the ASCS, there is a framework publicly available with rules and procedures for the distribution and management of the annual fund. Because this fund is not supported by long-term and well-planned strategy, it has failed to address key priority needs of the sector.

Sub-area 2.3. Human resources

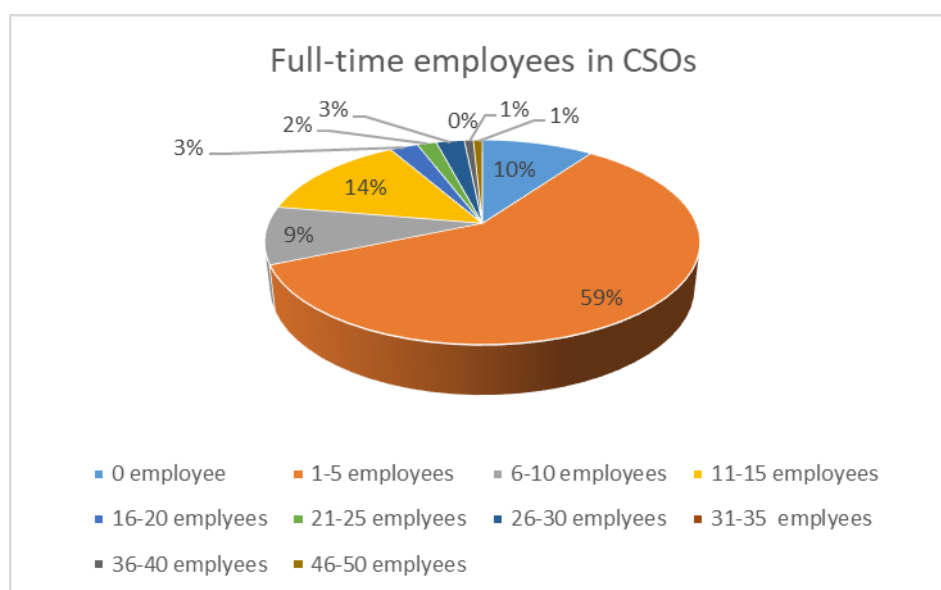
2.3.1. Employment in CSOs

The legislation in place does not hinder nor stimulate employment in CSOs. The Labour Code and all related legislation treat all the employees in an equal manner, including those employed by CSOs. Regardless, CSOs were not included in “COVID-19 Packages” enacted by the Government in response to the COVID-19 pandemic situation, with the reasoning that their activity was not affected by the measures taken.

According to the information received by the GDT, 9,793 employees are working in the sector. No information was provided in terms of full-time employees, part-time employees, even though this information is collected through declarations submitted by CSOs to this authority.

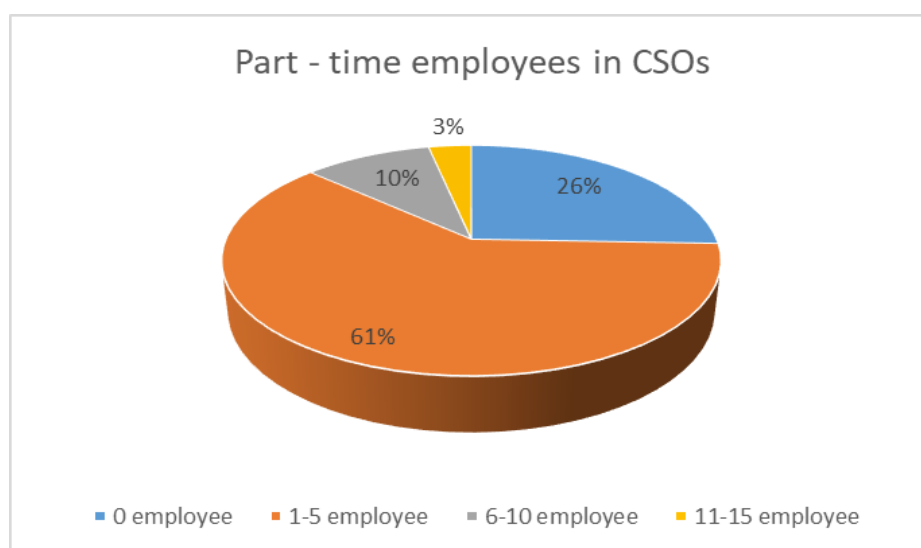
Based on the findings of the survey with CSOs for MM report, 10% of them does not have any full-time employee, while 59% have 1 - 5 full-time employees, followed by 14% of CSOs having 11-15 employees. The organisations with more than 30 employees are branches of international organisation and with nationwide coverage of their activity.

Graphic 10: Percentage of Full - time employees in CSOs



Most of the surveyed CSOs, 26% of CSOs do not have part-time employees, while 61% have 1 -5 part-time employees, while 39% of the surveyed CSOs have contracted from 1 to 5 experts during 2020, 24% of which or 29 CSOs have not contracted any expert, as shown in graphics 11 and 12 below.

Graphic 11: Percentage of part-time employees in CSOs



Graphic 12: Contracted Experts in CSOs



2.3.2. Volunteering in CSOs

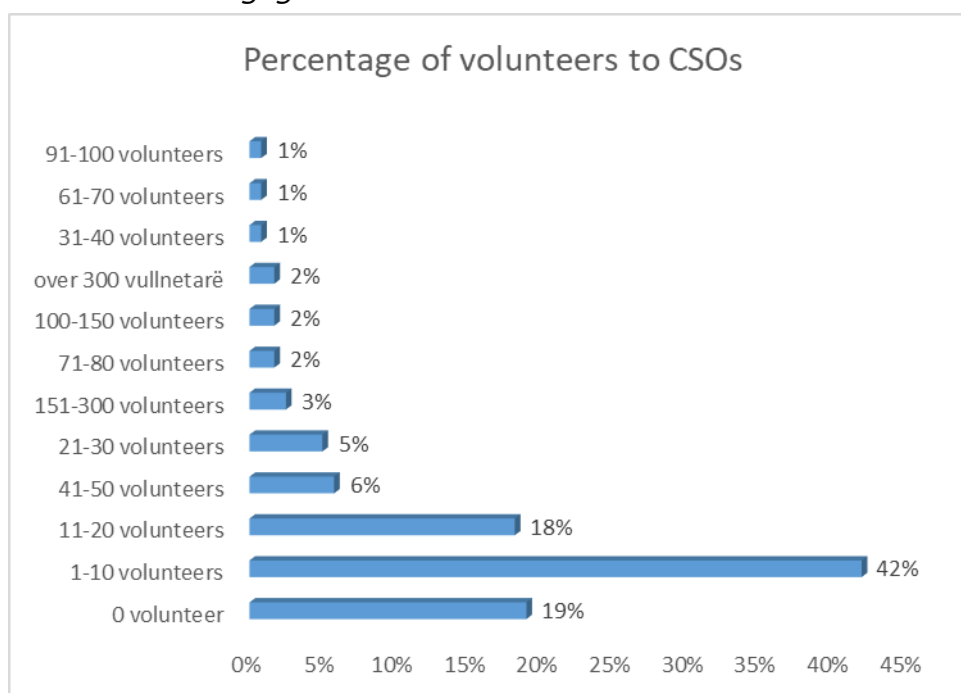
Volunteers are a very important part of human resources in CSOs. In 2019, the legal package on volunteering was completed with the legal acts foreseen in Law no. 45/2016 on volunteering, the main legal act for the formal regulation of volunteering in Albania aiming to increase citizens' engagement and participation in social life. As evidenced and regularly reported by CSOs working with volunteers, the law presents a series of uncertainty and lack of clarities that have negatively influenced the involvement of volunteers in CSOs. Considering in 2020, the NRC in Albania prepared a legal opinion on the legal framework on volunteering and its implementation. The opinion provides concrete findings and recommendations for amendment in the law. The law tries to

regulate the volunteering engagement, while this engagement is based on the willpower of each individual any time that he/she thinks he/she can contribute for the public good and interest. In this aspect, the law should avoid regulation of volunteering in the sense that volunteers should be registered to exercise this willpower. As stipulated in the law, the Register of Volunteers should recognise the contribution of volunteers in society and avoid potential misuse for financial and fiscal gains.

The nature of the legal and contractual relations between the volunteer and the hosting entity should be clarified concerning respective parties' tax obligations, income tax, and social contributions. Furthermore, the law should provide effective protection for volunteers by introducing state supporting schemes such as the payment of social and health contributions for volunteers. The law also should be flexible for massive volunteering such as the environmental cleaning campaigns, volunteering in cases of force majeure, etc. This issue was originally planned to be addressed in 2020 as part of the Action Plan of the Road Map for the Government Policy towards a More Enabling Environment for Civil Society Development 2019-2023. But none of these measures have been addressed until now.

Survey data show that 42% of CSOs have engaged 1 – 10 volunteers and only 2% have engaged over 300 volunteers during 2020. CSOs that involve a high number of volunteers are organisations that are made of and work for youngsters, active in massive awareness-raising campaigns, and advocacy for youth.

Graphic 13: Volunteers engagement in CSOs



2.3.3. Non-Formal Education

In Law No. 15/2017 “On the Formation and Professional Education in the Republic of Albania” the definition of non-formal education is planned to learn through organized activities, not necessarily drafted as learning areas, but that contain important learning experiences. Informal education, according to the Law No. 75/2019 “On Youth”⁴², is defined as an activity organized and adapted for young people, planned outside the formal education system, based on the needs and interest of young people, on principles of volunteerism and active participation of young people in learning processes, through which they acquire the development of personal potential, active participation in society and access to the labour market (article 3, point b). Volunteering is treated as a special topic part of civic education subject at school.

CSOs are involved in non-formal education through the provision of capacity-building programs, services, and professional courses. Over 319 CSOs are licensed to provide social and educational services.⁴³

Box 5: EU Guidelines assessment

According to the information provided by the General Directory of Taxation, there are 9, 793 employees working in CSOs. There is no divided information for permanent and part-time employees. 59% of the surveyed CSOs have 1– 5 full-time employees and 69% part-time employees.

Result 1.2.d. Number of volunteers in CSOs per type of CSO/sector

There are no official data on the number of volunteers working in CSOs. 64% of the surveyed organizations have 0 – 10 volunteers. Organizations that are created and represented by young individuals are mostly organisations that have over 60 volunteers. These organizations conduct massive campaigns, advocate and protect youth, women, and children's rights.

Result 1.2.f. Quality of legislative framework

The legal framework on volunteering is completed with the approval of legal sub-acts and it is not conducive to CSOs working with volunteers and volunteering programs, due to difficulties and uncertainties in the involvement of volunteers in their projects and activities, exposing themselves to the risk of fines.

⁴² <https://www.parlament.al/Files/ProjektLigje/20191107152923ligj%20nr.%2075,%20dt.%204.11.2019.pdf>

⁴³ “Overview of social enterprises eco – system in Albania”, Partners Albania for Change and Development, 2019 [Online] <http://partnersalbania.org/wp-content/uploads/2019/04/Overview-of-Social-Enterprises-Eco-system-in-Albania.pdf>

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 main strategy for the development of and cooperation of the state with civil society is Road Map for the Government Policy towards a More Enabling Environment for Civil Society Development 2019-2023, revised and approved by the Decision of Council of Ministers No. 539, date 25.7.2019.

After two years from the approval of the revised Roadmap, most of the actions planned to be accomplished by the end of 2020 have not been implemented. In May 2020 the ASCS launched an online questionnaire to collect CSOs' opinions⁴⁴ about improving the monitoring and reporting on the Roadmap. The results of such opinion seeking are not made public yet.

In the Road Map, the National Agency for Information (AKSHI) is assigned to develop, an IT project management solution that would facilitate reporting and contribution of the responsible state agencies to the implementation of the Road Map measures.

The system planned to be established in 2019, is not yet in place, and no report has been prepared nor published on the progress of the implementation of the Roadmap.

Although ASCS implemented an online feedback process regarding the Road Map, it remains a document largely unknown by the CSOs. The Survey data shows that 47% of 121 CSOs surveyed are aware of its existence but have no knowledge about the content, and 25% of the surveyed CSOs don't know about its existence. Only 28% of them are aware of both its existence and content.

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

Concerning structures and mechanisms for dialogue and cooperation between civil society and public institutions, two are the main collegial consultative bodies: The

⁴⁴ https://www.facebook.com/permalink.php?story_fbid=3483551731771038&id=506935452766029

National Council for Civil Society and The National Council for European Integration.

The National Council for Civil Society (NCCS), established in 2016, is a collegial consultative body aiming to guarantee institutional collaboration between the State and CSOs, in support of good governance, participatory democracy, and increase of transparency through meaningful participation and involvement of civil society in this process. In line with the Law “For the Establishment and Functioning of the National Council for Civil Society,”⁴⁵ the Council consists of 27 members, 13 representatives from the Government institutions, 13 representatives from CSOs, and 1 representative from the National Economic Council.

In September 2020, the NCCS selected four new members from civil society replacing the ones whose mandate⁴⁶ ended. The selection process is done accordantly with the Regulation on organization and functioning of the National Council for Civil Society⁴⁷, through online voting. The ASCS that acts as a secretariat issued the call for nominations, inviting CSOs to submit their proposals for the new members of the NCCS. The results were published on the ASCS website.

In 2020, as announced on ACSC website the Council conducted two meetings, to discuss the draft law for the registration of the non-profit organizations, and the Open Government Partnership Action Plan for Albania 2020-2022. Effective representation and involvement of the CSO sector point of view in the work of the Council continue to be weak. This is also reflected in the opinion of surveyed CSOs where 65% of CSOs declared not to be informed about the work of the National Council for Civil Society. In addition, when asked if the work of NCCS is based on the recommendations and input of CSOs, 32% responded “I don’t know” and 27% responded, “I don’t agree”.

The measure regarding amendment of the Law for the Establishment and Functioning of the National Council for Civil Society to reflect the number of representatives and name of ministries seated in the Council to ensure the required balance of representation, is not implemented.

An important structure, in the frame of accession of Albania in the European Union, is the National Council for European Integration (NCEI)⁴⁸, established by the Parliament, aiming to promote and guarantee comprehensive cooperation between political forces, public institutions, and civil society, and increase transparency in decision-making on

⁴⁵ OG 200/2015, Law no.119/2015 “On the establishment and functioning of the National Council for Civil Society” [Online] <https://qbz.gov.al/share/q9X3GXAjROi2QTN3otTFAA>

⁴⁶ https://drive.google.com/file/d/189rmOpJqXmnqD7UrTpdA9N-oysGIpnK0/view?usp=drive_web

⁴⁷ The information is retrieved from the ASCS website [Online] <https://drive.google.com/file/d/1xOY3QQRybRIK0EVimImS8IojH6ab00Xj/view>

⁴⁸ Law no. 15/2015 “For the Role of the Albanian Parliament in the integration process of Albania in European Integration” [online] https://www.parlament.al/Files/Integrimi/ligji_15-2015-1.pdf

integration issues. During 2020, the National Council for European Integration has organized 5 periodic meetings⁴⁹, and two regional meetings with CSOs to increase information on the role of the NCEI. NCEI likewise NCCS is not yet an effective structure towards achieving its mission. It has implemented only half of its activities planned for 2020. The Council suffers from a lack of wide representation of CSOs at the country level. All its 15 CSO members are based in Tirana⁵⁰.

Measure 2.9 of the Road Map requires each ministry to appoint contact persons for CSOs by the end of 2020. No information about such appointments are made public in the respective ministries' web pages. Only the parliament has a coordinator for civil CSOs and the contact information is public on the website.

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

3.2.1. Standards for CSOs Involvement

Priority 2 of the Road Map: *Government institutions with a service mentality that appreciate the cooperation with CSOs* has nine (9) measures, and 25 activities, but still CSOs involvement in policy design and decision making remains low.

The Law 146/2014 on Notification and Public Consultation put forward requirements for consultation on draft laws and policies. The Law provides reasonable time to be able to get acquainted with the documents and form an opinion. Also, it obligates public authorities to send written feedback on the received proposals with explanations in cases when they have not been accepted. Based on the legal framework, public authorities publish the draft laws and strategies at the electronic register for consultation konsultimipublik.gov.al. According to the available data on the electronic register, ministries have published 69 documents for public consultations in 2020, as reflected in table 2.

Table 2: Electronic register data for public notification and consultation:

Ministries	Published consultations 2020
Ministry of Education, Sports and Youth	2
Ministry of Economy and Finance	10
Ministry of Health and Social Protection	4
Ministry of Infrastructure and Energy	14

⁴⁹ <http://www.parlament.al/Files/Integrimi/Raporti%20i%20KKIE%20p%C3%ABr%20vitin%202020.pdf>

⁵⁰ https://resourcecentre.al/wp-content/uploads/2021/03/Dokument-Politikash_Perfshirja-e-shoqerise-civile-ne-procesin-e-integrimet-europian-2.pdf

Ministry of Tourism and Environment	5
Ministry for Europe and Foreign Affairs	1
Ministry of Internal Affairs	12
Ministry of Defence	7
Ministry of Culture	1
Ministry of Agriculture and Rural Development	6
Ministry of Justice	7

The measure in the Action Plan of the Road Map, planned for 2019 on the adoption of the electronic register of notifications and consultations to include CSOs as a separate category of contributors. Still, this measure has not been implemented and the electronic register www.konsultimipublic.al does not enable CSOs to comment as entities, but only as individuals. Priority 3 measures “Sustainable and efficient involvement of CSOs in policymaking processes” include the development of a methodology for annual reporting on the results of public consultations, preparation of guidelines for civil officials to conduct effective public consultations, and establishment of an official training program by ASPA, focused on collaboration government – civil society. None of these measures has been implemented.

One progress noted in 2020 is the creation of an online platform for public consultations of draft laws by the parliament⁵¹. Based on the response received by the Parliament, 73 CSOs have participated in the consultations. As a result, 43 laws out of 129 legal initiatives were approved with consultation with CSOs.

Table 3: Participation of CSOs in Parliament

Standing Committees	Public hearings	CSOs representatives	Laws approved with CSOs` consultations
Committee on Legal Affairs, Public Administration and Human Rights	46	16	13
Committee on European Integration	2	1	0
Committee on Foreign Affairs	2	0	0
Committee on Economy and Finance	24	24	8

⁵¹ <http://konsultimi.parlament.al/>

Committee on National Security	15	2	2
Committee on Production Activity, Trade and Environment	15	17	10
Committee on Health, Labour, and Social Affairs	10	9	9
Committee on Education and Means of Public Information	15	4	1

About half of the surveyed CSOs (57%) responded to have been involved in consultations for the preparation of draft laws and policies. Most of them have participated in consultations conducted at the local level by the Local Self – Government Units on fiscal packages and annual local budgeting, on social services, youth strategies, etc. Also, consultations were held by the Ministry of Education and Sports, Ministry of Justice, Ministry of Health and Social Protection, etc. On the other hand, 33% of the surveyed CSOs did not participate in any process. The mentioned reasons are lack of notification and information on the public consultations, restrictions due to the COVID-19 pandemic situation, lack of interest and time to be involved, and the perception that these processes are organized in small closed groups with selected experts.

3.2.2. Public Access to Draft Policies and Laws

There are two orders issued by the Commissioner for the Right to Information and Protection of Personal Data in 2020, as follows: 1) Order no. 187, dated 18/12/2020 “For the Approval of the Revised Transparency Program”⁵², and 2) Order no.188, dated 18/12/2020 “For the Approval of the Revised Register of Request and Responses”⁵³. These new formats improve the transparency standards by public authorities and will enter into power by March 31, 2021. The new formats provide improvements in terms of the date of the registration of the request, the date of the response and the types of response provided (complete answer, limited answer, refused or delegated). In addition, a new draft law on open data and reuse of public sector information has been prepared, aiming the transposition of the UE Directive 2019/1024, of the European Parliament and European Council.

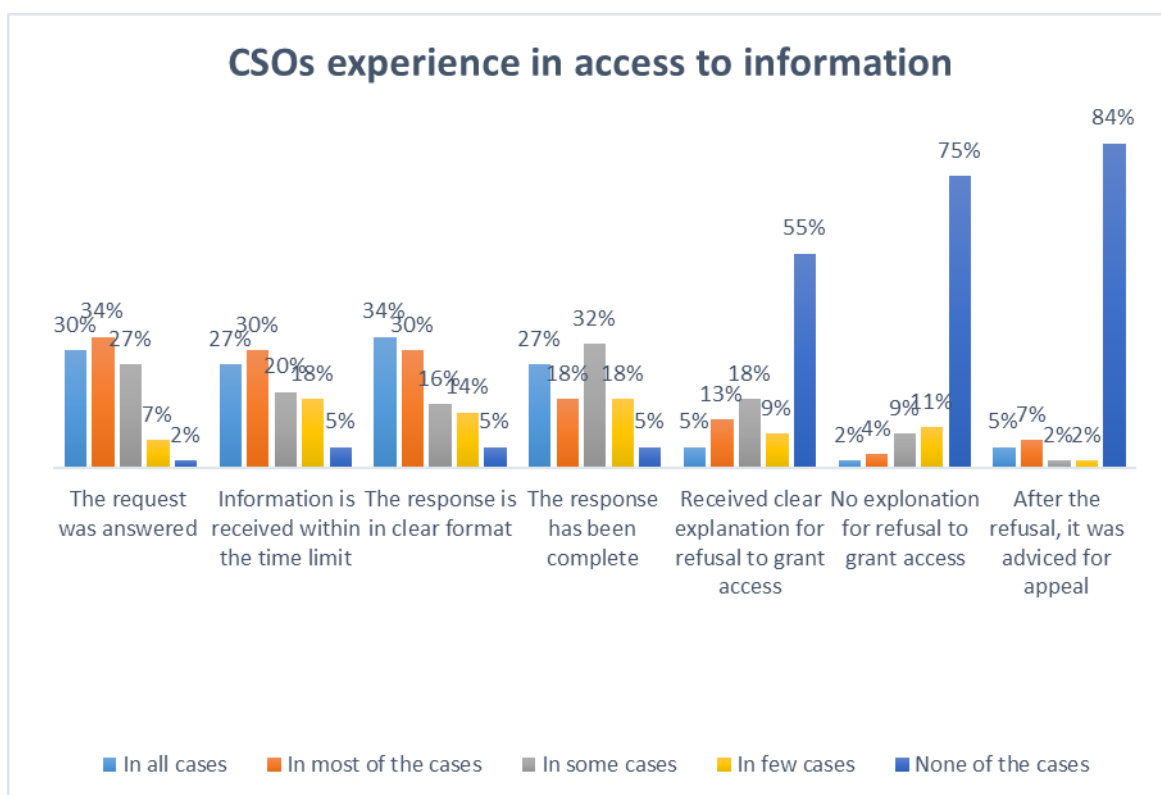
⁵² https://www.idp.al/wp-content/uploads/2020/12/Urdher_nr.187.pdf

⁵³ https://www.idp.al/wp-content/uploads/2020/12/Urdher_nr.188.pdf

Lack of access and participation of CSOs and other stakeholders was noticed even in the preparation of all the strategies, plans and other legal acts approved by the government in response to the COVID-19 pandemic situation. Three main strategic documents as The Action Plan for Prevention, Preparation and Response against COVID -19, The Reopening Strategy that identifies four main phases for the reopening of the economy, and The Strategy of Response Autumn – Winter 2020 - 2021⁵⁴ were prepared without multi-stakeholder participation.

For this monitoring exercise, PA sent official requests to information to 14 ministries, and only four (4) of them responded according to the law for the right to information, showing a regress compared with previous years. According to the surveyed CSOs, 34% of them expressed that in most of the cases their request was answered, but the problem remains the lack of explanation for the refusal of information, as expressed by 75% of CSOs, as well as lack of advice for appeal (84% of CSOs).

Graphic 14: CSOs experience in access to information



54 <https://shendetesia.gov.al/wp-content/uploads/2020/01/Strategjia-e-pergjigjes-vjeshte-dimer-20-21.pdf>

3.2.3. CSOs' Representation in Cross-Sector Bodies

Another indicator of the effective involvement of CSOs in policy and decision-making processes is their participation in cross-sector bodies, for which there is not a specific legal framework that regulates CSOs' involvement in these structures. One important instrument to this regard is The National Plan for European Integration (NPEI) 2018-2020, extended to the National Plan for EU Integration (NPEI) 2019-2021⁵⁵. The rate of NPEI implementation remains low, at less than 30%, and the overall quality of policy planning remains weak. The government should step up efforts to establish functional inter-institutional coordination structures for more effective implementation of the NPEI at both the political and administrative levels⁵⁶.

CSOs are involved in the Partnership Platform for European Integration, established to ensure information, consultation, communication, and involvement of civil society, groups of interest, academia, and local government in the negotiations for the country integration in the EU as well as the Stabilization and Association Process. Based on the Decision of the Council of Ministers No. 113, dated 30.08.2019, CSOs are involved at two levels of the platform: Governing Board (2 members from CSOs), and 33 Discussion and Consultative Roundtables.

Data from the survey shows that 63% of the surveyed CSOs have not been involved in any joint advisory or consultative organism or working group in 2020. Lack of representatives from CSOs is also noticed in the main bodies established in response to the COVID-19 pandemic situation, as The Task Force for the prevention of infection spread by the new Coronavirus, and the Ad-Hoc Committee for the Spread of New Coronavirus Infection.

With regards to the effectiveness of the work of this joint mechanism, it is to be noted that most of CSOs that have participated in these mechanisms (37% of the 121 surveyed CSOs) assess that the procedures for the selection of CSOs in these bodies are transparent (58%), are free to express their critical opinion (88%), and engage in advocacy initiatives work (77%).

⁵⁵ <http://integrimi-ne-be.punetegashtme.gov.al/wp-content/uploads/2020/04/PKIE-2019-2021.pdf>

⁵⁶ <file:///C:/Users/Partners%20Albania/Downloads/Albania-report-Post-2020-Strategy.pdf>

Sub-area 3.3. Collaboration in social provision

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

CSOs are the main service providers for a wide range of individuals, families, and groups in need in the country. According to data from the State Social Service there are around 165 non-public service providers (66%) in the country and 86 public service providers (34%). Most of the non-public service providers are civil society organizations.

In December 2020, the Parliament approved Law No. 162/2020 "For Public Procurement"⁵⁷, which introduced a special chapter on social services (Chapter XII: Social services and other special services), addressing the requests of CSOs in this regard. Article 102 of the law stipulates that tendering rules should consider an offer based on the quality of the services, accessibility, effectiveness, cost, availability, and inclusiveness in services, specific needs for people in risk and vulnerable groups, and innovation. Its article 103 stipulates that public authorities reserve the right of participation in tender procedure to certain organizations for services on health, social, and cultural services. This Law reflects CSOs' long stand recommendation and improvements.

The source of funding for service provision to CSOs remains at a low level. Only 7 CSOs out of 121 surveyed have applied to benefit from service contracts, but none of them was announced as winners. The Ministry of Justice has authorized (licensed) 12 CSOs to provide free legal assistance and aid for citizens and two years will be financially supported by the state⁵⁸.

3.3.2. State Funding for CSO-Provided Services

Through Decision No. 789/2018 "For the establishment of the fund for the support of social enterprises and other support forms of subsidiaries for social enterprises" a financial budget of 249,760,000 ALL (approx. 2,000,000 EUR) is established to support CSOs with the status of social enterprises. In 2020 the fund was not launched.

In addition, the Social Fund established through the Decision of Council of Ministers No. 111, dated 23.02.2018 "For the Creation and Functioning of the Social Fund"⁵⁹ provides financial support to Local Self Government Units, for new or existing social services.

⁵⁷ <https://www.parlament.al/Files/Akte/20210107122902ligj%20nr.%20162%20dt.%2023.12.2020.pdf>

⁵⁸ Ministria e Drejtësisë Së Bashku Me 12 Organizata të Shoqërisë Civile Ofrohet FALAS Ndihmë Juridike Për Qytetarët - Ministria e Drejtësisë (drejtesia.gov.al)

⁵⁹ The Decision of Council of Ministers No. 111, dated 23.02.2018 "For the Creation and Functioning of the Social Fund", Official Gazette 27/2018 [Online] <https://qbz.gov.al/eli/fz/2018/27/adbe8f12-3962-4c64-a24d-2385c14d917f>

From the first call, 14 Municipalities benefitted from these funds, but there is no information available if these services are provided by municipalities or in cooperation with CSOs. Respectfully with the Decision of Council of Ministers no 518/2018, in October 2020, the MoHSP launched the second call for proposals, inviting municipalities to apply. The winners will be announced the next year⁶⁰.

The municipality of Tirana launched in 2020 a call for a proposal on “Social Protection for Families and Children”. In total 36 CSOs have applied out⁶¹ and among the winners, 12 CSOs were awarded⁶².

In 2020, based on responses received by Local Self Government Units⁶³, Tirana, Vlora, and Shkodra municipalities have supported CSOs that provide social services. The procedures followed by these municipalities are through cooperation agreements among parties and service contracts. In total, 8 CSOs, respectively that provide daily social services 3 have been supported with a total amount of 33,317,612 ALL (approx. 268,000 EUR).

3.3.3. Procedures for Contracting Services

Licensing for some service provision is needed and the procedure to obtain the license is not burdensome. The survey data shows that CSOs are not aware of the procedures for contracting services (58%), the transparency of public allocation (63%), or capacities of public officials to implement the tendering rules (55%).

3.3.4. Accountability, Monitoring and Evaluation of Service Provision

Public authorities can exercise monitoring and assessment of service provision both in terms of quality of the services and the expenditure of funding. They have the right to inspect the premises in which services are provided. After the inspection, a report is prepared by the inspecting authority and shared with the service provider, including recommendations for improvements. CSOs which participated in the survey assess that criteria set by state authorities for public service delivery are clear, the control on the work of the organization that offers services with public funds is not burdensome, and the inspections are conducted based on prior notification from public inspectors.

60 https://shendetesia.gov.al/wp-content/uploads/2020/10/UDHEZUES-per-FS_2021.docx

61 https://tirana.al/uploads/2020/12/20201216150633_lista-e-renditjes-projekte-sociale-publikim.pdf

62 Bashkia Tiranë - Projektet fituese të thirrjes publike për programin “Kujdesi Social për Familjet dhe Fëmijët” (tirana.al)

63 Partners Albania send request for information to 61 municipalities on public funding

Conclusions and recommendations

With regards to **Basic Legal Guarantees of Freedom**, which are core to the existence of civil society, it is observed a tendency for over-regulation of the sector and regress in consultation processes on important legal changes affecting the freedom of association, right of peaceful assemblies, etc.

An important development in 2020 was the preparation of the Draft Law on Registration of Non-Profit Organisations, which introduces the electronic registration of CSOs and electronic registry, the latter addressing a long-standing demand of CSOs in Albania. Considering its importance on the registration and operation of CSOs, it was expected a wider consultation process with CSOs to discuss its content. But, the consultation process was limited in number, not inclusive, and responsive to CSOs' proposals. The draft law presents many concerns as (i) it comes against one of the principles of freedom of association, upon which there should be no legal requirement for registering of CSOs, (ii) high number and unproportioned penalties, and (iii) lack of data protection and increased bureaucratic and unjustified reporting to state agencies.

Other legal initiatives were enacted to address MONEYVAL recommendations as Law No. 112/2020 "On the Register of Beneficial Owners", and Law No. 154/2020 "On the Central Register of Bank Accounts". They present regulations and measures regarding counter-terrorism and anti-money laundering, but the requirements follow the one-size-fit approach, which are not proportionate to the nature and size of the organisations, and increase administrative burden for the sector.

The pandemic situation from COVID-19 impacted fundamental rights and related freedoms. Many legal acts affecting the right to peaceful assembly were enacted without consultations. No measure was enacted to enable the digital and online assemblies, and as result 49 notifications for assemblies were rejected by the Albanian state police due to COVID-19 pandemic situation, while 112 organisers and participants were detained by the ASP for the violation of different criminal offenses in the Penal Code. Independent institutions such as the Ombudsman and civil society actors were

vocal to address these rights and to interrupt the up-to-date practice of not allowing non-mass gatherings indoors or outdoors, as well as to guarantee the right of journalists to report events on assemblies and other activities of this nature. In addition, media and human rights organisations stressed unconstitutional and harmful the monopolisation of information related to COVID-19 by the government.

CSOs Financial Viability and Sustainability continues to be a challenge for CSOs, with most of them depending on project-based funds from donors, mostly international. In 2020, it is noticed a regress with regards to transparency of state funding for the support of CSOs. State support, either financial or non-financial, remains weak, sporadic, and allocated in a closed and non-transparent way. The public funding allocated by the Agency for the Support of Civil Society in 2020 decreased by almost 40%. Philanthropic activity continues to be non-legally regulated, and not fully used as an opportunity neither by CSOs nor the individual and corporate donors. The government did not come up with any supporting scheme for CSOs related to the COVID-19 pandemic situation.

Financial treatment and lack of benefits for CSOs constitute other concerns negatively affecting CSOs' operations by shrinking the CSOs' activities. None of the measures of Priority 9 of the Road Map for the Government Policy towards a More Enabling Environment for Civil Society Development 2019-2023 *"Ensuring a nation-wide implementation of supportive financial reporting, accounting and tax treatment of CSOs"* have been addressed within 2020 as planned in the Action Plan of the Road Map. None of CSOs have received VAT reimbursement for foreign donations to CSOs, which are part of all bilateral and multilateral agreements ratified by the Albanian Parliament or grant agreements approved by the Council of Ministers.

*With regards to **State – CSOs Cooperation**, most of the measures of the Action Plan of the Road Map for the Government Policy towards a More Enabling Environment for Civil Society Development 2019-2023 have not been implemented. No monitoring and assessment report on the implementation of the Road Map is prepared and published.*

Referring to mechanisms of cooperation, the National Council for Civil Society continues to conduct poor performance and failed to prove itself as an effective advisory body. No discussions or concrete actions were organized by the Council to address concerning issues of CSOs and to influence government decisions toward the creation of an enabling environment for civil society in the country.

Concerning involvement in policy and decision-making process, still, CSOs involvement in policy design and decision making remains low. The electronic register of notification

and consultation does not enable CSOs to comment as an entity. None of the measures of Priority 3 of the Road Map “Sustainable and efficient involvement of CSOs in policymaking processes”, which includes the development of a methodology for annual reporting on the results of public consultations, preparation of guidelines for civil officials to conduct effective public consultations, and establishment of an official training program by Albanian School of Public Administration has been implemented. Lack of access and participation of CSOs and other stakeholders was noticed even in the preparation of all the strategies, plans and other legal acts approved by the government in response to the COVID-19 pandemic situation. The progress noted in 2020, is the creation of an online platform for consultations of draft laws by the parliament <http://konsultimi.parlament.al/>. The Parliament has also made public the appointed contact persons for CSOs, while none of the ministries have done so as required by the Road Map.

Referring to increased collaboration and inclusion of CSOs in the provision of various services which are contracted out or delegated to CSOs, Law No. 162/2020 for Public Procurement introduces a special chapter on social services, and stipulated that the tendering rules should consider an offer based on the quality of the services, accessibility, effectiveness, cost, availability, and inclusiveness in services, specific needs for people in risk and vulnerable groups, and innovation. These improvements address the long-demand of CSOs that provide service provisions. Its implementation is to be assessed in the following years.

In overall, for the three main areas of the MM report, the public institutions should engage in an open, meaningful, and constructive dialogue with the sector to address prompt and long-term concerns of the sector and to protect civic space. Stronger political will and engagement is needed by the Government to implement the Action Plan of the Road Map towards a more enabling environment (legislative and practice) for civil society development in the country.

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Useful links

Albanian Parliament	www.parlament.al
Agency for the Support of Civil Society	www.amshc.gov.al
Ministry of Culture	www.kultura.gov.al
National Lottery Websites	http://lotaria.al
United National Development Fund Albania	http://www.al.undp.org
Public Consultation Electronic Register	https://konsultimipublik.gov.al

Annexes

1. Monitoring matrix methodology

Operationalization and data collection

The Monitoring Matrix on Enabling Environment for Civil Society Development is a detailed theoretical framework based on international human rights and freedoms and regulatory practices of European countries and the EU. The framework is built around three core areas: Basic Legal Guarantees of Freedoms; Framework for CSOs' Financial Viability and Sustainability; Government – CSO Relationship, each divided in sub-areas. 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 **mandatory data** types tap into the core building blocks of a practice indicator as described in the Monitoring Matrix Toolkit. They mandate the reporting of optimal information without which one could not be able to evaluate the respective indicator. The additional data (operationalized dimensions) specified for each practice indicator are reported if country researchers want to deepen and further illustrate specific practice indicator (e.g. via case study; see next section on country-specific notes on methodology).

The data gathering strategy for the practice indicators is tailored to match the mandatory data types specified in the methodology plan. For each indicator there is a clear guidance on the data gathering strategy (instruments and sources) which should be utilized by country researchers. The specified data gathering instruments and sources follow an implicit hierarchy, in which publicly available factual data (e.g. official statistics) are the most important source of data for assessing practice indicators, followed by survey data from civil society organizations, which in turn is followed by

relevant secondary sources (e.g. from CSOs reports, Ombudsman and media). Finally, at the end of the hierarchy are interview data, being subjective type of data, which covers smaller groups of respondents.

The primary factual data and secondary data are gathered through **desktop research**. Following the data gathering strategy, country researchers utilize three core data gathering instruments: Freedom of Information requests (FoI), survey questionnaire and interview topic guides. The questions in the data gathering instruments are tailored to match the mandatory data types (operationalised dimensions) of each practice indicator. The **Freedom of Information requests** (FoI requests) are used by researchers when public information and statistics on the state of civil society and their environment (primary factual data) are not readily and publicly available. The researchers can draw from a detailed bank of FoI questions tailored to match the operationalized practice indicators.

The **survey questionnaire** collects information on civil society organisations' experiences and perceptions on the key aspects of the enabling environment for civil society for the period 2020. The organisational survey includes 50 questions matching the mandatory data types (operationalized dimensions) on basic rights and freedoms, organisational and financial sustainability and civil society's cooperation with the state. The questionnaire dominantly consists of closed questions, and fewer follow-up open questions which require the respondents to elaborate on their experience. The same questionnaire is implemented across all countries, and only the formulation of few items is slightly adapted to the concrete country context to assure questions are understood by respondents. The survey is sent to lists of formal CSOs compiled and updated by country researchers on the basis of available registers or other alternative lists of active CSOs in the country (for more information see section on country-specific notes on methodology). The data collected from the survey is confidential and used strictly on anonymous basis. Individual responses are not connected to the organisations which answered the survey and reported only in an aggregate form.

The **interview topic guides** include questions which – similar to the survey questionnaire – match specified mandatory data types and are used in all countries. In addition to these core questions, researchers formulate additional questions that capture contextual developments in the country. The four topic guides are used in semi-structured interviews with the following groups of respondents: representatives of associations of journalists and media professionals; representatives of organisations of volunteers; representatives of the institution or mechanism for CSO cooperation and representatives of informal civil society groups (e.g. citizen initiatives, social movements and online initiatives).

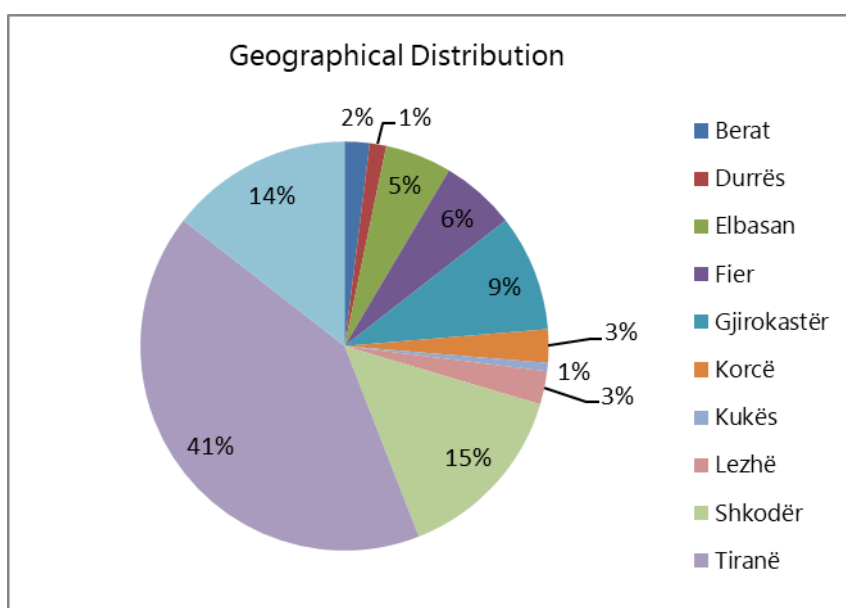
Data analysis and interpretation

To analyse and interpret the data, country researchers use a unified data collection template which provides the indicators description (including the mandatory and additional data types for the practice indicators) 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. For example, they report factual data from primary sources complemented with descriptive statistics or cross tabulations based on survey data. 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.

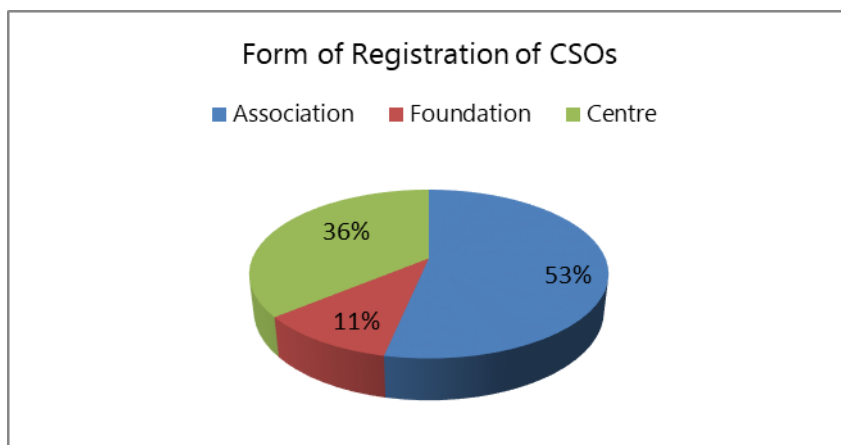
2. Notes on methodology and country challenges

From the launch of the monitoring cycle in 2013, Partners Albania aimed at a participatory and inclusive process while carrying out the research for the preparation of the MM Report, presenting and discussing the Matrix with large number of CSOs representatives all over the country. This year, the survey for the preparation of the Monitoring Report was conducted in 14 cities and 250 CSOs have been contacted to give their input on the MM Report, out of which 121 CSOs responded to the survey. The questionnaire was administered through face to face, telephone and Skype interviews with executive directors and high-level managers of CSOs.

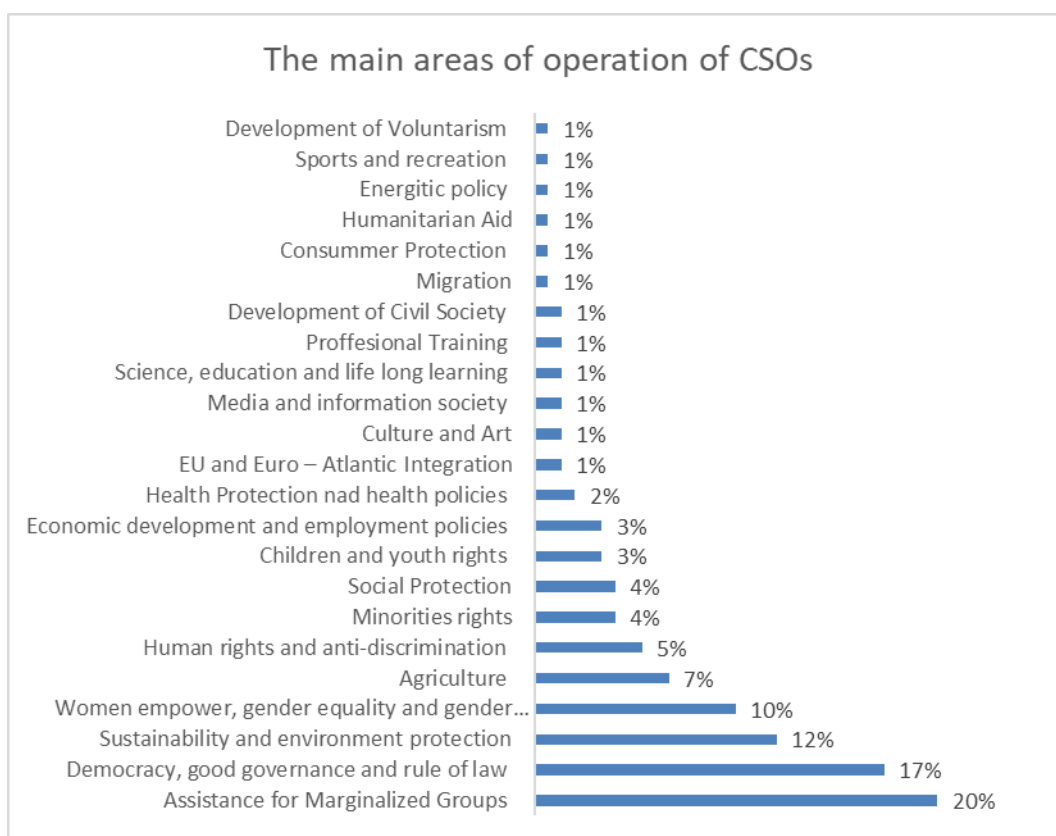
The survey was conducted in 11 Qarks. The selection of the sample was done in accordance with the number of CSOs located in each city, and on willingness of the organizations to participate in the survey. Graphic 1 presents the geographical distribution of the organizations participated in the survey.



With regards to the legal form of registration, the sample is composed of 53% associations, 36% centres, and 11% foundations, reflecting the proportions of registered CSOs, as shown in Graphic 2.



Based on their responses with multiple choice, in the Graphic 3 below are configured the fields of work and main areas of operation of the surveyed CSO.



The questionnaire was followed by in-depth interviews to explore contradicting issues or areas where more information was needed for the analysis purposes.

Considering the challenge with the availability of official data on the sector (number of CSOs, form of registration, geographical distribution, proportion according to their field of activities, etc.) and based on the Law on the Right to Information, Partners Albania sent official requests to Tirana First Court of Instance and the General Directory of Taxation on the number of CSOs registered within these authorities in 2015. Official

requests were also sent to all ministries on the amount of public funding distributed to CSOs during the year, and to the Albanian Parliament on the consultation of draft-laws with CSOs during 2019.

To analyse and interpret the data, country researchers use a unified data collection template which provides the indicators description (including the mandatory and additional data types for the practice indicators) 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. For example, they report factual data from primary sources complemented with descriptive statistics or cross tabulations based on survey data. 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.

