



**EU TECHNICAL ASSISTANCE
TO CIVIL SOCIETY ORGANISATIONS
IN THE WESTERN BALKANS AND TÜRKIYE**



**DG NEAR REVISED GUIDELINES
FOR EU SUPPORT TO CIVIL SOCIETY
WESTERN BALKANS AND TURKIYE
2021–2027**

Baseline Assessment Report

ANNEX 4

**COUNTRY ANALYSIS
MONTENEGRO**



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Introduction

This country analysis is an Annex to the DG NEAR Guidelines for EU Support to Civil Society 2021–2027: Baseline Assessment Report 2021.

The Guidelines outline the results towards which EU support to civil society in the enlargement region will aspire in this seven-year period. This assessment provides evidence for the situation against the Guidelines' indicators for 2021 which is the baseline year.

This annex provides a summary of the evidence for assessment of the situation in Albania against each of the 59 indicators in the Guidelines. This annex should be read in conjunction with the main report, which is available on the tacso.eu website.

Methodology

The analysis presented in the main report and country annexes is based on data collected from primary and secondary sources. Primary research included surveys of CSOs and public officials, as well as a legal analysis of relevant laws. Secondary sources such as reports produced by CSOs, national human rights institutions, government, and others were reviewed to provide relevant information and data. The data collection and analysis refer to 2021 which is the baseline year.

Civil Society Organisation Survey

The CSO survey was run in the period between 26 September and 18 October 2022. The aim of the survey was to collect the perspectives of civil society actors in the region on all applicable indicators. It consisted of mostly closed questions.

The CSO survey was circulated broadly and elicited 114 valid responses in Montenegro. This constituted 15% of the total responses in all seven IPA beneficiaries.

# of responses and share in total responses, per IPA beneficiary		
Albania	95	12%
Bosnia and Herzegovina	103	13%
Kosovo	83	11%
Montenegro	114	15%
North Macedonia	92	12%
Serbia	95	12%
Türkiye	184	24%
Total	766	100%

More than half of the respondents, 60%, were senior officers within the organisation (53 executive directors and 2 directors, 4 presidents, 4 board members, 5 senior managers etc). In terms of duration within the organisation, 46% have been with the organisation for eight years or more, from four to seven years 26% and up to three years 25%.

In relation to gender, 58% of respondents identify as women, 40% man and 2% preferred not to disclose. In total, 82% of respondents were aged 31 or older (27% were 31–40 years old, 35% were 41–50 years old, while 19% were 51 or more. There were 17% of youth respondents (up to 30 years old).

Just less than a quarter of respondents, 18%, identified as belonging to a community, minority or marginalised group. Of those who identified as belonging to such a group (in total 20 respondents), 7 identified as persons with disabilities (which is 6% of total respondents to CSO Survey); 2 as belonging to the LG-BTIQ community (which is 2% of total respondents to CSO Survey); 1 as belonging to the Roma, Ashkali or Egyptian communities and majority and half of respondents (less than 1% of total respondents to CSO Survey); and 10, answered: “other” (9% of total respondents to CSO Survey).

More than two-thirds of participating CSOs, 79%, were established over the past two decades (almost half of them, 47%, between 2011–2021; 32% between 2001–2010; 17% between 1991–2000 and 3% of participating CSOs were established in 1990 or earlier.

Almost all respondents came from officially registered organisations (only 1 answered that he/she don't know). Almost half of CSOs covered by the survey, 68%, are registered as citizen's associations or NGOs; 4% are foundations (5 respondents in total); 11% responded that they are registered as non-profit cooperative (13 respondents); 3% declared they are registered as not for profit company and one is trade union. More than two-thirds of participating CSOs, 64%, work on national level, while one-quarter, 25%, work internationally, in addition to domestically.

The highest proportion of CSOs participating in the survey, 27%, works on human rights, followed by social inclusion and education, research and innovation, 20% each; and youth mobility 18%. Moreover, equal per cent of participating CSOs work on environment, climate action and on rights of persons with disabilities, 14% each; children's rights, 12% of CSOs. It is followed by 11% of CSOs working on community building and development; equal percent of CSOs, 9%, is working on gender equality and LGBTIQ rights, health and health protection, and rule of law. (10 CSOs per topic)

More than half of participating CSOs, 60%, are small organisations with 1–10 permanent, full or part-time staff and volunteers working at the time of the survey. It is followed by 21% that have 11–20. Only 7% of participating CSOs engaged 20 or more staff and volunteers.

The biggest share of participating CSOs, 25%, had an annual turnover between 5,001–25,000 EUR. The annual turnover: under 5,000 EUR had 12% of CSOs; between 25,001–50,000 EUR had 10% of CSOs. The same share of CSOs had annual turnover between 50,001–100,000 EUR, and between 100,001–500,000 EUR, 15% each. More than 500,001 EUR annual turnover was reported by 3.5% (only 4 CSOs). Out of total number, 3 CSOs reported no annual turnover.

The findings of the CSO survey were validated in focus group discussions which, in Montenegro, included 11 discussants. Discussants were CSO representatives selected based on their experience, sectoral expertise, and active participation in civil society, taking into consideration the size of their organisation, as well as gender and geographical balance.

Public authorities survey

The survey of public officials was run in period between 13 October and 22 November 2022. The aim of the survey was to collect the perspectives on specific relevant indicators of selected public officials who, in their work, engage most closely with CSOs. The survey consisted mostly of closed questions, and it was anonymous.

The public authorities survey was circulated among public officials at the central level of government with experience in engaging with CSOs or working on CSO issues, and elicited 11 valid responses in Montenegro. This constituted 14% of the total responses in all seven IPA beneficiaries.

# of responses and share in total responses, per IPA beneficiary		
Albania	9	12%
Bosnia and Herzegovina	14	18%
Kosovo	14	18%
Montenegro	11	14%
North Macedonia	8	11%
Serbia	13	17%
Türkiye	7	9%
Total	76	100%

Assessment against indicators

The data collected informed the analysis of the situation in 2021 against each indicator. For the indicators that have a normative assessment, such as compliance with legislation or standards, the following traffic-light system was used to provide a quick visual guide:

5 – fully meets standards
4 – meets most standards
3 – moderately meets standards
2 – minimally meets standards
1 – does not meet standards

The assessment was applied to those indicators where the assessment was deemed meaningful.

The remaining indicators do not have a normative standard, but instead, provide an indication of year-on-year trends. Future assessment reports will provide comparative values against the 2021 baseline.



Specific Objective 1

A conducive environment for civil society to carry out its activities is in place.

SO 1.1. All individuals and legal entities in the Enlargement Region can establish, join and participate in non-formal and/or registered organisations, can assemble peacefully and can express themselves freely.

Indicator 1.1.a: Extent to which relevant domestic legislation provides that:

- Associations can be established or registered without discrimination on any grounds;
- No unlawful restrictions are placed on the scope of their activities or pursuit of their objectives;
- Their termination may only occur following a decision by an independent and impartial court;
- No unlawful restrictions are placed on freedom of peaceful assembly;
- Freedom of expression is exercised by all, and no unlawful restrictions imposed.

4 – meets most standards

61–80

Freedom of assembly is guaranteed by Article 52 of the **Constitution of Montenegro**¹, which reads as follows: “The freedom of peaceful assembly, without approval, with prior notification of the competent authority shall be guaranteed.” Freedom of assembly is further regulated by the **Law on public gatherings and public events** adopted in 2016.² Pursuant to Article 2 of the said Law, public gatherings are defined as “any peaceful gathering of more than 20 people outdoors to express political, social or other beliefs and goals, protests, interests and diversity”. The organiser is obliged to submit a written application for holding a public gathering, no later than five days before its holding. The report is submitted to the police in the place where the public gathering is to be held, and the police inform the competent authorities and services (emergency medical services, fire services, etc.). Gatherings that are not held in an open space and in publicly accessible places are not reported, except in cases where the organiser deems it necessary.

Freedom of assembly may be temporarily restricted by the decision of the competent authority to prevent disorder or execution of a criminal offence, a threat to health, morals or security of people and property, in accordance with the law, as per stated in The Constitution of Montenegro, Article 52, that regulates restrictions on freedom of peaceful assembly. Furthermore, Article 14 of the Law on Public Gatherings and Public Events stipulates that police may temporarily limit the freedom of public assembly if a restriction is necessary in a democratic society to prevent the violation of public law and order, committing of criminal acts, the endangerment of human rights and freedoms and special minority rights and freedoms of other persons, and the safety of persons and property, or, upon request of the state administration body responsible for health affairs, in the case of endangerment of health”. Also, according to paragraph 4 of the same Article, the police can decide not to allow the holding of a public gathering if the event is not reported in a timely and proper manner, since the organiser is obliged to submit a written application for holding a public gathering no later than five days before its holding. Gatherings that are not held in an open space or in publicly accessible places are not reported, except in cases where the organiser deems it necessary. In accordance with the Law on Public Gatherings³, it is not suitable to gather at a distance closer than 10 metres from the building where the Government of

1 Constitution of Montenegro, available at: <https://www.skupstina.me/me/ustav-crne-gore>

2 Law on public gatherings and public events (*Official Gazette of Montenegro*, No. 052/16 dated 09.08.2016) available at: <https://www.katalogpropisa.me/propisi-crne-gore/zakon-o-javnim-okupljanjima-i-javnim-priredbama-2/>

3 Law on Public Gatherings and Public Events (*Official Gazette of Montenegro*, No. 52/2016) available at link <https://www.katalogpropisa.me/propisi-crne-gore/zakon-o-javnim-okupljanjima-i-javnim-priredbama-2/>

Montenegro is located, or at a distance of 15 metres from the buildings where the Parliament of Montenegro, the President of Montenegro, and the Constitutional Court of Montenegro are located.

According to the Government's Report⁴, the total number of public gatherings held in Montenegro in 2021 was 623. Of this number, 353 were registered gatherings, 192 were unannounced gatherings, and 78 were spontaneous gatherings.

However, the level of the implementation of the legislation remains insufficient and not equally consistent, and during 2021 there were numerous political gatherings organised in the middle of the pandemic, contrary to the legal measures imposed on ordinary citizens and civil society organisations - gatherings that were not sanctioned, but promoted by the political elites from certain political parties.

The legislation for **freedom of expression** generally meets international human rights standards. According to Article 47, paragraph 2 of the **Constitution of Montenegro**, "the right to freedom of expression may be limited only by the right of others to dignity, reputation and honour, or if it threatens public morality or the security of Montenegro." In addition, Article 24 of the Constitution stipulates that "guaranteed human rights and freedoms may be limited only by the law, within the scope permitted by the Constitution, to the extent necessary in an open and democratic society to satisfy the purpose for which the limitation has been permitted. Limitations shall not be introduced for purposes other than the ones for which they were prescribed." Article 51 of the Constitution limits restrictions to Freedom of Information to measures taken for the sake of the "protection of life; public health; morality and privacy; conduct of criminal proceedings; security and defence of Montenegro; foreign, monetary and economic policies".

According to Article 2, paragraph 1 of the **Media Law**⁵, "The state ensures and guarantees freedom of the media, expression and information at the level of standards contained in international documents on human rights and freedoms. Paragraph 2 of the said Article stipulates that "this law should be applied following the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms, with the use of precedent law practice of the European Court of Human Rights." Article 3, paragraph 3 of the Media Law states that "the freedom of the media can be limited only when it is necessary for the interest of protecting the national security and territorial integrity of Montenegro, to prevent disorder or commission of criminal acts, protecting health and morals, protecting the reputation or rights of others, preventing the disclosure of confidential information, or to preserve the authority and impartiality of the judiciary." Such limitations align with those reflected in the European Court of Human Rights and the European Court's case law.

Despite improvements, the legal framework retains **gaps in free access to public information** and in protection of the confidentiality of journalistic sources, which leads to the media's independence being insufficiently protected against political and economic influences. Having in mind the identified gaps, a revision of the legal framework adopted in 2020 and the drafting of a new media strategy has been initiated, in order to ensure mutual consistency and full alignment with the EU acquis and other relevant European standards. Particular areas of alignment will include the regulation of online harassment and hate speech, without disproportionately limiting freedom of expression. Furthermore, ethical and professional norms should be better distinguished from the legal and regulatory obligations concerning journalists and media outlets and should be made more concrete and clear.⁶ According to Article 30, paragraph 2 of the Media Law, "the journalist is obliged to disclose the source of information at the request of the state prosecutor when necessary to protect the interests of national security, territorial integrity and health protection."

Freedom of association is guaranteed by Article 53 of the **Constitution of Montenegro**⁷ and all individuals can assemble peacefully and establish, join and participate in non-formal and/or registered organisations. However, according to the Law on NGOs non-formal groups cannot be directly financed by the state budget. The state supports political and other associations when there is a public interest

4 *The Report on the Implementation of the Law on Public Gatherings and Public Events* for 2021 available at link <https://www.gov.me/en/documents/da7efb75-30fb-421f-b357-89a0aea36346>

5 Media Law, available at: <https://www.gov.me/dokumenta/101e4ce0-3a5e-4c04-a81a-5287551a6a82>

6 https://neighbourhood-enlargement.ec.europa.eu/montenegro-report-2022_en, page 37.

7 *Official Gazette of Montenegro*, Nos. 1/07 and 38/13

to do so, and the Constitution also grants national and ethnic groups the right to establish educational, cultural and religious associations with the financial support of the State⁸.

Freedom of association is regulated in more detail by the **Law on Non-Governmental Organisations**.⁹ According to Article 1, paragraph 2, non-governmental organisations are: 1) associations (*universitas personarum*) and 2) foundations (*universitas rerum*). **An association** can be founded by at least three persons, one of whom must have a place of residence or seat in Montenegro. There is a favourable environment for establishing associations of young people, since among the founders of an association, a minor over the age of 14 can be included, with the consent of a legal representative, in accordance with the law. A **foundation** can be established by one or more persons, regardless of their residence, place of residence or seat in Montenegro. If the foundation is established by several persons, they shall exercise their rights jointly, unless otherwise stipulated by the statute. A foundation can also be established by a will or testament.

SO 1.2. Public authorities protect CSOs from interference and attacks and respect their right to privacy.

Indicator 1.2.a: Extent to which CSOs have access to an effective remedy to challenge or seek review of decisions affecting exercise of their rights.

4 – meets most standards

61–80

NGOs are also entitled to use the constitutional appeal in a proceeding before the Constitutional Court, seeking damages for violations of constitutionally recognised human rights, including the right to association, peaceful assembly and freedom of expression, given that the Constitutional Court has the authority to review all alleged constitutional and human rights violations. If it finds a violation, it vacates the lower court's decision and refers the case to an appropriate court or authority to rectify the deficiency. Upon exhaustion of all available domestic remedies, individuals and legal entities, regardless of citizenship or seat, may appeal cases alleging government violations of the European Convention on Human Rights at the European Court.

Therefore, all procedural laws in Montenegro ensure the right to an effective legal remedy through regular and extraordinary legal remedies, and protection is enjoyed by both natural and legal entities, including NGOs. Still, the entitlement to legal remedies needs to be practical and effective. According to the Report by Montenegro's Agent before the European Court of Human Rights, the administrative disputes last long, and for that reason, the Agent has recommended that judicial authorities carry out efficient supervision over the implementation of the **Law on Administrative Procedure**¹⁰, especially in the areas of timely action and adoption of administrative acts by the first instance and second-level public law bodies within the legal terms.¹¹

However, in 2021, according to the results of the CSO Survey, in total only 18% of the CSO Survey respondents stated that they were able to effectively challenge such decisions through official, legal, judicial and administrative channels.

⁸ Constitution of Montenegro, Article 79, paragraph 1, item 6, <https://www.skupstina.me/me/ustav-crne-gore>

⁹ *Official Gazette of Montenegro*, Nos. 39/11 and 37/17

¹⁰ Law on Administrative Procedure, available at: https://www.paragraf.me/propisi-crnegore/zakon_o_opstem_upravnom_postupku.html

¹¹ *Report on the Work of the Office of the Representative of Montenegro before the European Court of Human Rights in Strasbourg for the year 2021 – conclusions* (July 2022), available at: <https://www.gov.me/en/documents/9d5004de-f356-4c34-b981-46bf1026ba77>

Indicator 1.2.b: Extent to which CSOs are protected by law from threats, attacks, judicial harassment, and discriminatory treatment, in particular:

- threats including intimidation, harassment, defamation, as well as hate speech online and offline;
- attacks including acts of violence, physical abuse, searches and damage to property;
- judicial harassment including arbitrary arrest and detention, unlawful interference with communications, and abuse of criminal, civil and administrative proceedings or threats thereof;
- discriminatory treatment including disproportionate reporting requirements for CSOs.

4 – meets most standards

61–80

There is no legal definition of attacks or threats specifically against CSOs in the Montenegrin legal system, but the legal system consists of many provisions which prohibit threats, attacks, judicial harassment and discriminatory treatment and protects natural persons and legal entities from such treatment, including CSOs. Only in the case of two criminal offences: Prevention of Political, Trade Union or Other Association and Activities, Article 182 of the **Criminal Code**¹², and the Law on Racial and Other Discrimination (Article 443) refer to organisations, which include CSOs.

Important for the work of advocacy and human rights CSOs is Article 7 of the **Law on Prohibition of Discrimination**¹³, that defines harassment of a person or a group of persons based on one of the grounds of Article 2, paragraph 2 of the Law as any unwanted behaviour, including harassment through audio and video surveillance, mobile devices, social networks and the Internet, which aims or results in violation of personal dignity, causing fear or a person's feeling humiliated or insulted, or creating a hostile, humiliating or offensive environment; and it is considered to be discrimination.

According to Article 29 of the **Constitution**, "Deprivation of liberty is allowed only for reasons and in the procedure provided for by law. A person deprived of liberty shall be notified immediately of the reasons for the arrest thereof, in their own language or in the language he/she understands. Concurrently, a person deprived of liberty shall be informed that he/she is not obliged to give any statement. At the request of the person deprived of his/her liberty, the authority shall immediately inform about the deprivation of liberty a person of the person's own choosing of the person's being deprived of his/her liberty. The person deprived of his/her liberty shall have the right to the defence counsel of his/her own choosing present at his interrogation. Unlawful deprivation of liberty shall be punishable." The **Criminal Code**¹⁴ specifies a provision in the Constitution with regard to arrest and detention.

Guaranteed human rights and freedoms, including the right to privacy and confidentiality of correspondence, are protected and may be limited only by the law, within the scope permitted by the Constitution, and to such an extent as is necessary to meet the purpose for which the limitation is allowed in an open and democratic society. The **Criminal Code** defines **Types of Measures of Secret Surveillance and Conditions for Their Application in Article 157**. Namely, if grounds for suspicion exist that a person has individually or in complicity with others committed, is committing or is preparing to commit any criminal offence referred to in Article 158¹⁵ of the Code and evidence cannot be obtained in another manner or their acquisition would require a disproportionate risk or endangering the lives of people, as

12 Criminal Code, *Official Gazette of Montenegro*, Nos. 57/2009, 49/2010, 47/2014, 2/2015, 35/2015, 58/2015, 28/2018, 116/2020, 145/2021, available at: <https://www.paragraf.me/propisi-crnegore/krivicni-zakonik-crne-gore.html>

13 Law on Prohibition of Discrimination, *Official Gazette of Montenegro*, Nos. 46/2010, 40/2011, 18/2014 i 42/2017. <https://www.paragraf.me/propisi-crnegore/zakon-o-zabrani-diskriminacije.html>

14 Criminal Code, available at: <https://www.paragraf.me/propisi-crnegore/zakonik-o-krivicnom-postupku.html>

15 1) for which a prison sentence of ten years or a more severe penalty may be imposed; 2) having elements of organised crime; 3) causing false bankruptcy, abuse of assessment, passive bribery, active bribery, trading in influence, abuse of an official position, as well as abuse of powers in the economy, and fraud in the conduct of an official duty with prescribed imprisonment sentence of eight years or a more severe sentence; 4) abduction, extortion, blackmail, mediation in prostitution, displaying pornographic material, usury, tax and contributions evasion, smuggling, unlawful processing, disposal and storing of dangerous substances, attack on a person acting in an official capacity during performance on an official duty, obstruction of evidence, criminal association, disclosure of confidential information, breach of confidentiality of proceedings, money laundering, counterfeiting of money, forgery of documents, falsification of official documents, making, procuring or providing to others means and materials for forging, participation in foreign armed formations, arranging outcomes of competitions, unlawful keeping of weapons and explosions, illegal crossing of the state border and smuggling in human beings; and 5) against the security of computer data.

one of the measures of secret surveillance against those persons, **secret surveillance and recording of telephone conversations and other distance communication** may be ordered.

According to Article 14 of the **Law on the National Security Agency**¹⁶, if there are grounds for **suspecting that national security is threatened**, the President of the Supreme Court of Montenegro, and in case of absence or inability, the judge who replaces him in accordance with the law, can order **supervision of electronic communications and postal items** related to: a) the content of electronic communication, b) data on traffic in electronic communication and the unsuccessful establishment of communications, c) location data in electronic communication related to the user, d) the content and type of postal item, i.e. service, and the monitoring of the interior of buildings, closed spaces and objects with the use of technical means. Namely, the Agency may, exceptionally, use such a measure, but always based on a previous court decision, and only if it is not possible to perform the task by ordinary measures or if the execution of the task would require a disproportionate risk or endangering the lives or health of people.

According to the Constitution and Law on Prohibition of Discrimination, CSOs are protected from discrimination and have a right to protection against discrimination. The **Law on Prohibition of Discrimination**¹⁷ in Article 2 prohibits any form of discrimination, on any ground. By Article 3 of the Law, the right to protection against discrimination belongs to all natural persons and legal entities to whom the regulations of Montenegro apply, if they are discriminated against on any of the grounds from Article 2, paragraph 2 of the Law. This law applies to the public and private sectors.

According to the Public Authorities Survey, the vast majority of respondents thought that CSOs were **sufficiently or very** able to operate effectively without threats, attacks, judicial harassment and discriminatory treatment.

Indicator 1.2.c: Proportion of CSOs that operate effectively without threats, attacks, judicial harassment and discriminatory treatment, in terms of:

- number of complaints concerning lack of protection of CSOs;
- number of attacks on CSOs and their members;
- number of instances of damage to property;
- number of instances of discriminatory treatment in reporting;
- number of instances when CSO offices were unlawfully searched, subjected to inspections;
- number of instances of interference with the communications of CSOs.

According to the CSO Survey in 2021, the vast majority of CSOs – 88% – responded that their organisation or its members were not subjected to threats or physical attack. However, 2.4% responded that their organisation was subject to threats or physical attack, in 4.9% of cases the subject was its membership, and in 1.2% of cases it was both. In 5.1% of cases, the organisation experienced property damage. The examples were diverse: threats to members of the LGBT population, hate speech, or offensive sentences written on the premises of the organisation; threats of physical confrontations and destruction of property on social networks, caused by the organisation's activities in the field of combatting the poaching of wild animals; the puncturing of tyres on a CSO's car; repeated threats, insults, intimidation of activists from women organisations; attempted physical attacks; online comments on the social media of a parliamentary political party attacking the organisation and members in public; online insults on the social media of an organisation or of female activists, most often posted by the husbands of the clients/women who had reported family violence; physical attacks on the coordinator of CSO programmes.

¹⁶ Law on the National Security Agency, *Official Gazette of Montenegro*, Nos. 28/2005, 86/2009, 20/2011 and 8/2015. available at: http://www.podaci.net/_gCGO/zakoni/Zakon_o_Agenciji_za_nacionalnu_bezbjednost/07d3ct.html

¹⁷ Law on Prohibition of Discrimination, *Official Gazette of Montenegro*, Nos. 46/2010, 40/2011 - other laws, 18/2014 and 42/2017, available at: <https://www.paragraf.me/propisi-crnegore/zakon-o-zabrani-diskriminacije.html>

According to the CSO Survey, 7.4% said that their organisation or its members had submitted an official complaint because they were denied protection from threats or physical attacks. Complaints were submitted to various instances, including the senior prosecutor, the Supreme Prosecutor, and the Prosecutorial Council. Data from the Judicial Council of the Trade Union of Media of Montenegro were that there were 28 attacks and threats to journalists in 2021, out of which a competent prosecutor qualified ten events as criminal offences to be prosecuted ex officio, eight of which were clarified and the perpetrators prosecuted, while two cases were not clarified; misdemeanour proceedings were initiated against the perpetrator in five incidents, whilst in four cases the prosecutor assessed that there were no elements of a criminal offence to be prosecuted ex officio.

For those organisations which did not submit an official complaint in 2021, the reason for not doing so was that they had complained in the past and the response by the authorities was not effective (this applied to 4.5% of respondents in total).

In 2021, 89% of CSOs responded that they were not required by authorities to submit reports which, in their view, were excessive and unjustifiable and amounted to discrimination against their organisation, while 2.5% answered that they were (these CSOs were subject to requests of multiple reporting for the same project, and requested to share the personal data of users of their support services, whose identities were secret in accordance with organisational rules).

In 2021, CSOs did not report any unlawful searches, but 1.3% responded that they were subjected to unlawful inspections.

Out of 78 evaluated answers, 1.3% of CSOs reported interference by authorities with their communications, mentioning eavesdropping and surveillance, especially after activist and peaceful protests.

SO 1.3. Measures used to fight extremism, terrorism, money laundering or corruption are targeted and proportionate, in line with the risk-based approach, and respect human rights standards on freedom of association, assembly and expression.

Indicator 1.3.a: Extent to which laws to combat extremism, terrorism, money laundering and corruption do not unduly restrict legitimate activities of CSOs.

5 – fully meets standards

81–100

There are several **laws to combat extremism, terrorism, money laundering and corruption in force in Montenegro**. The **Criminal Code of Montenegro** prescribes, among other things, penalties for criminal offences against the constitutional order and security of Montenegro and criminal offences of money laundering and terrorism, as well as for criminal offences of public incitement to commit terrorist acts and recruitment and training to commit terrorist acts. The **Law on Internal Affairs**¹⁸ stipulates that internal affairs also includes tasks related to the prevention of money laundering and financing of terrorism. The **Law on the Special State Prosecutor's Office**¹⁹, the **Law on Courts**²⁰, and the **Law on the National Security Agency** stipulate the scope of work and specific roles of the institutions mentioned in this topic, while the **Law on International Restrictive Measures**²¹ regulates the manner of introducing, applying and abolishing international restrictive measures, which Montenegro implements intending to establish and preserve international peace and security, respect for human rights and fundamental freedoms, the fight against terrorism, the spread of weapons of mass destruction (prolifer-

18 Law on Internal Affairs, *Official Gazette of Montenegro*, Nos. 070/21 and 123/21, available at: <https://www.katalogpropisa.me/propi-si-crne-gore/zakon-o-unutrasnjim-poslovima-2/>

19 Law on the Special State Prosecutor's Office, *Official Gazette of Montenegro*, Nos. 10/2015 and 53/2016.

20 Law on Courts, *Official Gazette of Montenegro*, Nos. 11/2015 and 76/2020., available at: <https://me.propisi.net/zakon-o-sudovima/>

21 Law on International Restrictive Measures, *Official Gazette of Montenegro*, Nos. 56/2018 and 72/2019, available at: <https://me.propisi.net/zakon-o-medjunarodnim-restriktivnim-mjerama/>

ation), and the development and strengthening of democracy, the rule of law and achieving other goals under international law.

The **Law on the Prevention of Money Laundering and Financing of Terrorism**²² regulates the measures and actions undertaken to detect and prevent money laundering and financing of terrorism, as well as the tasks, powers and methods of operation of the organisational unit of the state administration body responsible for internal affairs, which performs tasks that are related to the prevention of money laundering and financing of terrorism and other issues of importance in this area. With the amendments²³ of the Law on the Prevention of Money Laundering and Terrorist Financing in 2018, CSOs have been excluded from the list of reporting entities, institutions and professions that fall within the scope of the Law.

Therefore, within the laws presented, there are no specific provisions which restrict the activities of CSOs.

Indicator 1.3.b: Proportion of CSOs whose ability to undertake legitimate activities is not restricted by the implementation of laws to combat extremism, terrorism, money laundering and corruption, and in particular by:

- being judicially harassed for their alleged connections with extremism, terrorism, money laundering and corruption;
- discriminatory restrictions placed on funding;
- authorities or banks preventing them from opening bank accounts, sending or receiving money.

According to the CSO Survey, in 2021, no CSOs subjected to judicial harassment for alleged connections with extremism, terrorism, money laundering or corruption in Montenegro.

Regarding whether the organisation was subject to discriminatory restrictions due to receiving funding from a particular source, 88.5% responded negatively, 5.1% positively, and 6.4 % did not know. One of the respondents claimed that the local community discriminated against their CSO because they cooperated with UNDP.

In 2021, according to CSO Survey, there was no organisation prevented, by government authorities or banks, from opening a bank account, sending or receiving money.

SO 1.4. Public authorities treat all CSOs equally with regards to their operations, and equitably with other entities (such as businesses).

Indicator 1.4.a: Extent to which laws (1) do not require CSOs to submit more reports and information, and (2) do not submit CSOs to more inspections and sanctions, than business entities, all else being equal.

5 – fully meets standards

81–100

According to the legislation in force, NGOs fall under the regular regime of the civil liability and liability of the legal entities. They are not subject to more inspections and sanctions than business entities.

CSOs are subject to a variety of reporting requirements, including reports to state funding bodies and reports to private donors, and such reporting requirements are not necessarily tied to having the status of a not-for-profit organisation. Namely, associations and foundations are obliged to keep business books and submit financial reports like all other legal entities, including business entities. Despite being

²² Law on the Prevention of Money Laundering and Financing of Terrorism, *Official Gazette of Montenegro*, Nos. 33/2014 and 44/2018, 73/2019 and 70/2021, available at: <https://www.gov.me/dokumenta/88d9a409-56ad-48a6-9e91-b5713d770f42>

²³ The law was published in the *Official Gazette of Montenegro*, no. 44/2018 of 7/6/2018, and entered into force on 14.7.2018.

not-for-profit organisations, CSOs are also required to file tax reports under the terms and conditions of the tax legislation. According to the **Law on Accounting and Audit**,²⁴ like other legal entities, CSOs are required to prepare and submit to the authorities their financial statements per International Accounting Standards and International Financial Reporting Standards, including balance sheets and income statements. Accounting requirements may vary, depending on the size of the organisation.

CSOs are also required to prepare and submit programmatic and financial reports to the line ministries which are administering budgetary allocations to NGOs for the implementation of their programmes and projects. If special licenses for certain activities are required, the licensing organ may also require special reports about the activity. In certain cases, an audit report by an independent auditor or audit company is needed, such as in the case of implementing EU-funded projects.

CSOs can be subject to different inspections in the field of tax, fiscal policy, social insurance and labour matters like all other legal entities, in line with the **Law on inspection supervision**.²⁵ The central body for inspection supervision is the Directorate for Inspection Affairs.

Legal rules designed to prevent conflict of interest and self-dealing also apply to CSOs. A beneficiary or other person with a legitimate interest, including a member of CSO or its governing bodies, can also demand information about the fulfilment of CSOs objectives and actions, and may examine the annual accounts and activity report, accounting documents and similar.

In general, CSOs are subjects of reporting requirements towards government institutions (tax offices) on non-discriminatory bases. However, public officials managing contracts when allocating funds to CSO projects (including EU funds) via governmental institutions granting schemes impose a heavy burden of reporting on CSOs, and often require monthly narrative and financial reporting and numerous procedures not required by the law or PRAG.

SO 1.5. Central and/or local public authorities have enabling policies and rules for small community organisations and civic initiatives (grass-roots organisations).

Indicator 1.5.a: Small community/local organisations and civic initiatives are allowed to operate by law without registering.

5 – fully meets standards

81–100

Article 53, paragraph 1 of the **Constitution of Montenegro** guarantees the freedom of political, trade union and other associations, **without approval, with registration** with the competent authority. Although both the Constitution and the Law on NGOs refer to the mandatory registration of NGOs, the Law on Non-Governmental Organisations **does not prescribe misdemeanour sanctions for organisations that operate without registration.**

However, Article 6 of the **Law on Non-Governmental Organisations** stipulates that an NGO must have the status of a legal entity. This status gives them the opportunity also to be funded by the state budget (otherwise, according to the Law on NGOs, they cannot apply for funds).

With the **Law on Local Self-government** at the local level, citizens can establish a so-called “local community” (*mjesna zajednica*), by which citizens can decide or participate in deciding on the realisation of local needs and interests in the areas of settlement planning, housing, consumer protection, culture, physical culture, protection and improvement of the environment, as well as other areas of life and work, per the statute of Municipality. The register of local communities is maintained by the competent authority of the local administration. By registering in the register, the local community acquires the status of a legal entity.

²⁴ Law on Accounting and Audit, available at: <https://me.propisi.net/zakon-o-racunovodstvu/>

²⁵ Law on Inspection Supervision, *Official Gazette of Montenegro*, Nos. 39/03, 76/09, 57/11, 18/14 and 11/15.

Indicator 1.5.b: In law, unregistered small community/local organisations and civic initiatives enjoy the same right to participation in decision making processes as registered CSOs.

3 – moderately meets standards

41–60

The domestic legislation that regulates the participation of citizens in decision-making at the national level in Montenegro includes, in addition to the Constitution, other lower legal acts, such as the Rules of Procedure of the Government of Montenegro, the Rules of Procedure of the Parliament of Montenegro, the Law on State Administration²⁶, the Law on Free Access to Information²⁷, as well as the Decree/Regulation on the election of representatives of non-governmental organisations in the working bodies of state administration bodies and the implementation of public hearings in the preparation of laws and strategies²⁸. Those legal acts allow individuals to take part in the process of decision-making. For example, per the Rules of Procedure of the Government of Montenegro²⁹, to consider draft laws, other regulations and general acts and others, the Government establishes permanent working bodies, i.e. commissions, in which, **upon invitation, prominent scientists and experts from certain fields can participate**. The **Law on Public Administration**³⁰ regulates NGO participation in public decision-making processes. In line with Article 79, state administration bodies cooperate with organisations by enabling the participation of organisations in the procedure for conducting a public discussion in the preparation of laws and strategies, and the work of working groups and other working bodies formed by state administration bodies to review issues of common interest or for the normative regulation of relevant issues.

The detailed criteria and procedure for the selection of organisations' representatives in working groups and other working bodies formed by state administrative bodies, as well as the procedure for conducting a public discussion, are determined by **the Decree/Regulation on the election of representatives of CSOs to the working bodies of state administration bodies and the conduct of a public hearing in preparation laws and strategies**.³¹

Per the Regulation, equal participation of unregistered organisations and initiatives is allowed only in the process of public discussion, but not in working groups.

Article 10 of the Regulation states that public discussion in the preparation of laws and strategies is conducted: 1) by consulting authorities, organisations, associations and individuals (the interested public) in the initial phase of preparing the law, that is, the strategy; and 2) by organising a public debate on the text of the draft law, that is, the strategy. Bearing in mind that individuals have the right to participate, unregistered organisations such as informal groups of citizens also have the right to submit their proposals and initiatives to the relevant authorities during the public discussion process.

Article 4 of the Regulation states that "an organisation can nominate its representative to the working body **if it is registered in the register of non-governmental organisations** before the publication of the public invitation, if the statute has established activities and goals in areas that are related to the issue that is considered or normatively regulated by the working body; **has in the previous three years** conducted research, created a document, organised a meeting or implemented a project aimed at improving the situation in a certain area; submitted to the tax authority the application for the previous fiscal year (photocopy of the balance sheet and income statement)", etc. **This norm not only prevents unregistered groups but also newly formed groups from participating in working groups.**

26 Law on State Administration, available at: <https://www.gov.me/dokumenta/42c95c3f-0c64-4657-99f4-f014f1912bc8>

27 Law on Free Access to Information, available at: <https://www.gov.me/dokumenta/f9dcdea6-e2b9-4b1a-a80c-e243a073d7b4>

28 Decree on the election of representatives of non-governmental organizations in the working bodies of state administration bodies and the implementation of public hearings in the preparation of laws and strategies, available at: <https://www.gov.me/dokumenta/1f353a31-1729-4db3-a378-e8c4610a5b04>

29 Rules of Procedure of the Government of Montenegro published in *Official Gazette of Montenegro*, Nos. 003/12 of 13.01.2012, 031/15 of 18.06.2015, 048/17 of 24.07.2017, 062/18 of 21.09.2018).

30 *Official Gazette of Montenegro*, Nos. 78/18, 70/21 and 52/22), <https://me.propisi.net/zakon-o-drzavnoj-upravi/>

31 The Regulation on the election of representatives of CSOs to the working bodies of state administration bodies and the conduct of a public hearing in preparation laws and strategies (*Official Gazette of Montenegro*, No. 41/18) available at the link <https://www.gov.me/dokumenta/1f353a31-1729-4db3-a378-e8c4610a5b04>

SO 1.6. All CSOs are free to solicit and receive funding.

Indicator 1.6.a: Extent to which relevant laws allow CSOs to seek a broad range of funding, including from abroad, without undue restrictions, as regards:

- cash and in-kind donations from all sources;
- funding from domestic public bodies;
- funding from institutional, corporate or individual donors;
- funding from foreign governments or multilateral agencies.

5 – fully meets standards

81–100

Pursuant to Article 28 of the **Law on Non-Governmental Organisations**³², an organisation acquires assets from membership fees, voluntary contributions, gifts, donations, legacies, interest on stakes, dividends, rent, income from economic activity and in other ways that do not contradict the law. There are no specific provisions regarding the receipt of funding by CSOs from a different range of sources; however, CSOs have legal liability for the usage and transfer of funds and are obliged to comply with accounting standards and to file financial reports under the terms and conditions of the tax legislation. In addition, funds acquired by non-profit organisations must stay within their accounts to pay for reasonable salaries, expenses, and the organisation's activities.

Indicator 1.6.b: Proportion of CSOs that can access a broad range of funding without undue government interference.

According to the law, CSOs are permitted to compete for government funds and any other grants and donations of institutional, corporate or individual donors, as long as the funding sources or purpose of funding are not illicit or the procedure illegal.

As per the CSO Survey results for 2021, 82% responded that they did not face undue government interference to prevent their organisation from accessing any type of funding. None answered positively to this question, but there were 14.3% of those who did not know, and 4% who answered "Other". The organisations expressed their suspicion that there was non-transparency and bias in the commissions for the allocation of funds, as well as illegal rejection of projects.

Given that there are no particular restrictions regarding the receipt of funding by NGOs, it can be concluded that the current system mostly meets international human rights law standards.

SO 1.7. Public financial and non-financial support to CSOs is available in IPA beneficiaries, and provided in a transparent, accountable, fair and non-discriminatory manner.

Indicator 1.7.a: The level of public funding available for CSOs and associations is clearly articulated in laws and regulations, and the rights and duties of the state body invested with the ability to set and revise the level of public funding available is clearly defined in law.

5 – fully meets standards

81–100

Article 32 of the Law on NGOs obliges the ministries **to publish the public Call for the distribution of funds** for the financing of projects and programmes of organisations in the area of public interest, which has been determined as a priority, on the website of the state administration body and the Internet portal of electronic administration (e-uprava portal), **by March 1 of the year in which the funds are**

³² Law on Non-Governmental Organisations, available at: <https://www.gov.me/dokumenta/e0a79560-b887-4a20-9de3-c1cea8ec6548>

to be distributed. The public tender announcement is published in one printed medium, and contains basic information about the public tender (the name of the state administration body that announced the public tender, the area for which the public tender was announced and the address of the website where the text of the public tender was published).

According to Article 32 of the **Law on Non-Governmental Organisations**, the state provides funds for financing projects and programmes of NGOs³³ by allocating at least **0.5% of the annual budget** for a particular year, as follows:

- at least 0.3% for areas of public interest;
- 0.1% in the field of protection of persons with disabilities;
- at least 0.1% for co-financing and inter-financing of NGO projects and programmes supported by EU funds.

Indicator 1.7.b: Percentage of public budget actually disbursed to CSOs in a year.

During 2021 there were many delays in publishing Calls for financing projects and programmes, and some ministries even decided not to announce the calls: there was no Call for the distribution of funds to CSOs for the implementation of the Strategy and Action Plan for Youth (that supposed to be announced by Ministry of Education, Science, Culture and Sports); nor the Ministry of Labor and Social Welfare (responsible for occupational health and safety) published a Call for CSOs to finance projects in this area, even though both areas are of public interest. Ministry of culture published a call but not the results.

In the period 2018–2020, a total of 904 national NGO projects and programmes were financed, to the amount of 12,211,765.99 euros: in 2018, 4,066,603.20 euros were allocated for 260 projects and programmes; in 2019, EUR 3,642,949.72 were allocated for 318 projects and programmes; and in 2020, EUR 4,502,213.07 were allocated for 326 projects and programmes. In 2020, in Montenegro, EUR 6,672,496.05 were allocated from the state budget for non-governmental organisations, which represented 0.7% of the total current budget of Montenegro for the year 2020³⁴. According to the government Report³⁵, on the basis of 28 announced public calls for financing projects and programmes of CSOs (23 for areas of public interest, four in the area of protection of persons with disabilities, and one for co-financing), 4,251,357 euros were distributed in 2021, i.e. **91.59% of the allocated funds**, namely 2,395,265 euros for areas of public interest, 927,790 euros for the area of protection of persons with disabilities, and 928,301 euros for co-financing of EU funded projects. Of the total approved funds for these purposes, in 2021 the amount of EUR 390,149 remained undistributed. Of the amount mentioned, the amount of 330,000 euros referred to competition in the field of culture and art, where the decisions on the distribution of funds had not yet been made³⁶.

33 Including but not limited to social and health care, poverty alleviation, protection of persons with disabilities, assistance to the elderly, protection and promotion of human and minority rights, rule of law, development of civil society and volunteerism, Euro-Atlantic and European integration of Montenegro, institutional and non-institutional education, science, art, culture, environmental protection, sustainable development, consumer protection, gender equality, fight against corruption and organised crime, etc.

34 This amount included EUR 4,502,213.07, which was distributed in accordance with the Law on Non-Governmental Organisations, EUR 1,583,608.34 distributed by government bodies on other legal grounds, and EUR 586,674.64, distributed according to the programmes of the active foreign employment policy Employment Office.

35 *Report on the implementation of public tenders and approved projects in accordance with the Law on Non-Governmental Organizations in 2021*, adopted at the 34th Session of the Government, held on December 22, 2022 (prepared by the Ministry of Public Administration), <https://www.gov.me/dokumenta/5789ce89-a8b2-4f3c-bd7b-f6dd774a2156>

36 Source: <https://www.gov.me/clanak/saopstenje-sa-34-sjednice-vlade-crne-gore>

Indicator 1.7.c: Extent to which legal provisions regulating the award of public funding to CSOs ensure that:

- funding criteria are clearly defined, objective and publicly announced;
- evaluation of proposals is clear and impartial;
- conflict of interest is clearly regulated;
- reporting requirements are clear and proportionate.

3 – moderately meets standards **41–60**

The funding criteria are clearly defined, objective and publicly announced, since Article 32d of the Law on NGOs stipulates the funding criteria, which refer to the qualifying attributes of nominated projects and programmes, and also to the capacities and contributions of NGOs to implement the public interest in areas stipulated by law.

According to Article 32b, paragraph 6 of the **Law on NGOs**, the procedure for the allocating of public funds to NGOs is being implemented by the cross-sectoral commissions for the distribution of funds established by the line ministries. The commissions have no power to set and revise the levels of public funding, as the Law already regulates the thresholds. Each commission consists of a president and two members, of whom the president and one member are civil servants in the state administration body from paragraph 1 of this article, and the other member is a representative of non-governmental organisations operating in a certain priority area of public interest. If the organisations do not propose their representative or if an elected NGO representative cannot participate in the decision-making, a member from the rack of civil servants from the state administration body shall be appointed as the second member of the Commission. So-called independent assessors are tasked with the scoring of each proposed project and programme, per Article 32d of this law, and lists of evaluators is established based on a public call.

Conflict of interest is regulated for CSO members of the Commission, and Article 32b paragraph 4 of the **Law on NGOs** prescribes that the representative of organisations in the commission cannot participate in the decision-making on the projects and programmes which are submitted by the organisations that proposed him/her as the representative in the commission. Unfortunately, the role of the Commission is only technical, since the **Law on NGOs** stipulates that the scoring of each proposed project and programme is carried out by two so-called “independent assessors” from a list determined by the Ministry of Public Administration based on a public call (Article 32d). According to Article 32e of the Law, based on the number of points determined by them, the commission establishes a ranking list of the projects or programmes that have been scored. The work of such “independent assessors” was regularly criticised by CSOs because of the criteria for their selection; and the fact is that they are not independent, since 90% of the assessors on the list for 2021 were employees in the ministries (they were employed in one ministry and acting as “independent assessors” of projects submitted to another ministry’s call for projects). Also, besides being employees in the ministry, they were very often without any experience in volunteering, project management, or the topic that they were evaluating (although such experience is one of the criteria prescribed by the regulation).

The reporting requirements are implemented differently by every ministry: some require CSOs to report monthly, some periodically, and some ministers only require one final report. There are special cases – for example, the Regulation on the procedure and method for the government co-financing projects and programmes of organisations supported by European Union funds, adopted in 2018, prescribes, in Article 10, that an organisation that has been allocated funds per the Regulation is obliged to submit copies of the progress report and the final report on the implementation of the project or programme financed to the line Ministry.

Indicator 1.7.d: Central governments make the information on awards publicly available and sufficiently detailed to identify individual awards.

5 – fully meets standards

81–100

All the ministries publish information on awards on their websites, with sufficiently detailed information to identify individual awards. Additionally, information about projects and programmes of organisations funded from public sources is available on the web portal.

According to the Public Authorities Survey for 2021, one third of respondents answered that the extent to which the relevant authorities made the information on public funding awards to CSOs was insufficiently available to the public, while a large majority, on the other hand, stated it was sufficiently and fully available publicly.

Indicator 1.7.e: Proportion of CSOs indicating that the provision of domestic public funds is transparent, fair and non-discriminatory.

1 – does not meet standards

0–20

According to the results of the CSO Survey for 2021, only 18% of CSOs indicated that the provision of domestic public funds was transparent, fair and non-discriminatory.

26% of CSOs indicated that provision of public funding to CSOs was sufficiently transparent or very transparent, while 61% considered them not transparent or insufficiently transparent.

On the question of how fair the provision of public funding to CSOs was, only 12% said very fair or sufficiently fair, while 69% said it was not fair or insufficiently fair. 19% of CSOs indicated that they did not know whether it was fair.

Indicator 1.7.f: Public funding does not exclude CSOs on the basis of their constituency representation.

In 2021, the majority of the CSOs participated in the Survey, and 74% of them applied for public funding. 77.2% of those CSO applications were unsuccessful, and 21.1% successful.

The percentage that replied in the negative were further requested to elaborate on the reasons for their unsuccessful application, and 50% of the respondents answered that the authorities funded their preferred organisations.

In relation to the rejection of applications and their constituency representation, 14% of CSOs stated that the authorities did not want to fund the work with the people they served and represented.

One group of CSOs thought it was connected with the quality of the project proposals, 30% stated that the competition was very strong, and 15.9% were of the opinion that their proposal was not good enough.

Some Survey participants also provided comments on this question, such as: “We are currently conducting court proceedings against the Ministry of Labour and Social Welfare due to unfair process”; “The authorities misinterpreted our Statute and the Law on NGOs. We have applied for LGBT projects, and the fact that the Statute says we deal with human rights was not sufficient for the authorities to consider us eligible to apply”; “The so-called independent evaluators/assessors of applications do their work unprofessionally and are subject to patronage”; “There were not enough funds for all the projects that met the criteria to be supported”; “Insufficient knowledge of the matter of state commissions, corruption and nepotism, as well as political influence, are the reasons”.

52.6% of organisations that did not apply for public funding in 2021 stated it was because they thought they did not have a realistic chance of winning, while 16% stated that the funds offered were too small. A small percentage - 5.3% - missed the deadline.

SO 1.8. Individuals and corporations enjoy tax benefits for their donations to CSOs.

Indicator 1.8.a: Tax legislation allows for tax relief as regards:

- Individual giving
- Corporate giving

4 – meets most standards

61–80

Individuals and corporations have access to tax deductions, but there are restrictions depending on the topics/areas. Per the Law on personal income tax³⁷, Article 24, expenses for health, educational, scientific, religious, cultural, sports and humanitarian purposes, as well as for environmental protection, are recognised as expenses at up to 3% of the total income.

Per the Law on Corporate Income Tax³⁸, Article 14, expenditures for health, social, educational, scientific, religious, cultural, sports and humanitarian purposes, poverty reduction, environmental protection, protection of persons with disabilities, social care of children and youth, assistance to the elderly, protection and promotion of human and minority rights, the rule of law, development of civil society and volunteerism, the Euro-Atlantic and European integration of Montenegro, art, technical culture, improvement of agriculture and rural development, sustainable development, consumer protection, gender equality, the fight against corruption and organised crime and the fight against drug addiction, are recognised as expenses at up to 3.5% of the total income. Expenditures from paragraph 1 of this article are recognised in money, things, rights and services, and are recognised as expenses only if they are made to legal entities (state bodies, public institutions, non-governmental organisations, sports, educational, scientific, religious, cultural and other humanitarian organisations) that perform tasks, that is, activities for the purposes referred to in paragraph 1 of this article per special regulations and if they are used exclusively for these purposes.

However, individual and corporate giving is insufficiently practiced due to a lack of information and therefore an unclear administrative procedure for tax incentives.

Indicator 1.8.b: Proportion of private individuals who have given money to a CSO.

According to the World Giving Index for 2021 provided by the Charities Aid Foundation, Montenegro was ranked 59th on the world giving list. The proportion of private individuals who have given money to a CSO was 39%³⁹, which was a significant increase compared to 25% in 2017, 24% in 2018, and 22% in 2019.

According to Catalyst Balkans data⁴⁰, in 2021, EUR 12,800,000 in donations were recorded in Montenegro, through giving in 573 instances. Of this number, 14% were donated by citizens (groups of citizens, who therefore cannot be identified by name), while individuals (citizens who can be identified) accounted for 12% of donors. However, non-profit organisations received only 2.2% of the total money donated.

37 Law on Personal Income Tax (*Official Gazette of the Republic of Montenegro*, nos. 65/2001, 12/2002, 37/2004, 29/2005 – other laws, 78/2006 and 4/2007, and *Official Gazette of Montenegro*, No. 86/2009, 40/2011 – other laws, 14/2012, 6/2013, 62/2013, 60/2014, 79/2015, 83/2016 and 67/2019), available at: [Zakon o porezu na dohodak fizičkih lica | Crna Gora | Paragraf](#)

38 Law on Corporate Income Tax (*Official Gazette of the Republic of Montenegro*, nos. 65/2001, 12/2002, 80/2004 and *Official Gazette of the Republic of Montenegro*, nos. 40/2008, 86/2009, 40/2011 – second law, 14/2012, 61/2013 55/2016 and 146/2021; available at: <https://me.propisi.net/zakon-o-porezu-na-dobit-pravnih-lica/>

39 *World Giving Index 2021, A global pandemic special report*, Charities Aid Foundation, June 2021, <https://good2give.ngo/wp-content/uploads/2021/06/caf-world-giving-index-2021.pdf>

40 *Giving Montenegro 2021 - Report on the State of Philanthropy*, Catalyst Balkans, <https://givingbalkans.org/content/giving-montenegro-2021-report-state-philanthropy>

SO 1.9. Tax benefits are available to CSOs.

Indicator 1.9.a Extent to which applicable tax laws provide for appropriate tax benefits for CSOs.

4 – meets most standards

61–80

According to the provisions of the Law on Profit Tax of Legal Entities, non-governmental organisations are not taxpayers of profit tax if they perform a non-profit activity. If they are engaged in economic activity, they must register with the CRPS of the Tax Administration per Article 29 of the Law on Non-Governmental Organisations. The profit generated by the performance of economic activity must be used on the territory of Montenegro to achieve the goals for which the non-governmental organization was founded.

According to Article 32 of the Law on Profit Tax of Legal Entities, for a non-governmental organisation, which is registered to perform economic activity, the tax base is reduced to the amount of 4,000 Euros, provided that the profit is used to achieve the goals for which the NGO was founded. This amount is too low and should be adopted/changed over coming years in line with the inflation rate and general economic situation in the country.

According to the Law on NGOs, Article 31, the state provides support to organisations by providing financial resources for support in the budget, **as well as by introducing tax and other benefits to non-governmental organisations, in accordance with the law.**

According to Article 6 of the **Legal Entity Profit Tax Law**⁴¹, the following entities are exempt from profit taxes: state bodies, state administration bodies, local administration bodies, public funds, public institutions, tourist organisations, sports clubs, sports societies and associations, religious communities, art associations, political parties, chambers, trade unions and non-governmental organisations, if following a special law they are established to perform non-profit activities.

Article 14(1), which was amended in 2016, provides that in-country donations (“expenses”) for “medical, social, educational, scientific, religious, cultural, sport and humanitarian purposes, poverty reduction, environmental protection, protection of disabled persons, child and youth care, assistance to the elderly, protection and promotion of human and minority rights, rule of law, civil society and volunteer development, Euro-Atlantic and European integrations, art, technical culture, support to agriculture and rural development, sustainable development, consumer protection, gender equality, tackling corruption and organised crime as well as addiction, which do not exceed 3.5 percent of the gross annual income, are exempt from taxes”. The revised Article 14(1) is largely harmonized with the concept of public benefit in the Law on NGOs, with one notable exception: the list of public benefit activities in the Legal Entity Profit Tax Law is exhaustive, whereas the list in the Law on NGOs is an illustrative one. In addition, Article 14(2) of the Law now specifically provides that donations are recognized in money, goods, intellectual property, and services.

SO 1.10. The policies and legal environment provide incentives and facilitate volunteering and employment in CSOs.

Indicator 1.10.a: Laws regulating volunteering are adopted.

2 – minimally meets standards

21–40

There is a legal framework in Montenegro - **the Law on Voluntary Work**⁴² (adopted in 2010, and amended several times, most recently in 2015), but this existing Law treats volunteering as a special form of labour-law relations, rather than a voluntary, individual citizens’ initiative. It contains several positive

41 Legal Entity Profit Tax Law, available at: <https://www.gov.me/dokumenta/d9df63ce-558e-433e-a7af-f0129eb3f7b9>

42 Law on Voluntary Work, available at: <https://www.gov.me/dokumenta/506a88a7-b783-46cb-a1ee-1151014ad9f9>

elements: it defines voluntary work, the obligatory use of voluntary contracts, the rights of volunteers and organizers of voluntary work, and a strategy for the development and promotion of voluntary work. It also prescribes that the role and importance of volunteer work, its long-term goals, and development priorities and the measures for their realisation, should be determined by the Strategy for Volunteerism Development. The law also stipulates the establishment of volunteer services at the national level, and at the level of localities which, for the territory for which they were established, register persons who are interested in volunteer work, and refer volunteers to interested organisers and the beneficiaries of volunteer work.

On account of the mistreatment of volunteering by existing legislation, after years of criticism, the Ministry of Labour and Social Welfare and its working group, with the support of the EU and its Technical Assistance (TA) to the Government project, created a draft of the new **Law on Volunteering**⁴³; but although it has been going through the necessary procedure since November 2019, it has not yet been adopted by Parliament. (Note: The Government of Montenegro, at the Session held on 21.11. 2019, determined this Draft Law on Volunteering, and the Prime Minister submitted it to the Parliament of Montenegro for further adoption procedure. On 29.11.2021, the Government of Montenegro withdrew the Draft Law on Volunteering from the parliamentary procedure, as it was noted that there are legal-technical errors in the draft law that should be eliminated). There is no publicly available information on the status of this draft at this moment.

The general problem is that the Law on Voluntary Work is not in line with practice and has failed to regulate the existing volunteering framework in the country or to create a favourable environment for its development. The general problem is that the law regulates “voluntary service”, not “volunteering” activities, which creates misunderstandings and problems in its implementation. It is mentioned in several reports that the Montenegrin Law on Voluntary Work treats volunteering as a special form of labour-law relations rather than as a voluntary, individual citizens initiative⁴⁴. Also, this existing legislation does not support corporate volunteering, although there are many cases of positive practice of companies and small and medium enterprises in organising corporate volunteering as a part of their Corporate Social Responsibility programmes. The law also states that “Children under the age of 15 cannot be involved in volunteer work”, since the existing Law treats volunteering as a special form of labour-law relations, rather than a voluntary, individual citizens’ initiative.

However, volunteering in CSOs is supported and promoted by the legal framework, including the youth policy, and according to the Law on Youth, youth policy in Montenegro is based on the principles of thuality, volunteerism, solidarity, active participation and the informing of young people. In addition to the above-mentioned, the Law on Non-governmental Organisations gives the possibility to young people who are 14 and over to be founders of non-governmental organisations, which creates a legal framework for implementing youth-led voluntary activities and achieving a higher level of direct involvement of young people in community development.

Indicator 1.10.b: Government volunteering strategies and programmes support volunteering for CSOs and have sufficient resources allocated for implementation.

1 – does not meet standards

0-20

Although the existing Law on Voluntary Work prescribes that the role and importance of volunteer work, long-term goals, development priorities and measures for their realisation are determined by the Strategy for Volunteerism Development, in 2021 there was no active strategy in place. This strategy should be adopted by the Government of Montenegro for a period of five years, and in accordance with it, programmes for the development of volunteerism at the local level must be adopted.

43 Draft Law on Volunteering, available at: <https://zakoni.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/889/2188-12865-19-1-19-4.pdf>

44 *Contribution of non-programme countries to EU Youth Wiki* 'Chapter III: Montenegro - Voluntary activities', EU CoE Youth partnership, 2017, <https://bit.ly/3Hj3xGZ>

The importance of volunteering was, however, recognised by civil society and the government a decade ago, and the proof is that Montenegro was the first country in the region to adopt a **National Strategy for Volunteerism Development (2010–2015)**; but after its expiration, the relevant ministry (Ministry of Labour and Social Welfare) never created a report on its implementation nor a new strategy covering this topic.

Indicator 1.10.c: Proportion of CSOs that benefit from state employment strategies and programmes.

According to the CSO Survey, the number of CSOs that benefited from state employment strategies and programmes in 2021 was 31.2% of the total respondents.

The largest number of organisations stated that the benefit was through the programme of professional training and engagement of persons with higher education; through the Public Work Programme of the Employment Agency of Montenegro; and through the employment of persons, thereby providing the services of personal assistants for persons with disabilities.

It is important to mention that during Covid19 pandemic, the Government supported businesses with subsidies for paying salaries and retaining employees, but no specific measures were introduced for the CSOs, and only 2.6% of those who answered this question in the CSO Survey reported that they benefited from COVID-related governmental employment support. They mentioned that CSOs were left out of all measures that concerned helping companies to recover from the crisis caused by the Covid19 pandemic. In addition, they mentioned that ministries were late with decisions on publishing Calls for projects and programmes, and also late with decisions and budget payments for projects already approved.

Indicator 1.10.d: Proportion of CSOs that benefit from state volunteering strategies and programmes.

In 2021 there was no active Strategy on volunteering, but volunteering in CSOs was supported and promoted by the existing legal framework, especially among youth. According to the Law on Youth⁴⁵, youth policy is based on the principles of equality, volunteerism, solidarity, active participation and the informing of young people.

According to the CSO Survey, the number of the CSOs that benefitted from government volunteering programmes in 2021 was just 3.9% of the total respondents (i.e. only 3 CSOs).

Indicator 1.10.e: Proportion of employees in CSOs in relation to the total workforce.

In its report for 2021, MONSTAT⁴⁶ published data that 26.8% was employed in central or local government and NGO or humanitarian organisations, with no details per sector. But according to data published by the Minister of Public Administration in April 2022, only 0.8 percent of the total number of employees were employed in the NGO sector.

Indicator 1.10.f: Percentage of people who have volunteered their time to an organisation.

There are no official data from MONSTAT or other national institution, but according to the World Giving Index⁴⁷ published by the Charities Aid Foundation, the percentage of people who have volunteered their time to an organisation was 11% in 2021, which was an increasing trend when compared with 2019 (when it was 8%), 2018 (when it was 9%), and 2017 (when it was 10%). There are no data for 2020, owing to the Covid restrictions on movement.⁴⁸

⁴⁵ Law on Youth, <https://wapi.gov.me/download/e1ac770f-706f-4ba9-99e3-790b64ba464f?version=1.0>

⁴⁶ MONSTAT.

⁴⁷ This report provides insight into the scope and nature of giving around the world and looks at three aspects of giving behaviour. The 3 questions that lie at the heart of the report are: Have you done any of the following in the past month: 1) Helped a stranger, or someone you didn't know who needed help? 2) Donated money to a charity? 3) Volunteered your time to an organisation?

⁴⁸ *World Giving Index 2021. A global pandemic special report.* Charities Aid Foundation, June 2021. https://www.cafamerica.org/wp-content/uploads/CAF_WORLD_GIVING_INDEX_2021_REPORT_WEB2_100621.pdf



Specific Objective 2

Strengthened cooperation and partnership between CSOs and public institutions.

SO 2.1. Public authorities and institutions include CSOs in decision- and policy-making processes.

Indicator 2.1.a: Laws, by-laws, strategies, other acts of public interest and policy reforms are effectively consulted with CSOs in that:

- CSOs have access to the draft document from the beginning of the drafting process to the end of the adoption procedure;
- At least 15 days are allowed for commenting before the draft document enters adoption procedure;
- The use of extraordinary/expedited procedures to adopt legislation without allowing for consultation is an exception and duly justified;
- Reports on results of public consultations, including reasons for rejection of comments, are published in a timely fashion;
- Working groups members from CSOs are selected based on a public call, clear criteria and in line with equal treatment;
- Working group members from CSOs include representatives of society as a whole, including women's groups, LGBTIQ groups, migrant groups, minorities, disability groups, and others as appropriate, in line with the Human Rights Based Approach.

4 – meets most standards

61–80

The **Law on Public Administration**⁴⁹ regulates NGO participation in public decision-making processes. According to Article 79, state administration bodies cooperate with organisations by enabling the participation of organisations in the procedure for conducting a public discussion in the preparation of laws and strategies, in accordance with Article 51 of this law, and in the work of working groups and other working bodies formed by state administration bodies for the purpose of reviewing issues of common interest or for the normative regulation of relevant issues.

The detailed criteria and procedure for the selection of CSO representatives in working groups and other working bodies formed by state administrative bodies, as well as the procedure for conducting a public discussion, are determined by **the Regulation on the election of representatives of CSOs to the working bodies of state administration bodies and the conduct of a public hearing in preparation laws and strategies**.⁵⁰

Organisations in Montenegro, **according to the Law, have access to the draft document from the beginning of the drafting process** to the end of the adoption procedure. Also, according to Article 12, paragraph 1, items 5 and 6 of the **Law on Free Access to Information**⁵¹, the authority is obliged to publish the following information on its website: drafts, proposals and final texts of strategic documents and plans and programmes for their implementation; drafts and proposals of laws and other regulations, as well as expert opinions on those regulations.

49 Law on Public Administration, *Official Gazette of Montenegro*, Nos. 78/18, 70/21 and 52/22), available at: <https://me.propisi.net/zakon-o-drzavnoj-upravi/>

50 The Regulation on the election of representatives of CSOs to the working bodies of state administration bodies and the conduct of a public hearing in preparation laws and strategies (*Official Gazette of Montenegro*, No. 41/18) available at the link <https://www.gov.me/dokumenta/1f353a31-1729-4db3-a378-e8c4610a5b04>

51 Law on Free Access to Information (*Official Gazette of Montenegro*, Nos. 44/12, 30/17) available at the link <https://www.gov.me/dokumenta/f9dcdea6-e2b9-4b1a-a80c-e243a073d7b4>

In the CSO Survey, 26% of respondents stated that their organisation had access to the draft document from the beginning of the drafting process to the end of the adoption procedure.

The **Regulation** defines the deadlines for both phases of the public discussion (for the consultation phase and for discussion phase of the process of drafting law and strategies), and the deadline for consulting the interested public is 15 days. In the CSO Survey, 22% of respondents stated that their organisation had at least 15 days available for commenting before the draft document entered adoption procedure.

The duration of a public debate/hearing on the text of the draft law spans from 20 to 40 days. The **Law on Public Administration** prescribes three cases when a public hearing is not mandatory: a) when issues in the field of defence and security and the annual budget are regulated by law or strategy; b) in extraordinary, urgent or unpredictable circumstances; c) in the case of minor amendments to the law that do not regulate an issue significantly differently.

The Regulation mentioned above (**Article 18 of the Regulation**) stipulates the obligation to publish the report on public consultations promptly. The Report should include the reasons for rejecting the proposal.

Article 3, paragraph 1 of this Regulation stipulates the obligation to publish a public call for the nomination of CSO representatives, as well as clear and detailed criteria for both the CSOs that propose their representatives and their representatives.

There is no request nor recommendation that working group members from CSOs be drawn from a diversity of backgrounds.

In the CSO Survey, over half of the respondents, 55%, said that the authorities did not effectively consult their organisation in the drafting of laws, by-laws, strategies or acts of public interest and policy reform, while 36% of the CSOs answered positively. 23% stated that the representative of their organisation was a member of a working group tasked with the development of laws, by-laws, strategies or acts of public interest and policy reforms.

According to the Public Authority Survey results, the majority of respondents answered that CSOs were sufficiently and effectively consulted in the development of laws, by-laws, strategies, and other acts of public interest and policy reforms, and sufficiently or fully informed of the opportunities to contribute to and participate in the development of laws, policies and strategies. They also stated that their institutions sufficiently or fully took account of the views of all the communities and groups affected by the laws, policies and strategies that were being considered.

Indicator 2.1.b: CSOs are effectively included in oversight mechanisms.

Civil society in Montenegro is involved in different ways in oversight mechanisms, and monitors policy implementation and takes part in different Commissions, e.g. the National Commission for the implementation, coordination, monitoring and evaluation of the success of gender equality policies; the National Commission for the implementation of the strategy for the fight against corruption and organised crime, etc. CSOs often take part in or initiate consultative hearings.

Although the role of civil society is recognised by the legal framework and policy documents, and there are some oversight mechanisms in place, these mechanisms are not being used to their full potential, so the participation of CSOs in oversight of policy creation and implementation needs to be further strengthened.

Indicator 2.1.c: Proportion of CSOs that have participated in consultations during preparation of state reports under international human rights and other legal obligations and the implementation of treaty body recommendations.

According to the CSO Survey, 52% of CSOs were aware of open calls and said that government authorities had launched open calls for CSO participation in consultations on the drafting of government

reports under international human rights or other treaties or the implementation of treaty body recommendations. In comparison, 14% said this had not been the case, and 34% said they did not possess the necessary information. Out of the CSOs who were aware of those open calls for CSO participation in consultations, only 18% of respondents said that they participated in them.

CSOs reported involvement in consultation processes from different areas, e.g. the biggest percentage of those who participated in the Survey - 36% of the CSOs - stated that they took part in consultations related to the Convention on the Rights of the Child. 21% of CSOs stated that they took part in consultations for the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence (Istanbul Convention).

SO 2.2. Public authorities and institutions acknowledge the importance of civil society in societal policy debate and EU integration processes.

Indicator 2.2.a: Extent to which CSOs assess the attitude of public officials towards civil society as supportive.

1 – does not meet standards 0–20

According to the CSO Survey, most of the CSOs - 79.2% - stated that public officials were not at all supportive or insufficiently supportive toward civil society in 2021. Only 13% considered them very supportive or sufficiently supportive.

SO 2.3. Public authorities contribute to civil society strengthening by cooperating with civil society through strategic policy frameworks and relevant institutional mechanisms.

Indicator 2.3.a: Proportion of CSOs that were effectively consulted in the preparation of civil society cooperation strategies.

Since the previous policy document, the Strategy for Enhancing Conducive Environment for Activities of the Non-Governmental Organisations 2018–2020 had expired, during 2021 a working group was formed to create a new Strategy.

During this process of strategy creation, a total of eight Zoom meetings of targeted focus groups were held with representatives of CSOs at the national and local levels, representatives of ministries, representatives of municipalities, and representatives of donors and service users, where over 60 participants contributed to the process.⁵²

According to the results of the CSO Survey, 63% of respondents said the Strategy was drafted through a public consultation.

Indicator 2.3.b: IPA beneficiaries have adopted currently valid civil society cooperation strategies.

1 – does not meet standards 0–20

The Strategy for the Cooperation of State Administration Bodies and Non-Governmental Organisations 2022–2026 was not adopted in 2021, but was adopted in July 2022.

⁵² Information on the process of developing the Strategy of Cooperation between State Administration Bodies and Non-Governmental Organizations 2022–2026, Ministry of Public Administration, available at: <https://wapi.gov.me/download/fff7d2d8-bb93-40cf-bd33-3c2ed8df9fa0?version=1.0>

Indicator 2.3.c: Civil society cooperation strategies are accompanied by adopted budgeted action plans.

There was no active/valid cooperation strategy in 2021 in Montenegro.

Indicator 2.3.d: Proportion of CSOs that rate civil society cooperation strategies as relevant and effective.

There was no active/valid cooperation strategy in 2021 in Montenegro.

Indicator 2.3.e: Public structures responsible for the implementation of civil society cooperation strategies are appropriately resourced.

The management of cooperation policies between state administration bodies and the civil sector, and the regulation of the environment in which the civil sector operates, are unified in the Ministry of Public Administration, including the tasks of registering organisations and creating and monitoring policies that regulate the cooperation of state administration bodies with the civil sector. According to the government report, the Ministry has continuously strengthened the capacities of personnel responsible for the preparation of proposals for regulations related to the establishment and operation of CSOs, and the development of cooperation between state administration bodies and organisations, monitoring the implementation of public hearings in the preparation of laws and strategies and future work related to the programming and management of European Union funds. Thematic trainings need to be regularly organised with the aim of increasing the quality and efficiency of the aforementioned tasks, having in mind that analyses show that the state administration still needs to follow the consistently valid rules for the participation of the public and CSOs in the preparation of policies and regulations⁵³.

There is a mechanism called the Council for Cooperation between the Government and non-governmental organisations, that has a goal further the development of institutional mechanisms of cooperation and participation of CSOs, monitoring of the implementation of the Strategy for Cooperation with CSOs, and supporting the development of the relations between the Government and civil society.

Indicator 2.3.f: Mechanisms for dialogue between civil society cooperation councils and central governments meaningfully include CSOs in that:

- they have an agreed programme of work
- they have agreed rules of procedure
- they meet regularly
- rules allow CSOs to call the meetings and contribute to agenda setting
- there is adequate follow-up to conclusions and recommendations.

3 – moderately meets standards

41–60

The chairperson of the Council is a representative of the Government and their deputy a representative of civil society. The membership of the Council consists of six representatives of state administration bodies and six representatives of non-governmental organisations. The chairman and the members of the Council are appointed by the Government, while the CSOs are elected through a public announcement. The representatives of the state administration bodies are appointed on the proposals of the Ministry of Public Administration, Ministry of Human and Minority Rights, Ministry of Labour and Social Welfare, Ministry of Finance, Ministry of Economy, and Ministry of European Affairs. The representatives of the state administration bodies must be state secretaries in ministries or civil servants from the category of senior management staff. The representatives of the non-governmental organisations on the

⁵³ Cooperation strategy of state administration bodies and non-governmental organizations 2022–2026, July 2022, <https://eusluge.euprava.me/eParticipacija/GetFile.aspx?id=1622>

Council are appointed at the proposal of CSOs whose areas of activity are the development of CSOs, volunteerism, protection of persons with disabilities, social entrepreneurship, development of philanthropy, and European integration. One member is appointed for each area of activity.

The mandate of the Council for Cooperation between the Government and non-governmental organisations expired in September 2021, and the last meeting was held on 28th July 2021. In the three-year term of work, the Council has held 11 sessions, at which it discussed 20 items on the agenda⁵⁴.

According to the results of the Public Authorities Survey, 30% of respondents said that the dialogue between the civil society cooperation council and the government was sufficiently meaningful, while 10% rated it as very meaningful. 50% answered that they did not know.

54 Strategy for Cooperation of State Administration Bodies and Non-Governmental Organisations 2022–2026 (June 2022)



Specific Objective 3

CSO capacity and resilience to carry out their activities effectively are reinforced.

SO 3.1. CSOs' internal governance structures follow the principles of good governance.

Indicator 3.1.a: Proportion of CSOs that have an independent and effective governing body with clear terms of reference to oversee the organisation's strategic goals, impact, management, legal compliance, and accountability.

3 – moderately meets standards 42%

The proportion of CSOs that have a governing body and a governing document, and whose governing document defines roles and responsibilities, and that do not have paid members of staff on the board is 42%.

In the CSO Survey, 98% of CSOs reported having a governing body (a board or council or board appointed by assembly comprising individuals who are responsible for strategic oversight of the organisation, its legal compliance and accountability), whereas 99% have a governing document (a statute, articles of association or similar founding document). In the case of 91% of the CSOs, this governing document defines the roles and responsibilities of the governing body.

As regards the independence of the governing bodies, however, it is concerning that 41% of the respondents reported that the executive director or another paid staff member of their organisation was a voting member of the governing body.

Indicator 3.1.b: Proportion of CSOs that regularly check potential conflicts of interest with regard to the political, economic and personal relationships of their governing body.

2 – minimally meets standards 20%

According to the CSO Survey, in 33.3% of cases during 2021, members of the governing body of the organisation were required by the organisation to sign a conflict-of-interest declaration once, when first assuming their role. The situation is more challenging with regard to signing this document regularly, and only 20% of CSOs require that the conflict-of-interest declaration is signed every year. Most CSO respondents - 34.3% replied that their governing body members were not required to do so.

Indicator 3.1.c: Proportion of CSOs that share relevant information on their organisation using means and channels that are accessible to all stakeholders in terms of publishing.

- their statutes
- governance structure
- organisational policies

2 – minimally meets standards 31%

Out of all the CSOs covered in the Survey, 59% had their website. On the question whether the organisation's governing document, statute, articles of association, or similar founding document published on your organisation's website, 31% said they do.

Whilst 25% published organisational structure on their website, only 2% published the organisation's board and the names of the members of the board. Both information is published by 18%, and one quarter, 26% don't have none.

Indicator 3.1.d: Proportion of CSOs that have an organisational gender equality policy.

2 – minimally meets standards 39%

In 2021, according to the CSO Survey, 39% of CSOs had an organisational gender equality policy. Among them, 75% are human rights organisations while 25% are not.

But if we compare all human rights CSOs that took part in survey, 48% of them have gender policies, while 24% are human rights CSOs but do not have gender policies.

Indicator 3.1.e: Proportion of CSOs that have an organisational strategy, including vision, mission, and goals.

3 – moderately meets standards 56%

In 2021, according to the CSO Survey, 56% of CSOs had a strategy, and the strategy articulated at least one element from among vision, mission and goals.

SO 3.2. CSOs are able to communicate the results of their activities to the public.

Indicator 3.2.a: Proportion of CSOs that have at least one on-line channel of communication.

5 – fully meets standards 98%

In 2021, 98% of organisations stated they had at least one communication channel. If we look at what type of channels they use: 95% of CSOs used Facebook, 65% used Instagram; YouTube was used by 41% of CSOs, while 40% used messaging apps (Viber, Telegram, WhatsApp, Signal); 28% of CSOs used Twitter, but only 2% used TikTok. Surprisingly, traditional media (TV, newspaper, radio) were used by only 3.1% of CSOs.

Indicator 3.2.b: Proportion of CSOs that have specialised communications staff.

According to the CSO Survey for 2021, 57.1% of CSOs stated that they had a staff member responsible for external communication with stakeholders and the public.

Indicator 3.2.c: Proportion of CSOs that cooperate with the media.

In terms of partnerships with the media, 26% of CSOs noted that in 2021 they had engaged in partnerships and cooperated with the media sector.

SO 3.3. CSOs are transparent about their programme activities and sources of funding

Indicator 3.3.a: Proportion of CSOs that publish their annual reports and financial statements.

4 – meets most standards	55%
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According to the CSO Survey for 2021, 55.1% of CSOs published their annual report, and 68.4% of CSOs published financial statements of the organisation.

32.9% of CSOs published those documents in hard copy, while 56.6% did so on the website of the organisation. 14.5% of CSOs stated that their financial reports were publicly available on the Tax Administration website, or forwarded directly to partners and members of the organisation, or published on Facebook and other social networks

Indicator 3.3.b: Proportion of CSOs that publish information on their sources of funding and amounts received in the previous year.

2 – minimally meets standards	36%
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On the question of whether the organisation published information about its funding sources and the corresponding amounts received, 36% said they published both.

Most of the CSOs – 61% - only published information on their sources of funding, while 43% of CSOs stated that their organisation published information on the amounts received.

21.4% of CSOs stated that they did not publish information on any amounts received or funding sources, giving diverse reasons for not doing so. For example, regarding the publishing of financial reports, the reason stated for not publishing them by the majority of CSOs was that their annual financial statements were public documents available on the website of the Tax Administration and therefore accessible to everyone, so there was no need for additional publishing. Some CSOs, according to their statute, are not obliged to publish official documents, but present the annual report to their Assembly and/or send it directly to their members. Some CSOs had technical reasons for not publishing, such as there was no active CSO website, or there was no income, or because no project was implemented.

Indicator 3.3.c: Degree of public trust in CSOs.

No data comparable with other countries covered by this assessment were available for 2021.

SO 3.4. CSOs monitor and evaluate the results and impact of their work.

Indicator 3.4.a: Proportion of CSOs that have carried out an evaluation of their work in the last year.

4 – meets most standards	77.3%
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In 2021, 77.3% of CSOs said that their organisation carried out some sort or several types of evaluation. Out of the 97 CSOs that answered this question, 64.9% of CSOs conducted a project evaluation, 17.5% stated that they carried out a strategy evaluation, while 33% CSOs stated they carried out an internal process evaluation.

When it came to the number of evaluations in 2021, 38.2% reported they had conducted one (1) evaluation, 51.3% reported 2-4 evaluations, 6.6% CSOs made 5-7 evaluations, and 1.3% reported 8-10 evaluations.

Common reasons for not performing evaluations mentioned by the CSOs were that there was no need for them, or that they had implemented no projects in 2021, or that there were no such requests by donors.

SO 3.5. CSOs use research and evidence to underpin their work.

Indicator 3.5.a: Proportion of CSOs whose work is based on evidence generated through research.

5 – fully meets standards 81–100

According to the CSO Survey for 2021, 82.5% of CSOs stated that they based their work on evidence generated through research. The most common methods were: consultation with the community, used by 57.7% of CSOs; focus group meetings, used by 52.6%; surveys, used by 44.3% of CSOs; field research, used by 33% of CSOs; and desk research, used by 30.9%. Those were followed by: General Opinion Survey, used by 19.69% of CSO; and randomized control trials, used by 4.1% of CSOs. Some CSOs commented that for research purposes they used association meetings with parents and members (their constituencies), or results of the researches done by donors.

Among the common reasons for not undertaking research in 2021, CSOs mentioned the following: lack of research resources; the feeling research was unnecessary, given their constant communication with the community; lack of projects; lack of need for research; or lack of capacity for such consultations.

Indicator 3.5.b: Proportion of CSOs whose work is informed through consultation with people who have a stake in their current or future work.

5 – fully meets standards 81–100

According to the CSO Survey for 2021, out of all the CSOs that answered this question, 91.6% of them consulted some group of stakeholders. 61.5% consulted on their work with local communities, 63.5% with partners, 58.3% with their members, 47.9% with local authorities, 32.3% with national authorities, 40.6% with public institutions, 25% with institutional donors, 18.8% with individual donors, and 21.9% with academic institutions. The smallest percentage of CSOs, 9.4%, consulted with private businesses.

Among organisations that did not consult any stakeholders in 2021, several stated that there were no projects, or that they had no need to do so.

SO 3.6. CSOs work in fair and respectful partnerships to achieve shared goals.

Indicator 3.6.a: Proportion of CSOs taking part in local, central and international CSO networks.

In 2021, 61% of all CSOs involved in the Survey were part of at least one local, national or international CSO network.

38.5% of CSOs stated that they were members of formal networks, while 43% belonged to informal networks.

The biggest share – 38% – of CSOs were part of international networks, and 37.5% of national networks. Networking on a local level was much less present, with 20% of CSOs reporting they were part of local networks.

The number of CSOs who were not part of any network was 17.5%, while only two CSOs reported that they were part of regional networks.

Indicator 3.6.b: Proportion of CSOs engaged in cross-sectoral partnerships with academia, social partners and private sector.

According to the CSO Survey for 2021, 15% of CSOs reported that they were engaged in cross-sectoral partnerships with academia, while 17% of CSOs reported that they were engaged in cross-sectoral partnerships with the business sector.

Social partners were not included in the analysis, due to a data error and evident misunderstanding of the concept of “social partners”.

SO 3.7. CSO have a diversified funding base.

Indicator 3.7.a: Proportion of CSOs whose sources of donor income are diversified.

3 – moderately meets standards	45%
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In 2021, the proportion of CSOs whose sources of donor income were diversified was 45% (the lowest rate in the Region).

The European Commission stood out, with 53.2% of CSOs reporting their projects were EU-funded in 2021. It was followed by international CSOs, for 46.9% of the CSOs. A bit less than half of the CSOs - 46.8% - reported that they received funds from local government, and 37.2% from national government.

Bilateral donors constituted 31.6%, and private foundations 27.8% of the CSOs' donors, while foreign private foundations donated to 22.5% of CSOs. The United Nations contributed to 25.6%, and the Council of Europe to 11% of CSOs. It is to be noted that often funds distributed by the UN and CoE were part of national or regional EU-funded projects, but the CSOs did not perceive the EU as the donor, since the European Commission was not their direct contractor.

With regard to the sources of funding by the type of donor, 55% of CSOs reported they received 50% of their budget from only one donor type in 2021 (which was the highest rate in the Region).

Indicator 3.7.b: Proportion of CSOs raising funds from sources other than donors e.g., membership fees, corporate/individual giving and income generating activities.

3 – moderately meets standards	57%
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In 2021, 57% of Montenegro CSOs stated they had at least one other source of income.

37% said that individual donations were their second biggest source, 23.9% pointed to membership fees, and 22.1% to private businesses. 11.1% indicated the CSOs' own business/social enterprise activity/service provision, and 10% Crowdfunding.

SO 3.8. CSOs have effective, empowered and developed human resources.

Indicator 3.8.a: Proportion of CSOs that employ staff.

In 2021, out of the 83 CSOs that answered this question, the biggest number of CSOs (47) had 1–5 paid staff (47%), and 22 CSOs (26.5% of the total respondents) reported they had no paid staff. 8 CSOs (9.6%) had 6–10 paid staff, and 11 CSOs (13.3%) had 11 or more paid staff.

In total, 69.9% stated that they employed staff, whilst 3.6% did not know.

Indicator 3.8.b: Proportion of CSOs that have organisational human resources policies.

1 – does not meet standards 2%^c

The indicator looked at how many of the CSOs had all 9 policies in place and implemented in 2021, and only 1% of the CSOs had them all.

The biggest number of CSOs had only one of the policies - 19%. 18% had two of them, 12%, three of them, and 4%, had four of them. None of them had five policies, but 8% had six. None had seven, and only 1% had eight of them.

When looking at the type of policy they had, the greatest number of CSOs - 41% of them - had diversity equality and inclusion policies; 30% of the organisations had children-safeguarding and vulnerable adults policies; 24% of organisations stated that they had a recruitment policy; and 22% of CSOs had a bullying and harassment policy.

This was followed by 19% of organisations which had a performance evaluation policy, 17% of organisations that had a grievance/complaints policy, 13% of organisations that had a disciplinary policy, and 8% a remuneration policy. No more than 2% had a redundancy policy.

Only 11 CSOs (20.8%) said that they had published these organisational policies on their organisation's website.

Indicator 3.8.c: Proportion of CSOs that had advertised publicly their staff and volunteering vacancies in the last year.

In 2021, the number of CSOs that had advertised publicly their staff and volunteering vacancies on their website was 28%; on Internet portals, 17%; on social media, 39%; via print media, 10%; and via mailing lists, 17%.

28% of CSOs did not advertise publicly, while 18% did not have any vacancies in 2021.

Some CSOs reported that they had published via the advertisement website of the Employment Office of Montenegro, or the Bijelo Polje Labour Bureau notice board. Others stated they did not need to advertise positions for volunteers because they had a huge volunteer base and selected from this base for vacancies.

Indicator 3.8.d: Proportion of CSOs that have organisational policies encouraging recruitment of a diverse workforce.

With regard to having policies that encourage recruitment of a diverse workforce such as recruitment and diversity inclusion policies, 12% of respondents said they had such policies.

Indicator 3.8.e: Proportion of CSOs whose staff and volunteers have attended a training course in the past year.

5 – fully meets standards 82%

According to the CSO Survey for 2021, 82% of CSOs said that their organisation enabled staff or volunteers to attend a training course for the purpose of their professional development. Only 16.9% answered that they did not.

BIBLIOGRAPHY AND LAWS CONSULTED

- Constitution of Montenegro, available at: <https://www.skupstina.me/me/ustav-crne-gore>
- Contribution of non-programme countries to EU Youth Wiki Chapter III: Montenegro – Voluntary activities, EU CoE Youth partnership, 2017, <https://bit.ly/3Hj3xG7>
- Cooperation strategy of state administration bodies and non-governmental organisations 2022–2026, July 2022, <https://eusluge.euprava.me/eParticipacija/GetFile.aspx?id=1622>
- Criminal Code, *Official Gazette of Montenegro*, Nos. 57/2009, 49/2010, 47/2014, 2/2015, 35/2015, 58/2015, 28/2018, 116/2020, 145/2021, available at: <https://www.paragraf.me/propisi-crnegore/krivic-ni-zakonik-crne-gore.html>
- Decree on the election of representatives of non-governmental organisations in the working bodies of state administration bodies and the implementation of public hearings in the preparation of laws and strategies, available at: <https://www.gov.me/dokumenta/1f353a31-1729-4db3-a378-e8c4610a5b04>
- Draft Law on volunteering, available at: <https://zakoni.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/889/2188-12865-19-1-19-4.pdf>
- *Giving Montenegro 2021 - Report on the State of Philanthropy*, Catalyst Balkans <https://givingbalkans.org/content/giving-montenegro-2021-report-state-philanthropy>
- Information on the process of developing the Strategy of Cooperation between State Administration Bodies and Non-Governmental Organisations 2022–2026, Ministry of Public Administration, available at: <https://wapi.gov.me/download/fff7d2d8-bb93-40cf-bd33-3c2ed8df9fa0?version=1.0>
- Law on Accounting and Audit, available at: <https://me.propisi.net/zakon-o-racunovodstvu/>
- Law on Administrative Procedure, available at: https://www.paragraf.me/propisi-crnegore/zakon_o_opstem_upravnom_postupku.html
- Law on Corporate Income Tax (*Official Gazette of the Republic of Montenegro*, nos. 65/2001, 12/2002, 80/2004 and *Official Gazette of the Republic of Montenegro*, nos. 40/2008, 86/2009, 40/2011 - second law, 14/2012, 61/2013 55/2016 and 146/2021. available at: <https://me.propisi.net/zakon-o-porezu-na-dobit-pravnih-lica/>
- Law on Courts, *Official Gazette of Montenegro*, Nos. 11/2015 i 76/2020., available at: <https://me.propisi.net/zakon-o-sudovima/>
- Law on Free Acces to Information (*Official Gazette of Montenegro*, Nos. 44/12, 30/17) available at the link <https://www.gov.me/dokumenta/f9dcdea6-e2b9-4b1a-a80c-e243a073d7b4>
- Law on Free Access to Information, available at: <https://www.gov.me/dokumenta/f9dcdea6-e2b9-4b1a-a80c-e243a073d7b4>
- Law on Inspection Supervision, *Official Gazette of Montenegro*, Nos. 39/03, 76/09, 57/11, 18/14 and 11/15.
- Law on Internal Affairs, *Official Gazette of Montenegro*, Nos. 070/21, 123/21, available at: <https://www.katalogpropisa.me/propisi-crne-gore/zakon-o-unutrasnjim-poslovima-2/>
- Law on International Restrictive Measures, *Official Gazette of Montenegro*, Nos.56/2018 and 72/2019., available at: <https://me.propisi.net/zakon-o-medjunarodnim-restriktivnim-mjerama/>
- Law on Non-Governmental Organisations, available at: <https://www.gov.me/dokumenta/e0a79560-b887-4a20-9de3-c1cea8ec6548>
- Law on Personal Income Tax (*Official Gazette of the Republic of Montenegro*, nos. 65/2001, 12/2002 - corrected, 37/2004, 29/2005 - other laws, 78/2006 and 4/2007 - corrected and *Official Gazette of Montenegro* , Nos. 86/2009, 40/2011 - other laws, 14/2012, 6/2013, 62/2013, 60/2014, 79/2015, 83/2016 and 67/2019), available at: [Zakon o porezu na dohodak fizičkih lica | Crna Gora | Paragraf](#)

- Law on Prohibition of Discrimination, *Official Gazette of Montenegro*, Nos. 46/2010, 40/2011, 18/2014 i 42/2017. <https://www.paragraf.me/propisi-crnegore/zakon-o-zabrani-diskriminacije.html>
- Law on Prohibition of Discrimination, *Official Gazette of Montenegro*, Nos. 46/2010, 40/2011 - other laws, 18/2014 and 42/2017, available at: <https://www.paragraf.me/propisi-crnegore/zakon-o-zabrani-diskriminacije.html>
- Law on Public Administration, *Official Gazette of Montenegro*, Nos. 78/18, 70/21 and 52/22), available at: <https://me.propisi.net/zakon-o-drzavnoj-upravi/>
- Law on public gatherings and public events (*Official Gazette of Montenegro*, No. 052/16 dated 09.08.2016) available at: <https://www.katalogpropisa.me/propisi-crne-gore/zakon-o-javnim-okupljanjima-i-javnim-priredbama-2/>
- Law on Public Gatherings and Public Events (*Official Gazette of Montenegro*, No. 52/2016) available at link <https://www.katalogpropisa.me/propisi-crne-gore/zakon-o-javnim-okupljanjima-i-javnim-priredbama-2/>
- Law on State Administration, available at: <https://www.gov.me/dokumenta/42c-95c3f-0c64-4657-99f4-f014f1912bc8>
- Law on the National Security Agency, *Official Gazette of Montenegro*, Nos. 28/2005, 86/2009, 20/2011 and 8/2015. available at: http://www.podaci.net/_gCGO/zakoni/Zakon_o_Agenciji_za_nacionalnu_bezbjednost/07d3ct.html
- Law on the Prevention of Money Laundering and Financing of Terrorism, *Official Gazette of Montenegro*, Nos. 33/2014 and 44/2018, 73/2019 and 70/2021., available at: <https://www.gov.me/dokumenta/88d9a409-56ad-48a6-9e91-b5713d770f42>
- Law on the Special State Prosecutor's Office, *Official Gazette of Montenegro*, Nos. 10/2015 and 53/2016.
- Law on Voluntary Work, available at: <https://www.gov.me/dokumenta/506a88a7-b783-46cb-a1ee-1151014ad9f9>
- Law on Youth, <https://wapi.gov.me/download/e1ac770f-706f-4ba9-99e3-790b64ba464f?version=1.0>
- Legal Entity Profit Tax Law, available at: <https://www.gov.me/dokumenta/d9df63ce-558e-433e-a7af-f0129eb3f7b9>
- Media Law, available at: <https://www.gov.me/dokumenta/101e4ce0-3a5e-4c04-a81a-5287551a6a82>
- Report on the implementation of public tenders and approved projects in accordance with the Law on Non-Governmental Organisations in 2021, adopted at the 34th Session of the Government, held on December 22, 2022 (prepared by the Ministry of Public Administration), <https://www.gov.me/dokumenta/5789ce89-a8b2-4f3c-bd7b-f6dd774a2156>
- Report on the Work of the Office of the Representative of Montenegro before the European Court of Human Rights in Strasbourg for the year 2021 – conclusions (July 2022), available at: <https://www.gov.me/en/documents/9d5004de-f356-4c34-b981-46bf1026ba77>
- Rules of Procedure of the Government of Montenegro published in *Official Gazette of Montenegro*, nos. 003/12 of 13.01.2012, 031/15 of 18.06.2015, 048/17 of 24.07.2017, 062/18 of 21.09.2018)
- The Regulation on the election of representatives of CSOs to the working bodies of state administration bodies and the conduct of a public hearing in preparation laws and strategies (*Official Gazette of Montenegro*, No 41/18) available at the link <https://www.gov.me/dokumenta/1f353a31-1729-4db3-a378-e8c4610a5b04>
- The Report on the Implementation of the Law on Public Gatherings and Public Events for 2021.
- *World Giving Index 2021, A global pandemic special report*, Charities Aid Foundation, June 2021, <https://good2give.ngo/wp-content/uploads/2021/06/caf-world-giving-index-2021.pdf>
- Strategy for Cooperation of State Administration Bodies and Non-Governmental Organisations 2022–2026, June 2022, <https://wapi.gov.me/download-preview/cc6fef07-782f-4b78-8b15-fa851ccc3abf?version=1.0>