



Assessment
on the State of the
Enabling Environment
and Capacities of
Civil Society
against the Guidelines
for EU support to Civil
Society in Enlargement
Region, 2014-2020
for the period
2018-2019

FINAL REPORT

**ANNEX 4.
BRIEF IPA BENEFICIARIES
OVERVIEW**

COUNTRY BRIEF: SERBIA

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One of the most difficult challenges that civil society in Serbia has faced during the past two years relates to the **growing trend of shrinking civic space**. Discrepancies between the legal framework for fundamental rights and practices have been present in Serbia for a longer period of time and have been recorded in numerous domestic and international reports. In the last two years, the narrowing of civic space has taken place at the legislative level.

With regards to the freedom of association, the laws regulating this area, such as Law on Association and the Law on Endowments and Foundations, are **in line with international standards** and have not been changed so far. Still, the Civil Code adoption process is underway, which contains, inter alia, provisions on freedom of association, which, if adopted, will regulate this area significantly differently. There is a strong trend of funding governmental NGOs (**GONGOs**) and associations influenced and/or controlled by the ruling political party (**PONGOs**). These organizations mostly support the authorities and their initiatives, use state funding for associations, and appoint their representatives to the consultative bodies, commissions and working groups, thus contributing to the false image of public participation. Inflation of false citizens' associations seriously threatens to **derail freedom of association** in Serbia. According to the monitoring mechanism Three Freedoms under the Magnifying Glass, established by informal network of prominent CSOs-Three freedoms¹, during the period March-October 2019, a total of **28 cases of violation of the freedom of association**² have been recorded. In 2018, the Government adopted the regulation on Money Laundering Risk Assessment and Terrorist Financing Risk with accompanying Action Plan in order to implement its recommendations. Based on this, stronger coordination was made **between inspections in charge for associations and foundations**.³ The most significant novelty in 2018 is **limiting CSOs from providing legal aid services**. In November 2018, the National Assembly adopted the Law on Free Legal Aid, which came into force in October 2019. Although CSOs have been successfully providing free legal aid to vulnerable groups such as victims of violence and war crimes, members of marginalized and minority asylum seekers, and others for over 20 years, the Government decided to exclude them from the pool of legal aid providers.

The legal framework for freedom of assembly did not change since 2016 when the Public Assembly Act was adopted. For the most part, the Law is in line with international standards. However, while the Law recognizes spontaneous assemblies, it remains unclear if simultaneous and counter-assemblies are allowed. Further restrictions in terms of place of gatherings are ambiguous and secondary legislation that would provide clarification (especially on the local level) is yet to be adopted. Finally, significant responsibilities and high fines for any breach of the Law are placed on organizers. The **practice of selective implementation** of the Public Assembly Act and unclear reactions of the competent authorities, depending on who organizes the public assembly, are evident, which was especially obvious during the protests of the opposition and protest meetings of informal groups. In 2019, **additional restrictions in the local legislative** have been recorded.⁴ Using their legal authority in the area of governance of the public spaces, certain local self-governments conditioned CSOs or informal groups occupying public space needed for organizing public gatherings with their **local tax payments** or signing commercial contract with local utility company to clean the public space after end of the activities. According to the monitoring mechanism "Three Freedoms under the Magnifying Glass" during the period March-

¹ Gragjanske.org (2019). THE THREE FREEDOMS PLATFORM TO PROTECT THE CIVIC SPACE IN THE REPUBLIC OF SERBIA SIGNED AT ICSW 2019. Available at: <https://www.gradjanske.org/en/platform-three-freedoms-to-protect-the-civic-space-in-the-republic-of-serbia-signed-at-icsw-2019/> [04.02.2020]

² <https://www.gradjanske.org/wp-content/uploads/2019/10/Grafikon-SRB.png>

³ According to the information obtained verbally by the members of the Coordination Commission, so far 40 civil society organizations are being inspected on this basis without significant irregularities or abuses of supervision on this basis

⁴ Interview with the representative of National Coalition for Decentralization

October 2019, a total of **23 cases of violation of the freedom of assembly** have been recorded.⁵ Freedom of expression is explicitly guaranteed at the constitutional, primary and secondary level legislation, but its **implementation is at a very low level** as associations', especially those who criticize the Government, credibility is often attacked through political campaigns. According to the monitoring mechanism "Three Freedoms under the Magnifying Glass", during the period March-October 2019, a total of **46 cases of violence of freedom of expression**⁶ have been recorded and this is area among the three freedoms that is under the **strongest threat**. CSOs, media and individuals⁷ demanded that the Ministry of Public Administration and Local Self-Government remove without delay provision allowing abuse of the right of free access to information against organizations, media and individuals acting in the public or general interest from the Draft Law on Free Access to Information of Public Importance. The Ministry is yet to inform the public about its decision.

There is no change in the legislative framework regulating **employment and volunteering** in CSOs. There are no discriminatory articles for CSOs in labour legislation, including active employment policy, but the legislative framework still is not stimulating in promoting volunteering. The Law on Volunteering adopted in 2010, through its overregulation and treatment of volunteering as work engagement, still makes it **difficult for CSOs to include volunteers** in their activities. CSOs face problems with recruitment and keeping volunteers as well as with motivating new ones. According to official statistic data based on CSOs financial statements, by the end of 2018, **CSOs employed a total of 7.945 people**. Data on the number of part-time employees in CSOs are not available to the public on an annual basis.

The assessment period is marked by formation of a number of **grassroots organizations and movements** due to the lack of space for public debate. According to the Law on Associations, the registration of grassroots is not mandatory and unregistered organizations can operate freely. Funding to the grassroots is provided using accounts of individuals and/or intermediary organizations. They are particularly active in the fields of ecology, environmental protection and socio-economic rights. Activities of the grassroots are mostly **based on community's information** and mobilization via social networks.

In the financial environment, individual and corporate giving still needs to be significantly improved in terms of harmonizing the definition of public benefit activities in different laws, clarifying procedures and rules for obtaining tax-deductions for legal entities (businesses), introducing tax relief for individuals and establishing an effective system of tracking corporate and individual giving. Financial rules are mostly in place and recognize the specific legal nature of CSOs, while the state system of incentives should be improved, particularly in the area of social entrepreneurship. Regulation on **public funding** still misses the necessary elements, i.e. scope, recipients, implementation rules, code of conduct, reporting, etc., even though several legal improvements have been made. The Government has adopted a new Decree on Funds for Incentive Programmes or a Missing Part of Funds for Funding Programmes of Public Interest Implemented by Associations, which has been implemented since March 2018. There is a strong trend of a **non-transparent process of conducting public calls** as well as an increasing trend of GONGOs benefiting from their participation in the distribution of such funds.

⁵ <https://www.gradjanske.org/wp-content/uploads/2019/10/Grafikon-SRB.png>

⁶ <https://www.gradjanske.org/wp-content/uploads/2019/10/Grafikon-SRB.png>

⁷ Udruzenja.info (no date). HITNO UKLONITI ŠTETNE ODREDBE ZAKONA O SLOBODNOM PRISTUPU INFORMACIJAMA OD JAVNOG ZNAČAJA. Available at: <http://udruzenja.info/hitno-ukloniti-stetne-odredbe-zakona-o-slobodnom-pristupu-informacijama-od-javnog-znacaja/> [24.01.2020]

The assessment period was marked by **significant legislative activity** in the area of participation in decision-making processes focused on the form rather than the quality of dialogue with citizens and civil society. There is a tendency of **devaluing** the mechanisms for participation, creation of parallel processes and strong GONGOs presence and involvement in such processes. Government calls for CSOs involvement are being motivated only by need to strengthen their own image, mainly in the process of the EU negotiation process. The **Government Office for Cooperation with Civil Society (GOCCS)**, as an institutional mechanism for supporting the development of dialogue between the Government and CSOs, has been recognized within the state administration as an advisory body for the involvement of CSOs in the regulation process, **lacking results** in substantially improving the environment for civil society development. The proposed **National Strategy for an Enabling Environment for Civil Society Development** in the Republic of Serbia is **yet to be adopted**.

The general conclusion about the state of **CSOs capacity** is that there is a strong sector polarization among CSOs based on year of establishment, geographic focus and field of operations. The official data⁸ on the number of registered CSOs in Serbia is constantly growing year by year. However, the number of those who submit the financial reports is still low and can serve as the indicative number of active CSOs in Serbia. The current number of registered CSOs is **34.260** and **25.878 out of them** submitted financial statements in 2018 and might be considered **active**. The total **revenue** of CSOs in 2018 was **335.652.409 EUR**.

When it comes to internal governing structures the progress is linear, but CSOs are still not fully functional and transparent. There is still a lack of transparent **management selection procedures** and a clear **division of responsibilities** within organizations. Transparency of data in this area remains a burning issue which, among other things, affects the level of trust about CSOs among citizens. This is a particular challenge for less developed and local organizations that are unable to retain people and recruit new ones.

With regards to communication with target groups, organizations are inclined to shift responsibility for media disinterest. With the growing influence of the internet and social networks, other than traditional channels of communication with target groups are emerging. This situation can also be linked to the **lack of strategic approach** to building constituency relations among CSOs. A systemic approach in this area is also lacking, which can be linked again to the lack of resources. Although most organizations claim to rate the satisfaction of their users, this is not confirmed with citizens attitudes who claim to be little informed about the activities of organizations or involved in their work.

There is **lack of substantial engagement of CSOs** in monitoring and evaluating their work. Internal monitoring procedures are mainly implemented on a **project basis** and are mostly initiated by donors. At the organizational level, there is poor practice as well, even among more developed organizations. Internal evaluation is carried out even less frequently than project evaluations. Even if it is conducted, the practice of analysing lessons learned is poor.

According to the findings of the focus groups, due to strong donor support and project-oriented activities, there has been a diminished interest in strategic approach of CSOs. On average, less than one third of CSOs have a strategic plan. Almost half of CSOs involved in the international cooperation have a strategic plan.

⁸ www.apr.gov.rs

Advocacy is one of the areas with the greatest challenges. Although CSOs are generally aware of the **need for an evidence-based approach**, it raises the question of its effects in a narrowed space for action and misuse of known and common advocacy mechanisms by the state with the growing GONGOs. The **strong polarization in society** created a trend among CSOs of considering different methods and shifting their focus to developing wider a legitimacy for their advocacy demands. Networking is one of the **greatest strengths** of civil society and is recognized as such. However, a strong challenge in this regard is to determine its purpose and the sustainability of common structures as well as to assess its influence. A large number of networks in Serbia are initiated by donors, rather than as part of the strategic approach of individual organizations.

Although there is an increase in the annual budgets of organizations, reduced strategic focus at the programme level, results in a lack of strategic approach to the financing of organizations. Sector polarization is evident in terms of satisfaction with the financial situation, although donor activity is expressed and enhanced in this regard by increasing the amounts for **multi-year programmes**, which include **small grants** for programme activities. When it comes to **diversification of funds**, a wider sample of organizations shows that the share of government funding is increased, while pro liberal/pro-EU organizations remain mostly focused on donor funds.⁹ Efforts to raise awareness and capacities for **crowdfunding** are visible, but the success of these campaigns is conditioned by the stable situation and adequate capacity of organizations, primarily in terms of human resources.

Gender mainstreaming is still **lacking** among CSOs. There are still fewer women in leadership positions, but their share in all staff categories is increasing. When it comes to influencing national gender policies, although all existing mechanisms have been introduced into the system mainly by women's organizations, their **impact has weakened** significantly and findings indicate that they are one of the most vulnerable part of the sector in the context of narrowed civic space and the rise of the far-right narrative in public space.

The capacity building should continue focus on reduced organizational capacities in terms of their **transparency, accountability and effectiveness**, with a particular focus on **citizen relations, communication and visibility**. During the last period, the capacity building focus was primarily on the sustainability of CSOs and mainly on its financial component. Organizations now need help to survive and bridge a situation where all known mechanisms of liberal democracy are collapsing. In terms of the **approach of implementation**, it is evident that trainings as the main method of work should not be in focus. Organizations are looking for a **tailored, one-on-one approach** and eventual **networking** with those who have similar problems to share experiences and provide peer support.

⁹IPSOS Strategic Marketing, Velat D. (2019). CSO Sector in Serbia in 2019 - Assessment of the Situation in the Civil Society Organization Sector in Serbia. ACT – For an Active Civil Society Together. [Pdf] Available at: https://act.org.rs/wp-content/uploads/2019/12/CSO-Sector-in-Serbia-2019_Summary_WEB.pdf [28.11.2019]

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