



# **Civil Society Monitoring Report 2011**

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## **Executive Summary of the Findings and Recommendations**

Prepared by the  
Third Sector Foundation of Turkey (TUSEV)

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## Foreword

TUSEV (Third Sector Foundation of Turkey) has given major importance in generating useful and valuable knowledge and research on civil society since its establishment in 1993. In 2010, TUSEV published the “Barriers to Freedom of Association of Associations in Turkey Report” focusing on the legal framework related to CSOs in Turkey, government-civil society relations, and the role of civil society organizations in the policy-making processes. Due to the dynamic structure of civil society in Turkey, we decided to expand the scope of the 2010 report to yearly monitor and evaluate the developments in the civil society space. This report is TUSEV’s first civil society monitoring report prepared on this occasion.

With this report, TUSEV aims to specify the problems and needs of civil society and raise awareness about these issues among key stakeholders, such as public and private sector, academia and media, and carry out advocacy efforts to create a more enabling environment for civil society organizations.

Thanks to its research and publications programme, TUSEV produced several research projects and publications in the fields of civil society, philanthropy and governance. When preparing this monitoring report, TUSEV focused on its core programme areas and used the knowledge and expertise it acquired from preparing the first international comparative civil society and philanthropy research in Turkey. The main theme of the 2011 monitoring report is government-civil society relations and following four areas were also investigated in the report:

- **Civil Society Law Reform:** Section examines the legislations concerning civil society organizations with a special focus on regulations related to freedom of association, government-civil society dialogue and the legislation on fundraising and Law on Collection of Aid.
- **International Relations:** Section focuses on the international communication and cooperation of civil society organizations and their use of international funds with an emphasis on the impact of international relations on civil society organizations.
- **Institutional Capacity:** Section investigates financial sustainability of civil society organizations with a focus on the availability of public funds. CSOs access to human resources and technology are also included in this part.
- **Research:** Section analyzes the academic research available on civil society and the level of the civil society-university relations.

These four topics were analyzed according to developments and significant turning points in civil society sphere in the past years. Alongside with the quantitative and qualitative data collected; face to face interviews, case studies and newspaper articles were also used in the preparation of this report. Feedbacks provided by TUSEV’s stakeholders, evaluations and suggestions are also available in the monitoring report.

As we complete this report, we are hopeful that it will contribute to TUSEV's ongoing efforts to define, better understand and raise awareness to civil society sphere in Turkey. With sharing the executive findings of the report with you, I would like to thank our Board of Trustees, Board of Directors, TUSEV staff and all the rest that have contributed to this project for making this happen.

Sincerely,

Prof. Dr. Üstün Ergüder



Chairman  
Third Sector Foundation of Turkey (TÜSEV)

## TUSEV Executive Summary of the Findings and Recommendations of Civil Society Monitoring Report 2011

### 1. Legal Structures

#### a. Legislative Changes

- Recent changes on the civil society legislation had a positive effect on the civil society field. However, difficulties and barriers do still exist in practice. Legislations, especially the Law on Associations (Dernekler Kanunu no: 5253) and the Law on Collection of Aid (Yardım Toplama Kanunu no: 2860), need serious revisions in order to create a more enabling environment for CSOs in Turkey.
- There is no explicit definition of “civil society organization” under the Turkish legislation. Absence of a definition causes major problems and confusions in practice. Turkey needs to adopt a definition of civil society organization that is compatible with the universal criteria. Adoption of such a definition will also help develop healthier relations between government and civil society.
- A new status separating the “*state funded foundations*” from the civil society organizations should be defined in the legislation. This separation will help end the confusion among the general public regarding the definition of civil society organizations.
- Social enterprises, also known as not-for-profit enterprises or nonprofit companies, hold an important potential for the future of social and economical development in Turkey. Social enterprises need to be defined in the legislation as a separate form of legal entity.

#### b. Freedom of Association

- Problems related to freedom of association are usually rooted in the implementation rather than the laws itself. Penalties and auditing come about as the most problematic areas according to the report.
- Penalties are an important barrier to freedom of association of foundations and associations. In this context, a *penalty cut* and the effective use of *warning mechanisms* before penalizing will play an important role in the financial sustainability of civil society organizations which already suffer to a great extent from financial constraints.
- Government should only investigate the activities of CSOs if they are in compliance with the laws and should penalize CSOs according the regulations in the Penal Code if necessary. The penal clauses that exist in the Associations and Foundations Laws cause a conflict over the Penal Code. Any crime should

be settled in the scope of the Penal Code and the penalties regulated in CSO legislation should be abolished.

- The Prevention of Terrorism Act continues to constitute a significant barrier to freedom of association. This restrictive approach should be dropped and CSOs penalized according to the Penal Code in case of necessity.

### c. Government-CSO Relations

- The incompatibility between the strong state tradition in Turkey and the participatory decision-making mechanism envisaged by the EU integration process continues to pose challenges to the development of government-civil society relations. Turkish government started to acknowledge the importance of the government-civil society dialogue and therefore initiated consultation meetings with participation of CSOs. However, this dialogue and cooperation is still in a nascent stage and the results of this process are yet to be observed.
- More recently, the “Law of the Relations of Associations and Foundations with Public Institutions (Law No. 5072)” started to deviate from its original purpose and caused problems in the government-civil society relations. *Abolishment or reinterpretation* of this law will have a positive impact on the government-civil society relations and dialogue.
- Civil society organizations frequently complain about government’s discriminatory and unequal treatments towards CSOs. To avoid such complaints and ensure transparency, government should adopt a set of criteria defining the rules of dialogue, consultation and cooperation.
- Regulation on the Procedures and Principles of Legislation Making (Mevzuat Hazırlama Usul ve Esasları Hakkında Yönetmelik) remain ineffective in order to include CSOs in the legislation making process and civil society is still not considered as a stakeholder in the policy making processes. This Regulation needs to be changed to develop a structure where the CSOs are included the policy making and strategic planning processes with pre-determined mechanisms.
- An effective mechanism is needed to include CSOs in the legislation making processes run by the commissions in the TGNA (Turkish Grand National Assembly).
- Consultation meetings and awareness raising activities organized by the government are not adequate for starting a dialogue between government and civil society organizations. “Dialogue with Civil Society Meetings” organized by Ministry of European Union Affairs play an informative role rather than initiating a dialogue between parties. While large numbers of CSOs participate in these meetings; the efficiency of these large groups and the value added by their participation are unknown.
- Quantity and quality of the content disseminated by public institutions through their web pages differ dramatically. The content of all websites should be standardized in order to provide comprehensive and up to date information.

- Government bodies should put more importance on effective communication skills and more resources need to be allocated to strengthen the communication infrastructure.
- Ministries use different website applications with regards to the Right to Access to Information Law requests. While some of these online application systems are user friendly, some are inefficient. Ministries should standardize these procedures and simplify the process.
- Although it is obliged by law that all municipalities to establish city councils, the number of active and effective city councils are still very limited. All municipalities should establish city councils and these councils need to be included in the policy making processes. Furthermore, processes concerning the establishment and the management of the city councils should be transparent and accountable towards public general and CSOs.

#### **d. Legislations Related to Fundraising**

- There are various inadequacies and inaccuracies in the tax exemption and public benefit statuses. These statuses are granted to a very limited number of organizations after a very long process and the decision of the Council of Ministers makes it highly political yet the privileges provided with the status are very limited. These statuses in Turkey fall behind of similar structures in EU countries. Therefore, should be reinterpreted in a way to promote the development of philanthropy and financial sustainability of the CSOs.
- Turkey already promised to change the current Collection of Aid Law in the “Turkey’s Programme for Alignment with the Acquis (2007-2013)”. However, the law is still not amended and EU Commission repeatedly failed to comprise this issue in the annual Progress Reports. The current Collection of Aid Law should be reinterpreted in a more enabling way to liberalize and ease the fundraising activities of CSOs.
- Various tax exemptions are available for civil society organizations in Turkey. However a holistic approach on the tax exemption issue is still missing. Turkey should adopt tax exemption practices that are compatible with EU countries which promote philanthropy and activities for the public benefit. Some recommendations in this respect are listed below:
  - A mechanism is needed in order for paid workers to deduct their donation from their tax.
  - The amount/percentage of tax deduction for donations of real persons and legal entities should be increased.
  - Economic entities of the foundations and associations should be exempt from Corporate Tax.
  - Foundations and associations should be exempt from Value Added Tax (VAT), Property Tax, Motor Vehicles Tax, Stamp Tax and notary fees.

## **2. International Relations**

### **a. International Communication and Cooperation**

- Existing legal framework poses significant challenges to the international organizations that are willing to operate in Turkey through branches or representative offices. One of the reasons for this strict bureaucracy is the long lasting skepticism towards internationally based organizations. This ongoing approach in the bureaucracy should be abandoned and the procedures related to the international organizations should be eased.
- CSOs, especially in the EU membership accession process, should pay a special interest in international relations. Development of a civil society dialogue programme plays a significant role in the capacity building of the CSOs. So far, EU funds have been successful in promoting civil society dialogue and cooperation. To foster the international dialogue, CSO's participation in the international networks and meetings should be promoted.

### **b. International Funding**

- CSOs need to notify authorities when they receive financial support from abroad for each time after receiving the money. This practice should be changed so that the CSOs only notify the authorities on a yearly basis with their annual declarations.
- EU funds constitute the primary financial resource of the Turkish CSOs. In fact, EU funds play such a significant role in the financial sustainability of some CSOs that become the only resource for the execution of their projects. CSOs should develop their fundraising skills, diversify their resources and use other funding options that are consistent with their mission and area of work.
- CSOs only do share their monitoring and evaluation reports with their international donor organizations. These reports should be public for transparency and accountability.
- Ministry of European Union's long promised Monitoring Information System (İzleme Bilgi Sistemi) should be activated.

## **3. Institutional Capacity**

### **a. Governance**

- Financial difficulties act as the main constraint before the institutionalization and professionalization of CSOs. Fundraising skills of the CSOs need to be strengthened through capacity building activities and trainings. It is advised that such activities and trainings should be supported in order to reach a more stable and sustainable financial and organizational capacity.

- Good governance is a newly emerging concept and its principles are still unknown to many CSOs in Turkey. To this end, CSOs need governance-oriented capacity building activities which will fill the information gap as well as help CSOs to internalize the principles of good governance.
- Many civil society organizations do not have strategies and lack of policies of human resources and communication. Developing institutional policies in these areas will help CSOs professionalize and become more accountable.

## **b. Financial Sustainability**

- Restricted and underdeveloped infrastructure of philanthropy in terms of the legal and fiscal legislations, small number of CSOs benefitting from the international and private sector funds, limited amount of public funds available for the CSOs and the lack of transparency in funding processes are some of the major constraints CSOs face in respect to financial sustainability.

### **Public Funds**

- Available data on the use of public funds show that only limited number of CSOs benefit from a small amount of public funds.
- Each ministry holds different practices for information sharing, evaluation of fund applications and allocating funds. It is observe that, only the ministries allocating the funds provided by the Instrument for Pre-Accession Assistance (IPA) of European Union comply with the EU standards with regards to application and evaluation criteria. Adoption of these standards by all ministries will enable standardization of practices among the ministries as well as providing a more transparent mechanism of funding CSOs.
- SODES ([www.sodes.gov.tr](http://www.sodes.gov.tr)) programme by the Ministry of Development is the only public fund that has a special quota for the civil society organizations. As another bad example, Development Agency funds categorize public institutions and universities as “not for profit organization” with CSOs creating an inequitable situation . Since the institutional capacities of most CSOs are not compatible with public institutions and universities, developing quotas for CSOs will play an important role in facilitating their access to public funds.

### **Private Sector Funds**

- Corporate philanthropy and corporate foundations emerge as a new alternative in Turkey. More recently, grant programs executed by these foundations became an alternative financial resource for the civil society organizations. An increase in the number of corporate foundations and grant making organizations with diversified grant areas will create significant impact on the financial sustainability of the civil society organizations.
- The presence of good practices and the growth of the Turkish private sector points towards a development in the private sector-CSO relations. Promotion of corporate philanthropy and grant making among the private sector will enable more sustainable relationships and cooperation as well as diversifying

the financial resources of the CSOs. Furthermore, existing tax laws which are limiting the private sector donations should be reinterpreted in a way to promote social responsibility, philanthropy and giving.

- Many companies lack a comprehensive corporate social responsibility strategy and prefer project based and short term donations which are seen as a part of their public relations or advertisement activities. Companies should define their objectives and develop their corporate social responsibility strategies accordingly to have longer and healthier relationships with CSOs to execute more effective projects.
- Overcoming the ongoing prejudices play a significant role in the development of the private sector and civil society relations. Organizations like Civil Society Development Center (STGM) and Corporate Volunteers Association (ÖSGD) should be supported in their attempts to create new communication channels and promote cooperation between private sector and civil society organizations.
- Following the completion of their projects, CSOs produce monitoring and evaluation reports for their donors. In general, these reports are not accessible to all of the interested stakeholders which cause lack of knowledge regarding the implementation and impact of the project. Granting free access to these reports will pave the way for information and experience sharing as well as making the CSOs more transparent and accountable.

#### **4. Research**

- Increasing number of universities in Turkey provides an opportunity for the development of the university- civil society relations. In this context, the dialogue and cooperation between universities and civil society organizations should be strengthened and CSOs should support universities in their work on social responsibility. Furthermore, both parties should benefit from each other's expertise and work together in order to produce knowledge and information about civil society and CSOs.