

Balkan Civil Society Acquis
Strengthening the Advocacy and
Monitoring Potential and Capacities of CSOs

Monitoring Matrix on Enabling Environment for Civil Society Development

-TURKEY Country Report-

“The Civil Society Environment in Turkey 2014 Report”

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Third Sector Foundation of Turkey

Balkan Civil Society Acquis – Strengthening the Advocacy and
Monitoring Potential and Capacities of CSOs

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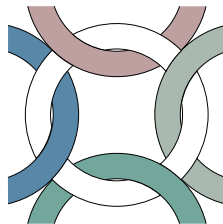
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EXECUTIVE SUMMARY

1. CIVIL SOCIETY AND CIVIL SOCIETY DEVELOPMENT IN TURKEY

Civil society in Turkey is growing in number and has become a significant actor of political, social and economic change in the post 1980s era. Over the past years, civil society organizations (CSOs) started to act as actors of social and political change in Turkey by advocating towards and enhancing public participation and democratic decision making.

As of November 2014, the number of active associations in Turkey is 103.957, and the number of new foundations - i.e. established after the Republican Period (after 1923) - is 4,781. Although CSOs are active in all of Turkey's provinces, available data depicts an uneven geographical distribution, with an urban concentration. Moreover, CSOs in Turkey are predominantly working in areas such as religious services, sports and social solidarity. Despite their increasing role and visibility, organizations working on human rights and democratization constitute a very small segment of civil society in Turkey. Despite an overall 100% increase in civil society membership within the last 10 years, participation in civil society is still relatively low in comparison to the EU average or other enlargement countries. Data gathered in 2014 indicates that only 12.2% of the total population has membership in associations. Last, but not least, among 9,689,180 association members in Turkey, only 1,850,829 are women. Whereas 20,6% of the whole male population in Turkey has membership in associations, the rate falls down to 4,85% when the female population is considered.

Restrictions in the legal and fiscal environment along with the lack of financial and human resources are among the most important challenges faced by CSOs in Turkey. This report analyzes the current state of the civil society in Turkey in reference to the indicators provided by the Monitoring Matrix. Some of the major findings can be found in the following section.

2. KEY FINDINGS

Laws that directly regulate the freedom of association in Turkey are the Law on Associations (No 5253, 4/11/2004), Law on Foundations (No 5737, 20/2/2008), Law on Collection of Aid (No 2860, 23/6/1983), and relevant articles in the Constitution (No 2789, 18/10/1982), the Civil Code (No 4721, 08/12/2001) and the Penal Code (No 25611, 12.10.2004). However, the legal framework covers a wider set of laws, which include various articles that either directly or indirectly relates to the work or functioning of CSOs. Within the context of the EU accession process, several reform oriented steps were taken to improve the legal framework in the period 2004 - 2008. Despite these steps, problems still exist both in the context and implementation of primary legislation and related secondary legislation. This is also due to the fact that except a few minor improvements in relevant laws, no major improvements have been made since the 2004 and 2008 reform packages.

The definitions of "civil society" and "civil society organization" are absent in the relevant legislation and policy documents. Despite the existence of other forms of organized activity - e.g. civic initiatives, groups, platforms - foundations and associations continue to be the only two legal entity forms recognized by the state as CSOs. Platforms are also defined in the 5253 Law on Associations, without being granted a legal entity.¹ Foundations and associations are subject to different legislations and regulated by different public agencies. Department of Associations (DoA) and General Directorate of Foundations (GDoF) are the highest public authorities responsible from associations and foundations in Turkey. These public bodies also have the authority and responsibility to inspect CSOs. With regards to **inspection** practices, inconsistencies are observed in the

¹ Law No. 5253 Law on Associations (4/11/2004): "temporary unions having no legal entity, formed by associations, foundations, unions and similar NGOs to fulfill a common goal by adopting names such as initiative, movement etc". http://www.demekler.gov.tr/en/Statute/Compiled-statute-Laws/5253_Associations-Law.aspx Access date: 23 December 2014.

frequency, duration and scope of inspections, specifically to the disadvantage of human rights organizations. Furthermore, **penalties** constitute an important barrier for fully exercising the freedom of association. Penalties and fines are burdensome for breaching the comprehensive bureaucratic requirements laid down in the laws. Reductions in administrative fines, or guidance or warning mechanisms are not effective if not totally absent.

Although, the Article 34 of the Constitution recognizes the right of citizens to organize an assembly and demonstration without having to obtain any prior authorization, **freedom of assembly** remains one of the most problematic areas for civil society in Turkey. Various articles of the Law on Meetings and Demonstrations (No 2911, 5/10/1983), related regulations and their further restrictive implementation are not in line with the Constitutional article while being incompliant with the European Convention on Human Rights and/or the case law of the European Court of Human Rights.

CSOs face serious problems in their **fundraising** activities mainly due to the highly restrictive, bureaucratic and limiting Law on Collection of Aid (No 1983, 23/6/1983). The Law requires receipt of permission for each fundraising activity by a CSO, via an application procedure in which the CSO is requested to provide a set of comprehensive information (e.g. amount of money to be raised, how it will be used, the timeframe of the activity, and where it will be conducted). The decision to evaluate the application and approval or disapproval lies with the local state authority. In recent years, funds raised by several organizations have been confiscated by public authorities because they published their bank account numbers on brochures, Facebook pages and websites in an effort to raise donations without getting permission.

The regulation that defines the procedures for obtaining the **'public benefit'** (for associations) and **'tax exemption'** (for foundations) statuses is vaguely defined and the process is highly political. The status is granted by the Council of Ministers to a very limited number of organizations. Despite the bureaucratic, non-transparent and long decision making process, privileges provided with these statuses are very limited and far from facilitating the development of philanthropy and financial sustainability of CSOs.

There is no binding overarching policy or legal framework in Turkey governing **civil society and government relations**. Accordingly, a strategic approach laying down clear goals, measures, responsibilities, action

plans does not exist. Due to absence of policy and legal frameworks, there is no holistic approach with regards to participation of CSOs in policy- and decision-making processes. Thus, participation usually occurs in an ad-hoc and inconsistent manner mostly based on personal relations and initiatives rather than on institutional duties and responsibilities.

The Regulation on the Procedures and Principles of Legislation Preparation and the Law on Municipalities (No 5393, 13.07.2005) are the two legislations that lay down different aspects of civil society-public sector relations. The former regulation, although recognizing consultation with CSOs, does not make it mandatory. The latter Law introduces important participation mechanisms such as the City/Urban Councils. Another important civil society participation framework is the strategic planning process. By law, all public institutions including Ministries are required to draft 5-years strategic plans for their operations. According to the Regulation on Procedures and Principles of Strategic Planning in Public Administration (2006), Clause 5, the institutions make sure that the participation of CSOs is ensured and their contributions are received. Thus, this legislation introduces a mandatory consultation process with CSOs to be led by public institutions. However, there is no clear indication regarding the selection process, criteria, or methods and means of integrating received contributions in the regulation. Furthermore, no consistent mechanism for monitoring and reporting the participation of CSOs and/or their contributions has been defined. Thereby, it is not possible to assess the level of CSOs' involvement or participation in these processes.

With regards to institutional framework, there is no specific institution responsible for facilitating, monitoring or reporting relations between the public sector and CSOs, and except a few examples, there are no relevant units within public institutions to maintain, sustain and foster these relations. The majority of Ministries do not have contact points for CSOs.

The lack of strategy and coordination also applies for **public funding**. There is no regular and continuous public funding mechanism that supports the institutional infrastructure and activities of CSOs in Turkey. Furthermore, with the exception of the distribution of EU funds by the Central Finance and Contracts Unit (CFCU), a holistic approach or legislation with respect to state funding does not exist. The total budgets, modality

and forms of funding for CSOs are determined at the discretion of Ministries and they are not predictable since the total budget may vary from year to year. Although there is an item in the state budget, referring to cash transfers made to not-for-profit organizations; neither the definition and types of NPOs this budget line refers to exist, nor a general percentage is allocated to this budget item in a systematic manner. The total amount of cash transfers can be identified, however, it can be claimed that

the budget remains insufficient and not proportional to the size and needs of civil society in Turkey.

In the legislation, there is no specific provision with respect to promoting **service provision** by CSOs. Thus contracting services to CSOs is still not a common practice. CSOs should be identified as capable service-providers and in order to promote them, special provisions regarding CSO participation should be included in the relevant texts.

| No | Top 6 findings from the report | Reference | |
|----|--|-----------|-----|
| | | Area | 1 |
| 1 | The definitions of civil society and civil society organizations are absent in the related legislation. The legal framework only recognizes associations and foundations as CSO legal entities. | Area | 1 |
| | | Sub-Area | 1.1 |
| 2 | The legal framework regulating state inspection of CSs is complicated, restrictive, and bureaucratic and is focused on limitations rather than freedoms, defining penalties and sanctions that do not meet the principle of proportionality. | Area | 1 |
| | | Sub-Area | 1.1 |
| 3 | The Law on Meetings and Demonstrations recognizes the right of citizens to organize an assembly and demonstration without having to obtain any prior authorization. However, the places and duration allowed for meetings and demonstrations are restrictive while the Law provides the administration and security forces with wide discretionary powers. The restrictions and limitations are further intensified via secondary legislation. | Area | 1 |
| | | Sub-Area | 1.2 |
| 4 | Tax exemption and public benefit statuses are granted to very limited number of CSOs by the Council of Ministers. These procedures are highly bureaucratic, political and non-transparent while the privileges brought by these statuses are very limited. Furthermore, the Law on Collection of Aid poses heavy limitations, bureaucratic rules and procedures, thus creating obstacles for financial viability of CSOs. | Area | 2 |
| | | Sub-Area | 2.1 |
| 5 | There is no specific state institution to coordinate, monitor and facilitate public funding. Therefore, public funding is ad-hoc, inconsistent and scattered. Major criticisms by CSOs on transparency and accountability of funds allocated by the public bodies exist. | Area | 2 |
| | | Sub-Area | 2.2 |
| 6 | There is neither a government strategy nor relevant legal or operational framework laying out Public Sector-CSO relations. To this end, CSOs' participation in the decision-making processes has not been ensured. | Area | 3 |
| | | Sub Area | 3.1 |

3. KEY POLICY RECOMMENDATIONS

The section below presents key policy recommendations. The following recommendations are proposed in

accordance with findings presented above and are to provide fields of policy interventions in the enabling environment for civil society development in Turkey.

| No | Top 6 recommendations for reform | Reference | |
|----|---|-----------|-----|
| | | Area | 1 |
| 1 | The legal framework should be revised to include the definitions of civil society and civil society organization, which acknowledge a variety of legal entities including foundations, associations as well as initiatives, social enterprises and grant-making foundations. Unregistered civil society activities should also be acknowledged in the legal framework. | Area | 1 |
| | | Sub-Area | 1.1 |
| 2 | The legal framework regulating inspection of CSOs should be revised and limitations to and restrictions on state interference in internal affairs of CSOs should be clearly laid down. The rules for inspection and the limits of authority of the state inspectors should be clearly defined in the legislation. Since the Penal Code already covers penal sanctioning, the punitive provisions in the Laws on Foundations and Associations should be removed. | Area | 1 |
| | | Sub-Area | 1.1 |
| 3 | The Law and Regulations for Demonstrations and Meetings should be annulled completely and a new law should be drafted that would allow peaceful assemblies and demonstrations to be held in line with the European Convention on Human Rights and the European Court of Human Rights rulings. | Area | 1 |
| | | Sub-Area | 1.2 |
| 4 | There should be a comprehensive re-examination of tax laws for supporting financial sustainability of CSOs. Turkey should adopt tax exemption practices that are compatible with EU countries. The Law on Collection of Aid should be amended in a way to exempt civil society fundraising activities from permission requirement. | Area | 2 |
| | | Sub-Area | 2.1 |
| 5 | A principle document setting forth the process of public funding for CSOs should be adopted. | Area | 2 |
| | | Sub-Area | 2.2 |
| 6 | The framework of the civil society-public sector cooperation, including provisions ensuring civil society participation in the legislation and formation of public institutions that would directly manage the relationship with civil society should be prepared in a participatory manner. Consultation with CSOs should be mandatory for all law making processes. | Area | 3 |
| | | Sub-Area | 3.1 |

4. ABOUT THE PROJECT AND THE MATRIX

This Monitoring Report is part of the activities of the “Balkan Civil Society Acquis-Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs” project funded by the EU and the Balkan Trust for Democracy (BTD). This Monitoring Report is the first of this kind to be published on a yearly basis for at least the 48-months duration of the project. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CS Dev) developed by BCSDN and ECNL. It is part of a series of country reports covering 8 countries in the Western Balkans and Turkey.² A Regional Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area at www.monitoringmatrix.net.

The Monitoring Matrix presents the main principles and standards that have been identified as crucial to exist in order for the legal environment to be considered as supportive and enabling for the operations of CSOs. The Matrix is organized around three areas, each divided by sub-areas: (1) Basic Legal Guarantees of Freedoms; (2) Framework for CSOs’ Financial Viability and Sustainability; (3) Government - CSO Relationship. The principles, standards and indicators have been formulated with consideration of the current state of development in and diversity of the countries of the Western Balkans and Turkey. They rely on the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries. The Matrix aims to define an optimum situation desired for civil society to function and develop effectively and at the same time it aims to set a realistic framework which can be followed and implemented by public authorities. Having in mind that the main challenges lie in implementation, the indicators are defined to monitor the situation not only on the level of legal framework but also on its practical application.

Annual monitoring and reporting in 2014 is focused on 12 core standards and the following elective standards:

Area 1: Basic Legal Guarantees of Freedoms, Sub-

area 1.1.: Freedom of association: Principle: Freedom

of association is guaranteed and exercised freely by everybody: **Standard 1-** All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online. **Sub-area 1.2.:**

Related freedoms: Principle: Freedoms of assembly and

expression are guaranteed to everybody: **Standard 3-** Civil society representatives, individually and through their organizations, have the rights to safely receive and impart

information through any media; **Area 2: Framework for**

CSOs’ Financial Viability and Sustainability and Area,

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

donors: Principle: CSOs and donors enjoy favorable tax treatment: **Standard 2-** Incentives are provided for

individual and corporate giving **Area 3: Government -**

CSO Relationship, Sub-area 3.2.: Involvement in policy-

and decision-making processes). Principle: CSOs are

effectively included in the policy and decision-making

process: **Standard 2-** All draft policies and laws are easily accessible to the public in a timely manner.

² Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

INTRODUCTION

1. ABOUT THE MONITORING REPORT

THE MONITORING MATRIX ON ENABLING ENVIRONMENT FOR CIVIL SOCIETY DEVELOPMENT

This Monitoring Report is part of the activities of the “Balkan Civil Society Acquis-Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs” project funded by the EU and the Balkan Trust for Democracy (BTD). This Monitoring Report is the first of this kind to be published on a yearly basis for at least the 48-month duration of the project. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CS Dev). It is part of a series of country reports covering 8 countries in the Western Balkans and Turkey.³ A regional Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area at www.monitoringmatrix.net.

The overall objective of the project is to strengthen the foundations for monitoring and advocacy on issues related to enabling environment and sustainability of civil society at regional and country level and to strengthen structures for CSO integration and participation in EU policy and accession process on European and country level.

The Monitoring Matrix presents the main principles and standards that have been identified as crucial to exist in order for the legal environment to be considered as supportive and enabling for the operations of CSOs. It underscores the fact that enabling environment is a complex concept, which includes various areas and depends on several factors and phases of development of the society and the civil society sector.

The Matrix is organized around three areas, each divided by sub-areas:

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

This Matrix does not aim to embrace all enabling environment issues; rather it highlights those that the experts have found to be most important for the countries which they operate in. Therefore, the standards and indicators have been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They have been drawn from the experiences of the CSOs in the countries in terms of the legal environment as well as the practice and challenges with its implementation. The development of the principles, standards and indicators have been done with consideration of the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries.

The areas are defined by key principles which are further elaborated by specific standards. In order to enable local CSOs, donors or other interested parties to review and monitor the legal environment and practices of its application, the standards are further explained through indicators. The full Matrix is available in the Findings and Recommendations (Tabular) Section.

The development of the Monitoring Matrix on enabling environment for CSDev was part of a collective effort of CSO experts and practitioners from the BCSDN network of members and partners and with expert and strategic support by ECNL. The 11-member expert team spanned a variety of non-profit and CSO specific knowledge and experience, both legal and practical, and included experts from 10 Balkan countries. The work on the Matrix included working meetings and on-line work by experts, which was

³ Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

then scrutinized via stakeholder focus group and public consultations. The work on the development of the Matrix was supported by USAID, Pact, Inc. and ICNL within the Legal Enabling Environment Program (LEEP)/Legal Innovation Grant and Balkan Trust for Democracy (BTD).

2. CIVIL SOCIETY AND CIVIL SOCIETY DEVELOPMENT (CSDEV) IN TURKEY

History of civil society in Turkey can be traced back to the Ottoman era where foundations were important actors of associational life. Yet, civil society in the post-1980s era has started to act as actors of social and political change in Turkey through advocating towards and enhancing public participation and democratic decision making. Especially in the 2000s, the significance attributed to CSOs and their roles has diversified and civil society in Turkey has started to function as similar to those in liberal democracies.

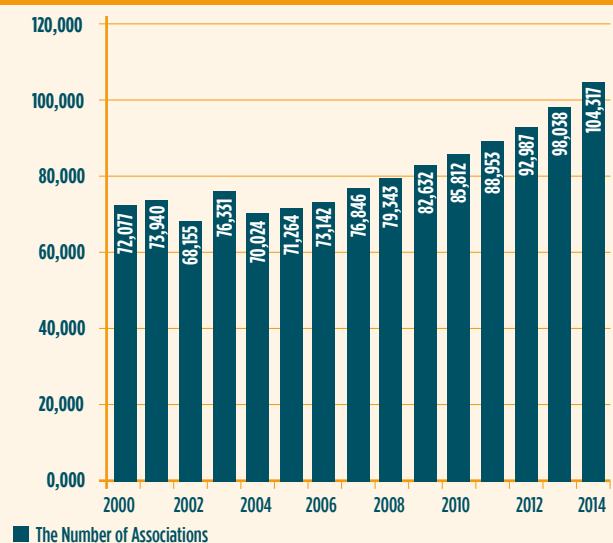
In parallel to the late development of civil society in Turkey, CSOs have only recently been able to gain the attention of policy-makers and academia. Therefore, there is limited data on civil society, which is particularly scarce concerning issue-oriented CSOs.⁴ Within the process of implementation of e-government in Turkey, the Department of Associations (DoA) started to collect data on civil society since an e-registration system (DERBIS) was introduced in 2013 and more than half of the associations have submitted their profiles in the system database and submit their annual reports online.⁵ The statistics on the number of associations indicate that there are 104.317 active associations in 2014; this number was 72,077 in 2000. Moreover, the number of registered members reached over 9 million in 2014, compared with only 4 million in 2004. According to the information obtained from the database of General Directorate of Foundations (GDoF), there is an increase in the number of foundations, as well. In 2009, number of new foundations was 4.460, reaching to 4.781 by the end of 2014.⁶ This change indicates a positive trend and a striking increase.

Graph 1: Number of Foundations in Turkey



Source: General Directorate of Foundations, 2014⁷

Graph 2: Number of Associations in Turkey



Source: Department of Associations, 2014⁸

⁴ 2011. *Civil Society in Turkey: At a Turning Point*. TUSEV. http://www.tusev.org.tr/urfiles/files/step_eng_web.pdf Access date: November 25, 2013.

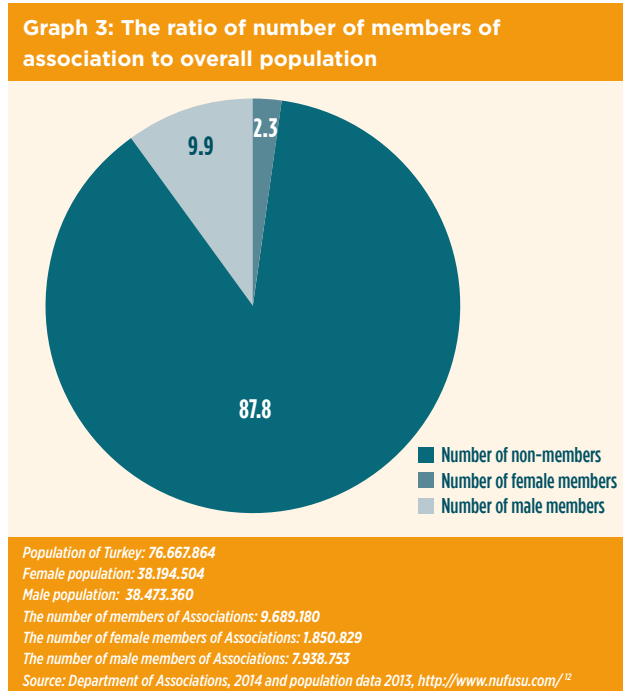
⁵ Associations Information System (DERBIS) became active in 18 February, 2013.

⁶ The New Foundation Statistics. Directorate General of Foundations (DGoF). <http://www.vgm.gov.tr/icerik.aspx?id=192> Access Date: November 15, 2014

⁷ This data was retrieved on 24 December 2014

⁸ This data was retrieved on 24 December 2014

Despite these increasing numbers, civil society in Turkey lags far behind the European average.⁹ Only 12% of Turkish citizens are members of CSOs, with one CSO existing for every 800 individuals and 87,8% of the overall population has no membership in any associations.¹⁰ There are also imbalances evident in the civil society environment. First, the data depicts the gender inequality in civil society. Among 9,689,180 association members in Turkey, only 1,850,829 are women (4,8% of the female population), while 7,938,753 are male (20,6% of male population). The concentration areas of associations in Turkey are predominantly in fields of religious services, sports and solidarity.¹¹

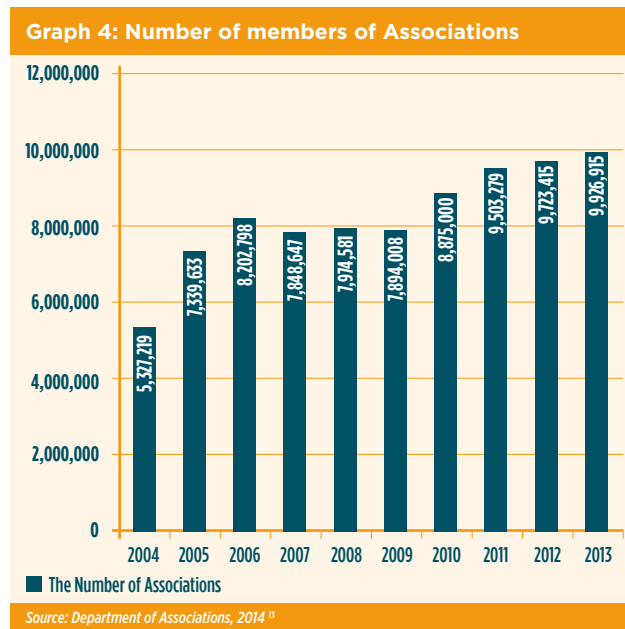


⁹ In the scope of the research conducted by Eurostat entitled "Europeans' Engagement in Participatory Democracy"; 25,551 respondents from different social and demographic groups were interviewed from EU27. In average 20% of respondents are members of organizations with as specific, economic, social, environmental, cultural or sporting interest. 17 % of respondents are members of any other organization or association that has a specific interest. 16% of respondents are members of are trade union. 11% of respondents are members of a professional association. 5% of respondents are members of a chamber of commerce / industry/ agriculture. 4% of respondents are member of employer organization. Flash Eurobarometer 373. Europeans' Engagement in Participatory Democracy. *European Commission*. Access date: January 16, 2014 http://ec.europa.eu/public_opinion/flash/fl_373_en.pdf

¹⁰ Department of Associations (DoA). Access date: November 25, 2014 <http://www.dernekler.gov.tr/tr/AnasayfaLinkler/dernek-uye-sayilarinin-turkiye-nufusu.aspx>

¹¹ Department of Associations (DoA). Access date: November 25, 2014 <http://www.dernekler.gov.tr/tr/AnasayfaLinkler/derneklerin-faaliyet-alanina-gore.aspx>

¹² This data was retrieved on 25 December 2014



The distribution of associations throughout the country is uneven, with 35.14% located in 4 major cities of Turkey such as Istanbul (20.913), Ankara (9975), Izmir (5946) and Bursa (4347).¹⁴ According to data of the DoA, as of 2013, 19.5% of associations (20.384) have membership in platforms, confederations or federations.

While civil society is developing rapidly, the majority of CSOs are at an early stage in their organizational development. Financial difficulties pose as the main constraint before institutionalization of CSOs. Many CSOs do not have strategic plans or policies (i.e. for human resources, communication, and fundraising). Based on data provided by the DoA, as of 2013 only 9.36% of associations have websites (or 11.114 of associations).¹⁵ According to an earlier study, almost 79% of CSOs assess their financial resources to be insufficient and human resources as one of the top organizational

¹³ This data was retrieved on 25 December 2014

¹⁴ Department of Associations (DoA). <http://www.dernekler.gov.tr/tr/AnasayfaLinkler/illere-gore-faal-dernekler.aspx> Access date: November 29, 2014.

¹⁵ There is additional data provided by Department of Associations and Directorate of Foundations (not accessible online) portraying civil society in Turkey as of 2013. The data for 2014 will be available for associations in April 2015 and for foundations in June 2015 since this the deadline for them to submit their organizational data.

weaknesses of CSOs in Turkey.¹⁶ Likewise, due to lack of internal democracy and limited governance capacities, an important number of CSOs have weak relations with their support bases while certain groups of society are inevitably excluded. CSOs based in larger cities enjoy closer access to policymakers however fail to use their proximity to find solutions for problems of local communities.¹⁷

Between 2004 and 2008, within the scope of the EU accession process the regulatory environment of the civil society has been improved and various laws and regulations related to civil society were reviewed and amended, enhancing freedom of association in Turkey. These reforms eased CSOs' activities to a large extent. However, mostly due to the fact that no further improvements towards or alignments with international standards have been made since 2008, several problems and obstacles remain in the legal framework. These problems, together with further restrictive secondary legislation, hamper the enabling environment of civil society.

The 'strong state' tradition inherited from the Ottoman era and lack of opposition culture are structural political conditions posing challenges to the development of government-civil society relations and can explain reversals in the democratization processes. Despite the fact that there is an increasingly vibrant and diverse civil society, CSOs have had limited competences to influence policymaking in recent years.¹⁸

The socio-cultural context is not conducive to civil society development in Turkey. The findings of the 2014 World Giving Index presents that the culture of giving is not cultivated in Turkey (being the 128th in the Index among 135 countries). These findings depict the low level of interpersonal trust in the country. Likewise, individuals do not have high level confidences in the nonprofit sector in Turkey since there have been previous instances of fraud allegations and as there have been cases of corruption in

the nonprofit sector. Based on the results of the research conducted by Yaşama Dair (YA-DA) Foundation, the first five critiques depicted in the societal perception against CSOs are corruption (10.5%), profit/interest-orientation (9.8%), ideological-orientation (8%) insincerity/distrust (7.3%) and discrimination (7.2%).¹⁹

On the other hand, civil society is not free from ideological, political and cultural divisions, rather remaining as an arena where divergent societal visions compete. This situation limits the potential of civil society ensuring democratization since such controversial divisions embedded in the society are replicated and/or reproduced once again in Turkey's public sphere through civil society activism.²⁰ The link between public and nonprofit organizations is quite weak. This disconnection leads to public mistrust and disappointment, particularly during moments of intense government pressure on some of those CSOs that are critical of policies and agenda of the government. Based on the research on the civil society perception in Turkey, politicization of CSOs is widely criticized not only by public officials and the society but also by CSOs themselves.²¹ Rights-based nonprofits are regarded as political organizations. Individuals are usually anxious about being affiliated with such CSOs with the fear of being stigmatized. For more than half of the society, CSOs are associated either with politics (32.4%) or protests and demonstrations (20.2%). This indicates that societal perception towards civil society is more related with its political functions.²²

The table provided on page 66, provides a set of indicators to depict the profile of Turkey with respect to economic, political and social indicators. Available data includes indicators and rankings in terms of the civil society environment in Turkey as of 2014.

¹⁶ *Civil Society in Turkey: At a Turning Point*. http://www.tusev.org.tr/usfiles/files/step_eng_web.pdf Access date: November 25, 2013.

¹⁷ *Civil Society Organizations and Public Sector Relations: Problems and Expectations*. TUSEV. <http://www.siviltoplum-kamu.org/usfiles/files/Civil-Society-Organizations-and-Public-Sector-Relations.pdf> Access date: November 25, 2014

¹⁸ Bertelsmann Stiftung's Transformation Index (BTI). 2014. *Turkey report*. http://www.bti-project.org/uploads/tx_jpdnloads/BTI_2014_Turkey.pdf Access date: February 3, 2014.

¹⁹ Yaşama Dair Vakfı (YA-DA) Foundation. (2014). *Türkiye'de Sivil Toplumun Gelişimi ve Sivil Toplum Kamu İşbirliğinin Güçlendirilmesi Projesi. Sivil Toplum Kuruluşlarına Yönelik Algı ve Yaklaşımlar. [Strengthening Civil Society Development and Civil Society – Public Sector Dialogue in Turkey Project. Perception and Approaches Towards Civil Society Organizations.]*

²⁰ Özler, S. İ and A. Sarkissian. 2011. *Stalemate and Stagnation in Turkish Democratization: The Role of Civil Society and Political Parties*. *Journal of Civil Society* 7 (4): 363-384.

²¹ *Ibid.*

²² *Türkiye'de Sivil Toplumun Gelişimi ve Sivil Toplum Kamu İşbirliğinin Güçlendirilmesi Projesi. Sivil Toplum Kuruluşlarına Yönelik Algı ve Yaklaşımlar. [Strengthening Civil Society Development and Civil Society – Public Sector Dialogue in Turkey Project. Perception and approaches towards Civil Society Organizations.] Yaşama Dair Vakfı.*

3. SPECIFIC FEATURES AND CHALLENGES IN APPLYING THE MATRIX IN TURKEY

The major challenge in conducting the research, stems from the methodology presented in the Monitoring Matrix Toolkit. The methodology and MM expects to produce comparable results across countries. However, each country has their own specificities and face diverse challenges in applying the MM methodology to collect data and derive generalizable conclusions. As an example, there are two types of CSOs in Turkey with separate legislation and practice, necessitating separate monitoring while generating different findings of each indicator. This does not only bring about double work but also makes sector wide generalizations difficult.

In 2014, some revisions were made in the MM to overcome these challenges (e.g. merging some standards as well as indicators; selecting focus areas to be monitored rather than monitoring all indicators each year; and identifying possible elective standards). In Turkey, TUSEV research team opted for monitoring the following areas and sub-areas more extensively in 2014 report along with other compulsory areas: **Area 1: Basic Legal Guarantees of Freedoms (Sub-area 1.1.: Freedom of association:** Principle: Freedom of association is guaranteed and exercised freely by everybody: **Standard 1-** All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online. **Sub-area 1.2.: Related freedoms:** Principle: Freedoms of assembly and expression are guaranteed to everybody: **Standard 3-** Civil society representatives, individually and through their organizations, have the rights to safely receive and impart information through any media), **Area 2: Framework for CSOs' Financial Viability and Sustainability and Area (Sub-area 2.1.: Tax/ fiscal treatment for CSOs and their donors:** Principle: CSOs and donors enjoy favorable tax treatment: **Standard 2-**Incentives are provided for individual and corporate giving) **Area 3: Government – CSO Relationship (Sub-area 3.2.:** Involvement in policy- and decision-making processes). Principle: CSOs are effectively included in the policy and decision-making process: **Standard 2-** All draft policies and laws are easily accessible to the public in a timely manner.)

In 2014, DoA has provided access to further data on associations which were not available before. These data reflects upon the number of volunteers, the number of full time employees working in associations, the sources of income of associations, the number of penalties sanctioned on associations. Nevertheless, in conducting the research, TUSEV team has also come across several challenges mostly based on the absence of reliable data and problems in accessing civil society related data and information. As an example, DoA updated the statistical information regarding associations in Turkey in 2014, altering the dataset used in previous years, which makes it very difficult for annual comparisons. New data set offers totally different information on the number of associations and number of members of associations retrospectively.²³ Moreover, the categorization of fields of operations has been changed (e.g. category for human rights and democracy field is completely deleted) which makes comparative analysis nearly impossible.

In some instances, it was hard to access reliable data on the practical application of legislation which shows that further research is necessary in some fields including but not limited to service provision and education related sections. Additionally, it is a general problem that access to public information does not work efficiently. To illustrate, in 2014, TUSEV issued 20 separate requests to relevant ministries to access public information on the relationship of Ministries with CSOs. In return, 16 Ministries responded and 4 out of 16 declined to provide information on the grounds that more research was needed (invoking their rights under Articles 7 and 12 of the Law on the Right to Information) and 4 Ministries have not responded to the request for information at all.

In 2014, issues related to democratic governance and reforms to enhance accountability and transparency have not been among the top priorities of the government since in this year local elections and presidential elections were held. Moreover, in 2014 there were follow up incidents related to the 2013 corruption scandal which is followed by an ongoing criminal investigation involving several ex-Ministers in the government, as well as prominent

²³ Graphics and Tables related to Associations. Department of Associations (DoA) (updated by 24.09.2013). Access date: November 12, 2014 <http://www.dernekler.gov.tr/tr/AnasayfaLinkler/dernekler-grafik-tablo.aspx>

members of the ruling Justice and Development Party (AKP). Thus, political scenery was mostly occupied with the election agenda bringing further tensions between the government and the opposition. Under these circumstances, no major reform process to strengthen enabling environment for civil society development in Turkey found its way in the political agenda. Thereby, to locate or identify new data or information on civil society in 2014 presented a greater challenge than in 2013.

4. ACKNOWLEDGEMENTS AND THANKS

We would like to thank first to the Balkan Civil Society Development Network (BCSDN), and the European Centre for-Not-for Profit Law (ECNL) for developing and drafting the Monitoring Matrix as a tool. We are particularly thankful to Tanja Hafner-Ademi, Ilina Nesik, Biljana Stojanoska, Jelena Mirkovic and TUSEV staff for their guidance and help in the implementation process of the project.

Last but not least, we thank all CSO representatives, experts and policy makers that attended national level consultation meetings (See Annex 1 for the list of consultations) and participated in the survey for Monitoring Enabling Environment for Civil Society Development Project, for their valuable contributions, feedback and guidance.

5. METHODOLOGY

1. OVERVIEW OF THE METHODOLOGICAL APPROACH

This project employed the following research methods in collection of data and analysis: desk research on the existing laws and their implementation, review of results conveyed in existing secondary research and consultation meetings and a survey with CSOs as well as expert interviews.

The primary data collection method is the desk research and analysis of legislation regulating foundations and associations in Turkey. To crosscheck the results from the data analysis, EU legal documents and reports, state policy documents, country-specific reports and media scanning published by international organizations and CSOs were also included in the research.

Apart from reviewing existing laws and regulations, the MM includes a section on practical implementation of such laws

and their limitations. These data was produced based on TUSEV's know-how on enabling environment of civil society and results of the previous studies, especially Civil Society Monitoring Report published on a yearly basis since 2011. This report presents the developments and achievements in the area of civil society, as well as the shortcomings and difficulties observed in practice with deriving annual comparisons. Furthermore, the findings and reports of the Strengthening Civil Society Development and Civil Society-Public Sector Dialogue in Turkey Project (implemented by TUSEV, STGM and YADA since June 2012 in Turkey) were of important benefit for this report.

The national level consultation for Monitoring Enabling Environment for Civil Society Development Project has been conducted via a survey targeting representatives from associations and foundations to have further information on different aspects of the standards and indicators. 61 respondents (representing 40 associations, 18 foundations, 1 platform, 1 initiative and 1 other type of organization) have participated in this survey. The survey consisted of 64 questions and addressed the issues in MM 2014 report **Area 1: Basic Legal Guarantees of Freedoms; Area 2: Framework for CSOs' Financial Viability and Sustainability** and **Area 3: Government - CSO Relationship** (except Sub-area 3.3.: Collaboration in service provision).²⁴

2. PARTICIPATION OF THE CIVIL SOCIETY COMMUNITY

In preparation of the MM report, the project team benefitted from the findings of TUSEV's Civil Society Monitoring Report 2012 and case studies of Civil Society Monitoring Report 2013-2014. The methodology of these reports includes desk research, media review and in depth interviews (via face-to-face, e-mail or phone interviews) with more than 80 representatives who actively work in civil society. This report feeds the MM report in terms of data collected from various public institutions in line with the criteria defined by the Right to Information Law. A media review has been conducted for over a period of three months and 16 extensive case studies from

²⁴ The link of survey is accessible online (in Turkish). https://docs.google.com/forms/d/1HuEbhmqP9ylyX9GeBKXbH_Bvd19kfjxLybSjtg2k/viewform?c=0&w=1

the report relevant to the scope of the MM report were examined.

The survey addressing the representatives from associations and foundations was conducted to gather further information and enable participation of the CSO community in the monitoring process.

Another project of TUSEV that brought further data, enabling civil society voices to be covered in this report, has been the **Strengthening Civil Society Development and Civil Society-Public Sector Dialogue in Turkey** mentioned above. Within this project, TUSEV has the responsibility to conduct legal studies and activities to enhance legal environment and to galvanize civil society-public sector cooperation. Towards this end, between 2012 and 2015 TUSEV have organized 14 local consultation meetings in Adana, Ankara, Diyarbakır, İstanbul, İzmir, Trabzon and Van to discuss the expectations and collective suggestions of CSOs. These consultation meetings were attended by 150 representatives from 118 civil society organizations (CSOs) from 12 cities. In three cities, 47 representatives attended to discuss findings of another TUSEV publication entitled "Active Participation to Civil Society: International Standards, Obstacles in National Legislation and Recommendations" drafted by two legal scholars. Last, but not least, a comparative report was drafted on the primary legislation in Turkey governing enabling environment for CSOs. Please see Annex 2 for details on additional TUSEV research and publications.

In 2013, 5 semi-structured expert interviews were conducted with CSO representatives; several were consulted via e-mails and phone interviews or via ad hoc consultations conducted in relevant meetings, conferences on the issues related to civil society participation in service provision and provision of non-formal education by CSOs in Turkey. Since these parts of the report were not among the focus areas that new information is provided in 2014, 2013 consultations still stand. Please see Annex 1 for the list of interviewees and Annex 3 for the interview guide.

3. LESSONS-LEARNT

The Monitoring Matrix offers a solid methodological framework with a set of indicators to conduct an overview of the development of enabling environment of civil society in a systematic way. This has been a significant contribution in compiling existing information on civil society and providing further data not just on the existing regulatory framework but its implementation in the context of Turkey. The country-specific knowledge is also comparable cross-nationally to other cases in the Western Balkans within the project framework.

Furthermore, the Monitoring Matrix introduced new research areas to be intensively analyzed and advocated for policy change. In the scope of this project, TUSEV reviewed the available legislation and conducted further studies on these under-researched issue areas. These new data feeds into the TUSEV's advocacy agenda. For example, a workshop on economic activities of CSOs focusing on taxation aspects, possible treatments of the income from economic activities and existing legislation in Turkey is planned to take place on 15 December 2014. Another area is volunteering legislation and its practical implementations. National Volunteering Committee, where TUSEV has been a member, was formed and facilitated by UN Volunteers in 2012. In 2014, several meetings convened with participation of CSO representatives, scholars and public officials to set up a strategic framework to facilitate enabling environment for volunteering in Turkey. TUSEV, relying on the Monitoring Matrix standards and findings, as well as comparative data from other Western Balkan countries prepared an info-sheet to raise the attention of decision makers and presented it to relevant authorities. Thereby, this project and application of the Monitoring Matrix methodology has shown that strong methodological approaches extend the scope of research and support data driven advocacy activities for policy changes at national and international level.

FINDINGS AND RECOMMENDATIONS

The aim of this section is to present a summary of findings and recommendations per themes, i.e. the Monitoring Matrix sub-areas focusing on 12 core standards²⁵ and the elective standards and principles.²⁶

AREA 1: BASIC LEGAL GUARANTEES OF FREEDOMS

SUB-AREA 1.1.: FREEDOM OF ASSOCIATION

The evaluation of this sub-area is based on following standards: (1) All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online; (2) CSOs operate freely without unwarranted state interference in their internal governance and activities; (3) CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities.

No significant developments took place in 2014 related to the enabling environment on the freedom of association. In fact, no extensive reforms have been made since the major reform packages accepted in 2004 and 2008 that (in those years) improved the enabling environment of

civil society to a great extent.²⁷ As for planned reforms regarding the legal framework regulating freedom of association, Turkey's National Action Plan for the EU Accession (Phase- I November 2014 - June 2015) published in November 2014, includes actions to amend Law on Associations, Civil Code (related articles), Law on Collection of Aid, and Law on Foundations.²⁸

The absence of civil society and CSO definitions in the related legislation and policy documents causes major problems and confusions in practice. First of all, the mandatory registration imposed on CSOs limits possible associational forms to two: associations or foundations. The freedom to establish associations is stated in Article 33 of the Constitution. The same article stipulates that the foreseen rights and grounds for restriction shall apply for foundations as well. This may be interpreted to mean that the Constitution only allows for CSOs to be established in the form of associations and foundations. Similarly, the legal regulations only entail provisions on associations and foundations. In today's world, it is inconceivable to limit the CSOs only to these two forms of organizing. Hence, it would be more appropriate to remove the references to associations and foundations in Article 33 of the Constitution and instead use the phrase

²⁵ Please note that the 12 core standards and indicators are marked in dark green color in the Section V. Findings and Recommendations (Tabular).

²⁶ Elective standards are: Area 1: Basic Legal Guarantees of Freedoms (Sub-area 1.1.: Freedom of association; Principle: Freedom of association is guaranteed and exercised freely by everybody; Standard 1- All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online. Sub-area 1.2.: Related freedoms; Principle: Freedoms of assembly and expression are guaranteed to everybody; Standard 3- Civil society representatives, individually and through their organizations, have the rights to safely receive and impart information through any media), Area 2: Framework for CSOs' Financial Viability and Sustainability (Sub-area 2.1.: Tax/fiscal treatment for CSOs and their donors; Principle: CSOs and donors enjoy favorable tax treatment; Standard 2-Incentives are provided for individual and corporate giving) Area 3: Government – CSO Relationship (Sub-area 3.2.: Involvement in policy- and decision-making processes). Principle: CSOs are effectively included in the policy and decision-making process; Standard 2- All draft policies and laws are easily accessible to the public in a timely manner.

²⁷ Article 34 of the constitution was amended to bring slight improvements in the rule of law and strengthening of institutions. The Economic and Social Council was set up in 2001, enabling the consultations of economic and social actors. In this period of time, there have been developments regarding the enforcement of human rights, namely the establishment of various bodies to monitor the implementation of legislation. The Human Rights Consultation Board was established as a venue allowing the exchange of views between the government and CSOs. With regard to freedom of association and peaceful assembly, the amendment of article 33 of the constitution eased the restriction on forming associations, and the abolishment of difficulties regarding CSOs forming international linkages was expected accordingly. Three rounds of extensive reform packages were passed during 2002 to meet the political conditions of the acquis. The first legislative package addressed the freedom of speech, whereas the second, passed in April 2002, addressed freedom of association and assembly, freedom of press and freedom of speech. The third legislative package, passed 3rd August 2002, abolished the death penalty and lifted restrictions on the individual cultural rights of minorities (Tocci: 2005). The Law on Associations (No 5253) was amended in 2004. The Law of the Relations of Associations and Foundations with Public Institutions (No 5072) was amended in 2004. The Law on Foundations (No 5737) was amended in 2008.

²⁸ Turkey's National Action Plan for Phase I (November 2014-June 2015) Ministry for EU Affairs. Access date: November 2014. <http://www.ab.gov.tr/files/napisonwebeng.pdf>

“organization” which does not allude to any specific form of organizing.²⁹

As such, the legal framework excludes unregistered or legally unrecognized informal CSOs such as groups, initiatives and networks not only from civil society activity but also from applying public funding and participation in public policy making. Although not given recognition by state or the legal framework, these forms of organizations are an important part of civil society in Turkey.

Some CSOs prefer to operate as informal organizations because they do not want to be subject to Law of Associations or Law of Foundations due to the fact that the limitations, restrictive governance and management covered at detail in the relevant laws do not meet their needs or priorities. For instance, some of the existing platforms and initiatives stress that existing legal entities are insufficient because the registration processes are too bureaucratic and they bring about various hierarchical obligations that are difficult to comply with. Since having a legal entity is compulsory for most of the grant application processes by foreign and domestic donors, the above mentioned forms of organizations are unable to apply for grants. Along with associations and foundations, platforms³⁰ are also recognized by law but not accepted as legal entities. Thereby, no collective group other than registered associations and foundations are allowed to pursue any legal purpose (e.g. having a bank account, applying to funds, take legal action).

Associations are founded by at least seven citizens with legal personalities “who join their knowledge or activities for a specific and common non-economic goal.” The number of founding members sought by the state is quite high compared with international and European standards (2-3 people). CSOs state that the bureaucratic requirements to set up an association are immense. As a result, most of the prerequisites for establishing associations are only met on paper. For instance, it is widely stated that, it is quite burdensome for associations to bring together enough members in the initial stage

to fill the seats in the mandatory formal committees: Executive Board, and Inspection Board, which CSOs are legally bound to form to be able to pursue their activities. Associations should have at least 16 members within six months following their registration.

As soon as they start the official procedure, according to regulations, it is assumed that the association is already set up and registered. The Department has up to 60 days to review the application. If the administration decides there are missing documents or the application of association violates the existing rules and regulation, the association is given 30 days to rectify. The associations are obliged to provide their statute along with supporting documents. The legal framework provides a long list of required information to provided within a statute. These include the definition and procedures of the required bodies (i.e. executive board, inspection board, and general assembly).

According to results of the survey, only 2 respondents (out of 38) stated that it took more than 30 days for them to receive the official notification paper acknowledging their registration. The majority of the respondents stated they were able to receive this notification within 5-15 days (12 respondents) and 15-30 days (9 respondents). When they were asked to evaluate the process of registration of CSOs in general, 46% of the respondents have chosen to respond “very easy” (14%) and “easy” (33%). Yet in total 31% of the respondents stated that this process is either very hard (5%) or hard (26%). In another multiple choice question 38% of the respondents indicated they have not encountered any limitation or obstacles in the registration process of their CSOs. CSOs evaluate the reforms of Law on associations in 2004 in a positive way. Different organizations mentioned the process was much harder before 2000. Contrary to these evaluations, respondents have also provided their qualitative assessments of the registration process in which they mostly referred to the burdensome requirements of the bureaucracy, the high number of required founding members, too much paper work, cumbersome book-keeping procedures, fiscal burden, address/residence requirement, different treatment for rights-based organizations.

As if the relevant laws do not already contain excessive requirements, administrative decrees and legal opinions produced by public institutions make registration requirements more difficult in practice. Some examples

²⁹ Ayata G. Ç. & U. Karan 2014. *Sivil Toplumda Aktif Katılım: Uluslararası Standartlar, Ulusal Mevzuattaki Engeller, Öneriler [Active Participation to Civil Society: International Standards, Obstacles in National Legislation and Recommendations]*. TUSEV.

³⁰ A platform is defined by law as “interim societies formed by associations themselves or with the foundations, unions and similar other civil organizations under the title venture, movement or any other similar name to realize a common objective”.

include, an official documentation taken from each flat/apartment owner for consenting the CSO to operate in their building; or the place of settlement being solely rented/owned by that CSO according to a legal opinion provided by the Ministry for Internal Affairs on 10/04/2013. According to this legal opinion only one organization can be registered at a particular address/residence in order to avoid problems that might arise if and when the office needs to be closed down/sealed by the state based on an illegal act or offense.³¹ This legal opinion has not resulted as a sanctioning yet since it is not included in a law or regulation, still there are reported cases of organizations that are asked to have a separate address. Not only does such a requirement lay a large financial burden on the shoulders of many under-resourced associations but it also hinders networking, coalition building or co-learning potential of civil society that can be optimized by sharing the same space and resources.

Registration process for foundations is much more complicated than for associations. To establish a foundation, assets should be allocated (all types of immovable and movable property, including cash, securities and bonds, and rights that have an economic value) for the specified purpose of the foundation. The Council of Foundations, the highest decision making body of GDoF determines the minimum asset value required for the establishment of a foundation on annual basis. The minimum endowment amount for foundations was increased to € 19.700 (55.000 TRY) in 2014. Foundations are established by their by-laws which is verified firstly by a notary and then by a court. By-laws contain information on the title, purpose, assets and rights to attain the foundation's goals through their organs and applicable administrative procedures. The foundation is granted legal personality only when approved by a court followed by registration in the GDoF.

Foreign organizations/representative offices are subject to permission to operate or open up a branch in Turkey. According to data provided by the GDoF and the DoA, as of November 2014, only 130 foreign organizations (17 foundations and 113 associations) were allowed to

operate in Turkey.³² Although there is no official record, the registration process of some foreign organizations depicted the application process is burdensome, in some cases political and takes a long time. Furthermore, post-application follow-up procedures are weak.

Associations and foundations may accept cash and in kind donations from persons, institutions and organizations abroad but such donations are subject to notification to public authorities. Associations and foundations may also accept donations and assistance from corporations, individuals and other sources to realize the purposes set out in their by-laws.

The DoA and the GDoF have the legal authority to audit associations and foundations. However, the authority of inspectors are not clearly defined in the legislation. Inconsistencies are observed in the frequency, duration and scope of audit practices. Based on data provided by the DoA, in 2013, 4648 sanctions were posed upon associations in Turkey, majority of them being administrative fees for breaching bureaucratic requirements.

Inspections by the administration can be burdensome for CSOs and create obstacles for exercising their freedom of association since they have to spend considerable time and resources to be able to comply with the bureaucratic requirements. CSOs are expected to pay considerable fines for not reporting even some very minor administrative changes. These large sums are insurmountable for CSOs often working under difficult financial circumstances and with limited capabilities. For instance, an association that has not reported its change of address in due time, may be fined to pay at least 350 TRY (approximately € 125). Similarly, bookkeeping and maintaining written records of all proceedings can be very demanding and can cause implementation financial sanctions for CSOs. Failing to record an administrative change (such as a change in the board leadership or address change) on time in the official records/books may result in a fine of 835 TRY (Approximately € 300).³³

³¹ Please see this legal opinion issues on 10/04/2013 from <http://www.dernekler.gov.tr/tr/Mevzuat/hukukigorusler.aspx> (in Turkish)

³² November 2014 data are gathered from DoA and GDoF www.dernekler.gov.tr and www.vgm.gov.tr

³³ *Ankara consultation report on consultation meetings for drafting amendments based on the results of research entitled "Active Participation in Civil Society: International Standards, Obstacles in National Legislation, Recommendations."* TUSEV. Access date: November 25, 2014 [http://www.siviltoplum-kamu.org/urfiles/files/AnkaraRaporu_Final\(1\).pdf](http://www.siviltoplum-kamu.org/urfiles/files/AnkaraRaporu_Final(1).pdf)

One of the respondents of 2014 survey summarized the general problems of CSOs: “Too much bureaucracy, specifically those related with the book keeping leads to major problems for associations that operate with insufficient financial resources. Associations has to recruit a full-time staff to be able to cope up with the procedures including book keeping, notary proceedings, keeping accounts and official books, following up with the notifications, organizing general assemblies, and etc. Handling these on a voluntary basis is creating problems, but it is not easy for associations operating with tight budget to be able to recruit someone to do all these.”

Furthermore, penalties continue to pose a challenge for exercising the freedom of association of CSOs. The inspection process does not involve a guidance mechanism in order to prevent associations and foundations from being fined by DoA and GDoF. Although the Penal Code already covers penal sanctions, the Law on Foundations (5737, 20/2/2008) and Law on Associations (5253, 4/11/2004) brings in further punitive provisions. In their qualitative assessments, some of the survey respondents provided information on the audit process they experienced in 2014. One of the respondents stated that CSOs are notified from the results of the audit only if/when the inspectors identified a misconduct resulting with a penalty/fine. A similar experience was shared by another respondent whose association was inspected in 2014. They were informed about this audit only 48 hours prior to the inspection itself. The audit conducted by four inspectors. When the organization demanded to see the full audit report, their request was declined.

According to the survey conducted in 2014, when CSO representatives were asked if the state interfered (directly and indirectly) in their organization’s internal matters, 21% of the respondents have chosen “not at all”, 25% “a little”, and 31% “somehow” answers. A survey respondent stated that they felt under threat, based on their perception that all LGBTI organizations are targeted by the state when they have seen some LGBTI CSOs were audited right after Gezi protests.

Another practice that poses an obstacle for exercising freedom of association is the violation of rights of human rights defenders and the CSOs they are affiliated with. Transformation Index BTI 2014 Turkey reported “CSOs that oppose state policies often face legal and financial

obstacles”. According to results of the survey, more than half of the respondents agree with the statement: “There are cases where individuals and CSOs are persecuted for critical speech, in public or private” and 48% of them agree with the statement: “There are cases of encroachment of the right to freedom of expression for CSOs”.

This section has presented that the lack of definitions of “civil society” and “civil society organization” in the related legislation poses problems to freedom of association. The legal framework only recognizes associations and foundations as legal entities of CSOs. Other organizational forms such as initiatives, social enterprises and grant-making foundations are not recognized by law and they lack legal personality; in return the legal framework contains negative prohibitions against them. They are not eligible for public funding and are prone to be excluded from public consultations in general. The legal framework should be revised to include definition of civil society which acknowledges a variety of legal entities including foundations, associations as well as initiatives, social enterprises and grant-making foundations. Mandatory registration should be annulled. Another significant finding is that, the legal framework regulating inspection of CSOs conducted by public authorities is complicated, restrictive, and bureaucratic and is focused on limitations rather than freedoms, defining penalties and sanctions that do not meet the principle of proportionality. The legal framework regulating inspection of CSOs should be revised and limitations and restrictions to state interference in internal affairs of CSOs should be introduced and defined. The rules of audit and the limits of authority of the inspectors should be clearly defined in the legislation. Since all conditions that require penalties are defined under the Penal Code, punitive provisions in the Laws on Foundations and Law on Associations must be removed.

SUB-AREA 1.2.: RELATED-FREEDOMS

The evaluation of this sub-area is based on following standards: 1. CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly; 3. Civil society representatives, individually and through their organizations, have the rights to safely receive and impart information through any media.

There is a set of primary and secondary legislation regulating the freedom of assembly. The 1982 Constitution guarantees everyone's right to freedom of assembly without permission. The main primary law in this respect is the Law No. 2911 Law on Meetings and Demonstrations, adopted on October 6, 1983. The related secondary legislation laying down the implementation of Law No. 2911 is the Regulation on the Implementation of Law on Meetings and Demonstrations adopted in 1985. In addition to these, there are other related laws regulating different aspects of the freedom of assembly, such as the Law No. 2559 on the Duties and Discretion of the Police; Law No. 3713 on The Prevention of Terrorism Acts; and Law No. 5326 on Misdemeanors.

As mentioned above, the Article 34 of the Constitution recognizes the right of citizens to organize an assembly and demonstration without having to obtain any prior authorization. In accordance with this clause, rights on assembly and demonstrations may be restricted with a wide range of reasons such as "preservation of national security", "public order" and "prevention of crime", protection of "public moral" and "public health".³⁴ Although these restrictive measures are in line with the 11th Clause of the European Convention on Human Rights, due to the fact that the legal framework does not define these concepts, at times, they are interpreted narrowly and restrictively in an arbitrary fashion.³⁵ Furthermore, the Law on Meetings and Demonstrations further restricts the freedom of assembly. According to the Article 10 of Law, all of the members of the organizing committee must sign a declaration 48 hours prior to the assembly and submit it to the district Governor's office during working hours. If not, the administration conceives it as an "illegal" assembly and has the right to take all measures to disperse/dissolve it by means which might also include police intervention. Hence, although the right to assembly without authorization is de-jure recognized, the notification process de-facto is interpreted and practiced as an authorization.

The meetings and demonstrations should be planned by a committee consisting of seven people with a lead person. The organizers must provide the following information in the notification: (a) the purpose of the meeting; (b) the date and the place of the meeting along with the start and end time; (c) the IDs of the members of the organizing committee, information regarding their occupation, their residence certificate and if available the address of their work, and (d) any additional information outlined as necessary by the Regulation on the Implementation of the Law on Meetings and Demonstrations. The latter provision is written in an open-ended way that could lead to excessive governmental discretion.

Article 11 of the Law states that all members of the organizing committee must be present at the assembly at the indicated time provided in the notification. With the latest amendments made in March 2014, the same Article grants rights to security forces to record voices and images of the participants during the assembly or meeting. Besides, according to the Article 12, the organizing committee is given responsibilities to ensure that the meeting or the demonstration is conducted in a peaceful manner and to take the necessary measures including asking security officers for intervention in case of violence. The committee is also in charge of ending the meeting or the demonstration and to inform the security officer. Article 15 of the Regulation on the Implementation of the Law on Meetings and Demonstrations also states that members of the organizing committee have responsibilities for restraining any provocative behavior, preventing unlawful behavior and collaborating with security forces for these purposes.

The Law brings severe restrictions as to the place, route and time of the assembly. According to Article 6 of the Law, outdoors assemblies can take place in any space which is previously determined as "available" by the district governor's office or the governorship after consulting the provincial representatives of the political parties represented in the Parliament; mayors; representatives of three labor unions with the highest number of members; and finally representatives of the chambers (this "consultation" was added to the Law by an amendment made in March 2014). Article 22 of the Regulation on the Implementation of the Law on Meetings and Demonstrations indicates that outdoor assemblies

³⁴ Please see these clauses from the Constitution. Access date: November 12, 2014 <http://www.tbmm.gov.tr/develop/owa/anayasa.uc?p1=34>

³⁵ Ayata G. C. & U. Karan 2014. *Sivil Toplum Aktif Katılım: Uluslararası Standartlar, Ulusal Mevzuattaki Engeller, Öneriler [Active Participation to Civil Society: International Standards, Obstacles in National Legislation and Recommendations]*.TUSEV.

cannot take place in widely used roads or parks, religious places, public buildings and one kilometer away from the Turkish Grand National Assembly. In addition, the same Article states that intercity highways are not allowed for meetings or demonstrations. Article 7 of the Law states that assemblies cannot take place before sunrise. In addition, outdoor assemblies cannot be held after sunset, and indoor assemblies should end no later than midnight. Last, but not least, the law and the regulation grant the authority to cancel it. Civilian authority is granted the authority to postpone an assembly if (a) there are more than one assemblies notified to be made in the same place and time which makes it impossible for security forces to take necessary measures and (b) to protect national security, public order, prevention of a crime, public health, general morality or to protect others rights and freedoms; or to prohibit an assembly if and when a clear and imminent danger exists. As mentioned above, since the definitions of many of these concepts are not clearly defined in the legal framework, the administration is provided with arbitrary treatment to prohibit or postpone an assembly.

In 2014, several cases were observed in which CSOs were prevented from holding assemblies or rallies by excessive fining, or legal proceedings against human rights defenders on charges of breaking the law, or of propaganda for terrorism as a result of their presence at demonstrations and following their attendance at press conferences. There have been excessive use of force on numerous occasions, especially in demonstrations critical of government policies including breaking up numerous Kurdish issue related gatherings in the south-east, protests relating to Gezi events, demonstrations in Taksim square in Istanbul, ally of workers following Soma mine disaster.³⁶ Some of the respondents of the 2014 survey stated that they have a constitutional right to organize an assembly and demonstration without having to obtain any prior authorization and accordingly they choose not to notify public authorities before they organize peaceful assemblies. A LGBTI organization stated that before organizing LGBT Pride marches, despite the fact that they did not notify public authorities, prior to it, police forces

and water cannons were placed along Istiklal street, no police interference happened during 2014 Pride March. Although women and LGBTI organizations reported that they have faced several restrictions in 2014 and many civil initiatives experienced heavy doses of teargas and police violence against them, it is interesting and important to note that no police intervention was observed in the Pride Marches at Istiklal street in the recent past. Despite these observations, according to state figures provided in a report for Council of Europe, police intervention occurred only at 2% of the demonstrations that took place in the aftermath of 2013. This figure has been elaborated as an indication of a decrease in the rate of intervention in comparison to previous years.³⁷

With regards to freedom of speech, a new draft law called Internal Security Reform has been announced by the Prime Minister Davutoğlu on September 21, 2014 and was sent to the Parliamentary Commission. Besides initiating several changes in internal affairs, the draft includes various amendments that will further limit and restrict freedom of assembly if and once it is accepted as such. One such amendment in the draft aims to extend the police's authority to detain anyone without a prosecutor's order.

The Constitution guarantees freedom and privacy of communication for all, but likewise contains restrictive clauses. For instance, publications endangering the integrity or security of the state, violation of the general morality and the provision of protection of the family, revelation of state secrets or publications with the intention to encourage rebellion or other offenses are prohibited.³⁸ In practice, there were instances where the Supreme Board of Radio and Television (RTÜK) applied penalties on television and radio stations and fined them on the basis of (Broadcasting Law no. 6112: Art. 8); "broadcasting superstitious beliefs", "denigrating morals and national values" and "damaging the family",

³⁶ The EU Progress Report for Turkey 2014 SWD(2014) 307. European Commission. Access date: November 25, 2014. http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf

³⁷ Action plan on Communication from the Government of the Republic of Turkey concerning the Oya Ataman Group of Cases to the Council of Europe. Access date: January 7, 2015. <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2572357&SecMode=1&DocId=2169188&Usage=2>

³⁸ The Constitution of The Republic of Turkey, Article 26 and Article 31. Access date: November 26, 2013 <http://www.byegm.gov.tr/content.aspx?s=tcotrot>

“broadcasting obscenity” and “praising terrorism”.³⁹ RTÜK issued penalties to several TV networks for broadcasting coverage of Gezi Park Protests, on the basis of “encouraging people to violence” and “violating broadcasting principles”.⁴⁰ The vague use of such terms in the law needs further clarifications to overcome its arbitrary application.

Turkey’s media is being highly criticized for losing their impartiality. Some media outlets were highly criticized when some TV channels or newspapers remained mute against Gezi Park protests or broadcasted/reported in a biased way. According to a special report of Freedom House, at least 59 journalists were fired or forced to resign due to coverage of Gezi Park Protests.⁴¹

According to Freedom House ratings, internet freedom continues to be “partly free” in Turkey⁴² with 6 points of improvement in 2014 when compared to 2013.

Recently, on 10th of September 2014, extraordinary authority was granted to the Telecommunications Communication Presidency (TİB) after an amendment to the Internet Law was passed at Parliament. Amendments were made to Internet Regulation Law no. 5651 and extended the authority of TİB to ban websites and remove web contents without a prior court order if there is a violation of privacy, or if deemed necessary for matters of “national security, “restoration of public order” and “prevention of crimes”. This bill does not ensure in depth- investigation of the cases and therefore paves the way to arbitrary decisions by government authorities. Furthermore, web hosting providers are given the responsibility to keep the data of users and websites

they visited for two consecutive years.⁴³ However, the Constitutional Court has ruled the authority of TİB to close websites within four hours without a court order as “unconstitutional” and this regulation was abolished.⁴⁴ The government initiated a new policy proposal that will allow removing web contents by the decrees from the President and the Ministry of Transport, Maritime Affairs and Communications.⁴⁵

The government routinely blocks advanced web content and applications and prohibits access to websites with opposing views. According to data of Engelli Web [Database on blocked Websites in Turkey] over 61.780 websites are blocked as of November 2014.⁴⁶ It is also reported that the reasoning of court decisions to block websites and relevant rulings are not easily accessible. Therefore, such nontransparent procedures bring further challenges for those who appeal against conviction.⁴⁷ The Internet regulation needs to be reviewed and reformed in line with European standards in order to ensure freedom of expression.

Under these circumstances, especially rights- based CSOs participating in the survey 2014 acknowledge the negative consequences of this legal environment which is detrimental to freedom of communication. According to results of the survey, majority of respondents (79%) stated their access to information has not been blocked; 40% of the survey respondents claimed they have the feeling that their communication and access to internet is being monitored by state without legal basis. Some CSOs have provided their qualitative assessments and highlighted increased practices of blocking access to websites and social media platforms. One of the respondents said s/he started feeling threatened lately,

³⁹ *Caught in the Wheels of Power: The Political, Legal and Economic Constraints on Independent Media and Freedom of the Press in Turkey*. TESEV http://www.tesev.org.tr/Upload/Publication/Oa351lab-e048-4666-abca-a6618d5d15a8/12301ENGmedya3WEB09_07_12.pdf Access date: February 3, 2014

⁴⁰ *RTÜK Fines TV Networks on Gezi Resistance Coverage*. Bianet. Access date: June 17, 2014 <http://www.bianet.org/english/freedom-of-expression/147517-rtuk-fines-tv-networks-on-gezi-resistance-coverage>.

⁴¹ *Freedom House special report: Democracy in Crisis: Corruption, Media, and Power in Turkey*. Access date: February 17, 2014. <http://freedomhouse.org/sites/default/files/Turkey%20Report%20-%202-3-14.pdf>

⁴² In accordance to methodology of this study, in 2014, Turkey’s scores as follows: Obstacles to Internet Access (0-25) is 14 points, Limits on Content (0-35) is 18 points, Violations of User Rights (0-40) is 23 points. In total Turkey got 55 points out of 100 (0=most free, 100=least free). The results in 2013 were: 12, 18, 19 with a total of 49 points. For 2014 report, <https://www.freedomhouse.org/report/freedom-net/freedom-net-2014#VVKFqQV4gKA>

⁴³ *Turkey’s telecom body given more power to monitor internet users*. Hurriyet Daily News. Access date: November 5, 2014 <http://www.hurriyetdailynews.com/turkeys-telecom-body-given-more-power-to-monitor-internet-users.aspx?pageID=238&nID=71480&NewsCatID=338>

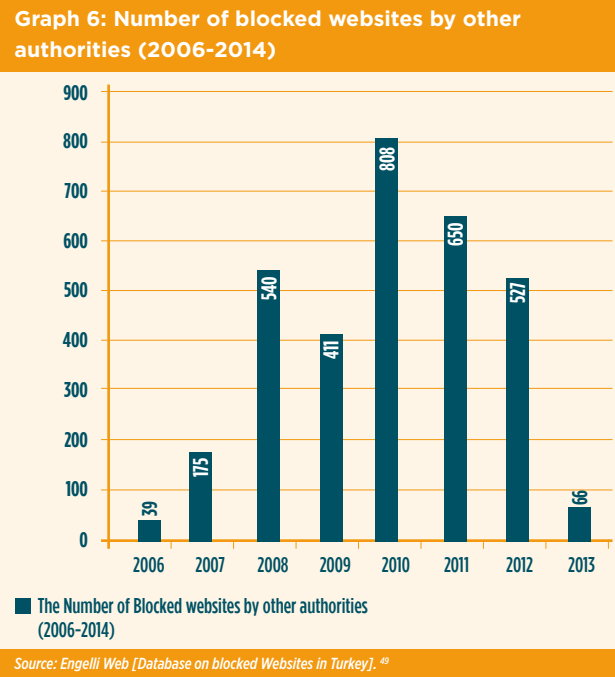
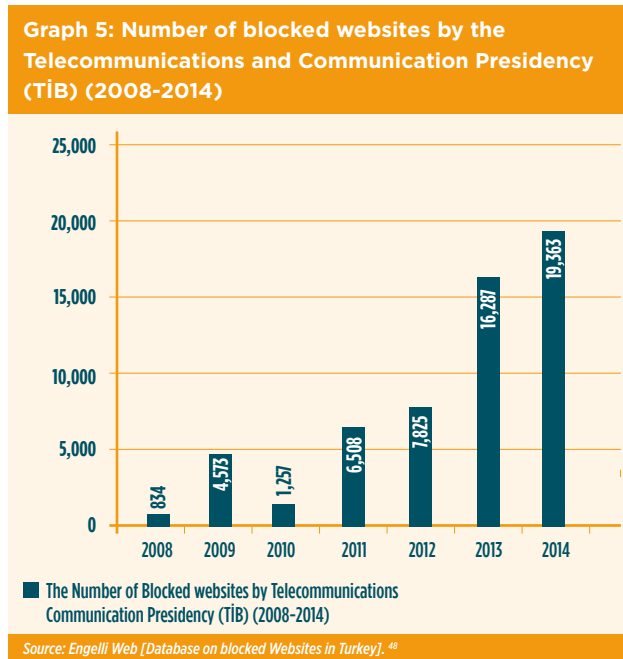
⁴⁴ *The Constitutional Court strips Internet authority of right to close websites*. Hurriyet Daily News. 2014. Access date: November 7, 2014. <http://www.hurriyetdailynews.com/turkish-constitutional-court-strips-internet-authority-of-right-to-close-websites.aspx?pageID=238&nID=72479&NewsCatID=339>

⁴⁵ *The Internet access will be banned by the decree of President*. Access date: December 30, 2014. http://www.radikal.com.tr/turkiye/basbakanin_talimati_ile_internet_kesilebilecek-1258410

⁴⁶ Please see data collected through Engelli Web [Database on blocked Websites in Turkey] from: <http://engelliweb.com/>

⁴⁷ Freedom House. 2014. *Freedom House special report: Democracy in Crisis: Corruption, Media, and Power in Turkey*. Access date: February 17, 2014. <http://freedomhouse.org/sites/default/files/Turkey%20Report%20-%202-3-14.pdf>

while another one claimed that CSO members, activists and individuals with dissenting views share these concerns in Turkey. A LGBTI organization representative indicated that access to LGBTI organizations websites is restricted from Turkish Grand National Assembly (TGNA), since these websites with LGBTI contents are filtered by web content filtering service available to the TGNA.⁴⁸



Some reforms are planned to improve the legal framework on freedom of assembly and expression in Turkey’s National Action Plan for the EU Accession (Phase- I November 2014 - June 2015). In the Action Plan there are commitments to revise Law No. 2911 on Meetings and Demonstration Marches to align with the political criteria of the EU.⁵⁰

SUMMARY: This section clearly shows that despite the fact that the Constitution recognizes the right to organize an assembly with no authorization being necessary, the Law on Meetings and Demonstrations introduce comprehensive restrictions to the right which are further intensified via secondary legislation. The places and duration allowed for meetings and demonstrations are restrictive while the Law provides the administration and security forces with wide discretionary powers. The Law and regulations on Demonstrations and Meetings should be annulled

⁴⁸ This data was retrieved on 24 December 2014

⁵⁰ Turkey’s National Action for Phase- II (June 2015 - June 2019). Ministry of EU Affairs. Access date: November 27,2014 http://www.abgs.gov.tr/files/000etkinlikler/national_action_plan_phase_ii_en_1_aralik.pdf

⁴⁸ This data was retrieved on 24 December 2014

completely and a new law allowing peaceful assemblies and demonstrations to be held in line with the European Convention on Human Rights and the European Court of Human Rights rulings should be drafted. Internet

censorship by the government has increased in the last couple of years, posing challenges to exercise of freedom of expression. The Law on the Internet needs to be revised in line with European standards.

EU CSF Guidelines 2014-2020: Objective (1) An enabling legal and policy environment, for the exercise of the rights of freedom, expression, assembly and association (Result 1.1: 1.1.a, 1.1.b., 1.1.c)⁵¹

No significant developments took place in 2014 related to the enabling environment on the freedom of association. The existing legislation and policy framework for the exercise of right of association still needs to be improved in order to be brought in line with international standards.

- The legal framework only recognizes associations and foundations as legal entities of CSOs and excludes unregistered or legally unrecognized informal CSOs.
- For associations, the number of founding members sought by the state is quite high (seven) compared with international and European standards (2-3 people).
- Foreign organizations/representative offices are subject to permission to operate or open up a branch in Turkey.
- There are certain restrictions in special laws restricting freedom of association of members of the Turkish Armed Forces, police force, civil servants, children and individuals who do not hold Turkish citizenship.
- The Article 34 of the Constitution recognizes the right of citizens to organize an assembly and demonstration without having to obtain any prior authorization. However, various articles of the Law on Meetings and Demonstrations, related regulations and their further restrictive implementation are not compliant with

the European Convention on Human Rights and/or European Court of Human Rights rulings.

EU CSF Guidelines 2014-2020: Objective (2) An enabling financial environment which support sustainability of CSOs (Result 2.1: 2.1.a, 2.1.b)

- The audit process is not governed with guidance in order to prevent associations and foundations from being fined by DoA and GDoF. The conditions that require penalties are already clearly defined under the Penal Code, and the punitive provisions in the Laws of Foundations and Associations are not necessary.
- Audits made by the administration can be burdensome for CSOs and create to their freedom of association since they have to spend considerable time and resources to be able to comply with the bureaucratic requirements.
- Associations and foundations may accept cash and in kind donations from persons, institutions and organizations abroad but such donations are subject to notification. Associations and foundations may also accept donations and assistance from corporations, individuals and other sources to realize the purposes set out in their bylaws/charters.
- There are no special and user-friendly accounting standards prepared for CSOs.

⁵¹ DG Enlargement Guidelines for EU support to civil society in enlargement countries, 2014-2020. Access date: December 23, 2014. http://ec.europa.eu/enlargement/pdf/civil_society/doc_guidelines_cs_support.pdf

AREA 2: FRAMEWORK FOR CSO FINANCIAL VIABILITY AND SUSTAINABILITY

SUB-AREA 2.1.: TAX/FISCAL TREATMENT FOR CSOS AND THEIR DONORS

The evaluation of this sub-area is based on following standards: (1) Tax benefits are available on various income sources of CSOs; (2) Incentives are provided for individual and corporate giving.

In general, tax legislation and tax environment does not provide a supportive environment for the financial sustainability of CSOs and bring certain limitations. Despite the fact that there are some tax exemptions for CSOs defined and provided in the legal framework, they are very limited. Foundations and associations in Turkey are exempt from the Corporate (Profit) Tax unless they deal with economic activities. Grants and donations received by CSOs are also tax exempt.

Economic activities of CSOs are permitted, only if they set up a separate economic entity under their legal entity. When they set up such entities, there is no tax exemption for economic activities they carry out. In terms of taxation, all economic entities of CSOs are treated like for profit businesses. According to data provided by the DoA and GDoF, the total number of associations and new foundations is 109.098 and only 3.290 of them (2%) have formed economic entities by 2013.

There is no tax incentive for the passive investments of foundations. Foundations and associations may obtain rent from their real estate, dividend from contribution shares and share certificates, interest over bonds and Turkish Lira and foreign currency investments. Pursuant to the Income Tax Law all of the foregoing revenues are subject to withholding tax to be paid by the payer of the relevant revenue item. The legislation allows the establishment of endowments. CSOs are exempt from Inheritance and Gift Tax and Corporate Taxes in relation to donations made to their endowments. CSOs are allowed to make passive investments; however, there are different tax treatments are applicable.

In addition to the above mentioned rules, several tax deductions are applied to foundations with tax exemption status and associations with public benefit status. The

law in Turkey does provide for a public benefit status for CSOs, however the tax exemption and public benefit statutes are granted to a very limited number of CSOs only by the Council of Ministers. The selection process is highly bureaucratic and political at times. In order to assure accountability, this process should be guided by an autonomous, transparent and easily accessible institution. Furthermore, the selection procedures and clearly defined criteria should be set.

According to the data compiled in November 2014, there are 258 tax-exempt foundations out of 4.781 foundations in Turkey. Compared to 2013 (254 foundations), there is an increase in their numbers.⁵² The ratio of the number of tax-exempt foundations to the total number remained similar (5%) to previous years. 403 associations with public benefit status constitute only the 0.39% of the total number of 104.317 active associations.⁵³ Contrary to bureaucratic and long selection process, privileges provided with the status are very limited.

31% of the organizations that participated in the 2014 survey reported that they choose not to apply for this status since it does not bring any privileges for their organization. Also some of the respondent organizations have also stated that they do not apply since they believe they will not be granted this status and/or they find this status discriminatory and the process of granting is not based on transparent and accountable set of criterion. As an example, an LGBTI organization claimed that due to their area of work public authorities do not grant this status.

Although there is a special regulation on tax exempt foundations in the Tax Laws, these are only related to exemption from Corporate Tax. Foundations, tax-exempt or not, are subject to all other taxes. Those taxes include income tax applicable to their earnings including rent, interest and dividends. The tax exempt status grants foundations with an opportunity to provide their donors tax deductions from their taxable income. In order to receive tax exemption, the foundation should be active in at least one of the following thematic areas: health, social aid, education, scientific research and development,

⁵² *List of Foundations with Tax exemptions*. Revenue Administration Access Date: November 20, 2014 <http://www.vgm.gov.tr/db/dosyalar/webicerik205.pdf>

⁵³ Department of Associations. Access Date: November 20, 2014 <http://www.dernekler.gov.tr/tr/Anasayfalinkler/kamu-yararına-calisan-dernekler.aspx>

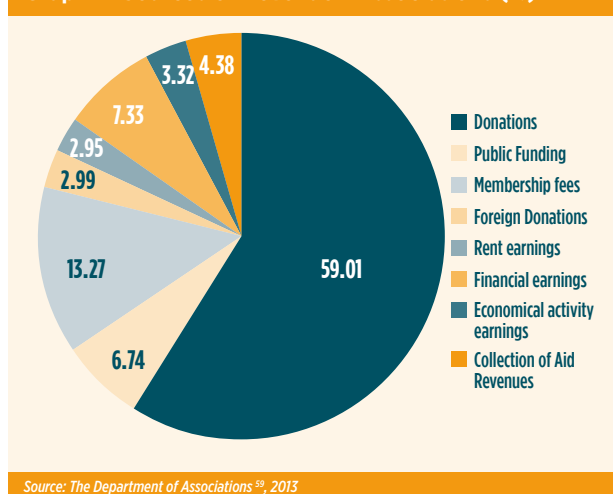
culture and environmental protection and/or forestation. Foundations serving a specific region or group cannot get tax exemptions. Real persons or legal entities receive 5% tax deduction from their annual income only when they donate to tax-exempt foundations or associations with public benefit status. In addition, for donations made by real persons or entities to foundations or associations for projects related to arts and cultural heritage, there is no deduction limitation. Same rule applies to donations made to foundations or associations with food banking permit.⁵⁴ For donations that fall into these two categories, donors can have 100% tax deductions from their annual income. No tax deduction is available for donations made by individuals who are on payroll.⁵⁵ This is a significant limitation to possible donations to be made to CSOs, by excluding the majority of society from tax exemptions. The Tax-exemptions for individuals, who work on a payroll, should be granted for their donations to public benefit organizations.

Turkey has scored 3 out of 5 in the overall Philanthropic Freedom Score study conducted and published by the Hudson Institute. The domestic tax regulation received 2.3 points out of 5 and Turkey was placed among countries with medium to low incentives. The report highlights that tax incentives for donors exist however receiving these deductions is quite difficult and CSOs that can receive tax deductible donations are limited in number.⁵⁶

In Turkey CSOs can receive in-kind and cash donations from abroad with no extra fee or costs and these donations are tax-free. The only condition is that the related public institution should be notified as soon as the CSO receives any amount of cash from abroad, prior to any expenditure.⁵⁷

The donation collection and income generating activities of associations and foundations generated outside of their center are regulated under the Law on Collection of Aid (2860, 23/6/1983). It is upon permission when associations and foundations want to collect donations on open public

Graph 7: Sources of Revenue - Associations (%)



spaces (e.g. activities on the street, public campaigning, internet fundraising, etc.). This law does not apply, when individuals or corporations donate to CSOs voluntarily. CSOs do not have to ask for official permit when they only publish their bank account number on their website. However, other online forms of collection of donations are regulated. For example, associations cannot start up a SMS donation campaign or a Facebook fundraising campaign without getting permission. The collection of donations, under this Law is regulated with highly bureaucratic rules and procedures. This brings repressive environment for donation collection and income generating activities of CSOs.⁵⁹ There is a special status granted to very few CSOs, which provides the status holder with an exemption from the Law on Collection of Aid. This means that, these CSOs are able to collect donations, as they wish, without prior permission from the related authority. Based on the data provided by the DoA, the number of such organizations having this status remain limited to only 19 which is strikingly low.⁶⁰

CSOs claim that legal environment on fundraising is a key legal challenge. CSOs expressed several obstacles during consultation meetings. Bureaucratic process of

⁵⁴ Foundations and associations should have status to be eligible in engaging with food banking activities.

⁵⁵ The major reason why tax deduction for individuals on pay-roll is not easy is that income tax is not levied upon individuals who work on payroll in Turkey but onto their employers, who are held responsible to pay tax on behalf of the employees. However, special regulations were issued for private retirement insurance payments, that do allow employers to deduct them from the income tax they pay on behalf of their staff on their pay-roll. Hence, donations should also be allowed to be deducted in similar fashion.

⁵⁶ *Philanthropic Freedom: A Pilot Study*. Hudson Institute. Access date: January 30, 2014 <http://www.hudson.org/files/documents/FinalOnlineVersionPhilanthropicFreedomAPilotStudy3.pdf>

⁵⁷ *ibid.*

⁵⁹ Based on data provided by the DoA, in 2013.

⁵⁹ *The Civil Society Monitoring Report 2012*. TUSEV http://www.tusev.org.tr/usrfiles/files/SivilizlemeENG_15_08_13.pdf Access date: November 25, 2013.

⁶⁰ *List of the associations collecting donations without prior permission*. Department of Associations. Access date: November 10, 2014 <http://www.dernekler.gov.tr/tr/Anasayfalinkler/izin-almadan-yardim-toplama.aspx>

acquiring a permit does not allow for last minute changes, so it is problematic for CSOs to make minor changes in the date and time of charity events when necessary. The same legal restrictions also apply to publishing, broadcasting or making bank account details publicly available.⁶¹

In Turkey's National Action Plan for the EU Accession (Phase- I November 2014 - June 2015), Ministry of Interior commits to amend the Law on Collection of Aid (Law No.2860), with the aim to make necessary legal arrangements for compliance with the changing needs and conditions. The National Action Plan also mentions a plan for amending the Regulation on Collection of Aid.⁶² In Turkey's National Action Plan for Phase- II June 2015 - June 2019, Turkish Public Oversight, Accounting and Auditing Standards Authority proposes to align "the financial reporting of undertakings that are not within the scope of Turkish Accounting Standards with the EU legislation, following completion of the legal gap analysis with respective to Directive 2013/34/EU." The legislation to be amended is the Communiqué on accounting standards for different sizes of enterprises, sectors and non-profit organizations.⁶³

To summarize, tax exemption and public benefit statuses are granted to a very limited number of CSOs by the Council of Ministers. The processes of obtaining these statuses are highly bureaucratic, political and non-transparent while the privileges they provide are very limited. Furthermore, the Law on Collection of Aid poses heavy limitations, bureaucratic rules and procedures, thus creating obstacles for financial viability of CSOs. A comprehensive review and reform of the relevant laws should be made to create the financial enabling environment with the aim to support financial sustainability of CSOs. Turkey should adopt tax exemption practices that are compatible with the EU countries. The Law on Collection of Aid should be amended in a way to exempt civil society fundraising activities from permission requirements.

⁶¹ Ankara consultation report on consultation meetings for drafting amendments based on the results of research entitled "Active Participation in Civil Society: International Standards, Obstacles in National Legislation, Recommendations. TUSEV. Access date: November 25, 2014 [http://www.siviltoplum-kamu.org/usrfiles/files/AnkaraRaporu_Final\(1\).pdf](http://www.siviltoplum-kamu.org/usrfiles/files/AnkaraRaporu_Final(1).pdf) [http://www.siviltoplum-kamu.org/usrfiles/files/AnkaraRaporu_Final\(1\).pdf](http://www.siviltoplum-kamu.org/usrfiles/files/AnkaraRaporu_Final(1).pdf)

⁶² National Action Plan for the EU Accession (Phase- I November 2014 - June 2015). Ministry of EU Affairs. Access date: November 24, 2014 <http://www.abgs.gov.tr/files/nationalactionplaneng.pdf>

⁶³ Turkey's National Action for Phase- II (June 2015 - June 2019). Ministry of EU Affairs. Access date: November 27, 2014 http://www.abgs.gov.tr/files/000etkinlikler/national_action_plan_phase_ii_en_1_aralik.pdf

EU CSF Guidelines 2014-2020: Objective (2) An enabling financial environment which support sustainability of CSOs (Result 2.2: 2.2.a, 2.2.b; Result 2.3: 2.3.a)⁶⁴

No significant developments occurred in 2014 regarding tax legislation and fiscal environment. The framework does not provide a supportive environment for the financial sustainability of CSOs and bring certain limitations. Tax incentives for donors exist however receiving these deductions is quite difficult. Number of CSOs that can receive tax deductible donations are very limited.

- Foundations and associations in Turkey are exempt from the Corporate (Profit) Tax unless they deal with economic activities. Grants and donations received by CSOs are also tax exempt.
- Tax deduction is only applicable if real or legal persons donate to CSOs that have a tax-exempt status (for foundations) or public benefit status (for associations). Individuals on pay-roll cannot deduct their donations.
- Tax exemption and public benefit statuses are granted to a very limited number of CSOs by the Council of Ministers. This is a highly bureaucratic, political and non-transparent process and the privileges provided with these statuses are very limited. The ratio of the number of tax-exempt foundations is 5% for foundations and 0.39% for associations.
- Associations and foundations must establish a separate commercial enterprise to carry out economic activities. In terms of taxation, all economic entities of CSOs are treated as for profit businesses. Only 2% of associations have formed economic entities.
- The Law on Collection of Aid with heavy limitations, bureaucratic rules and procedures creates obstacles for financial viability of CSOs.

⁶⁴ DG Enlargement Guidelines for EU support to civil society in enlargement countries, 2014-2020. Access date: December 25, 2014. http://ec.europa.eu/enlargement/pdf/civil_society/doc_guidelines_cs_support.pdf

SUB-AREA 2.2.: STATE SUPPORT

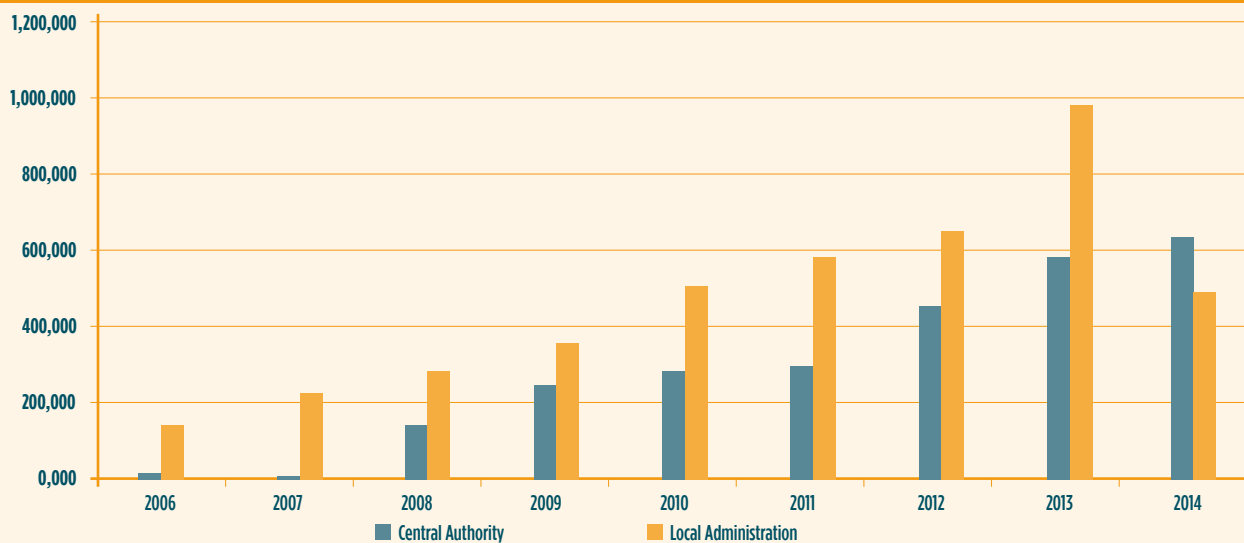
The evaluation of this sub-area is based on following standards: (1) Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants; (2) Public funding is distributed in a prescribed and transparent manner.

There is no holistic approach or legislation with respect to regulation of the public funds granted to CSOs, with the exception of EU funds distributed by the Central Finance and Contracts Unit (CFCU). The public funds allocated to CSOs are not systematically planned in the state budget, and Ministries or Municipalities may set aside a budget for allocation to CSOs. Although there is a budget line in the State Budget (Budget no. 5.3.1.1: transfers to organizations such as associations, unions, funds, and etc.) indicating to the public funds provided to not-for-profit organizations, it lacks sub-budget lines to show the total amount provided to associations or foundations.

Furthermore, despite the fact that there is a regulation (No. 26231)⁶⁵, which holds public institutions accountable to annually publicize the list of organizations, amount and aim of financial support, the majority of public institutions do not comply with this regulation. The Graph 8 presents the amounts reported by both Central level and local level public institutions under this budget line between 2006 and 2014.

The funds by Ministries are distributed to CSOs mostly in the form of project partnerships rather than through systematic grant allocations. The budget for such funding is left to the discretion of Ministries and it varies from year to year. The budget allocated to the CSOs are not provided, decided or published as a percentage of the general budget, and it is not possible to identify the concrete amount of funding provided to CSOs. Yet it is widely accepted that the budget remains insufficient and not proportional to the size and needs of civil society in Turkey. To illustrate, in 2013 through the budget of

Graph 8: Public funding allocation to CSOs from central and local administrations – thousand TRY (2006 -2014)⁶⁷



Source: Ministry of Finance, 2014

⁶⁵ <http://www.dernekler.gov.tr/tr/Mevzuat/meri-yonetmelikler/DerneK-Vakif-Birlik.aspx>, access date: January 30, 2015

Ministry of Interior, the DoA only allocated € 3.3 million to associations. When compared with the number of associations (98.945 associations by 2013), can be considered as inadequate. In 2014, the total number of supported projects was 248 out of 2288 applications. According to data provided by the DoA, in 2014, the total amount of the budget for supporting projects of CSOs is € 10.5 million.⁶⁶

The funding allocated to CSOs is not predictable and the public funding processes do not ensure involvement of CSOs at any stage. There is no common and standardized process or procedure for public funds (other than EU funds). General principles regarding distribution of public funds, financial accountability, monitoring and evaluation are regulated under the Law No. 5018 on Public Finance Management and Control. There were instances where Ministries and public institutions have issued directives and regulations based on the decision of the Council of Ministers on the regulation of funding of associations and foundations from public administrations' budgets. The Presidency for Turks Abroad and Related Communities⁶⁷, Development Agencies⁶⁸ and Social support Program of Ministry of Development⁶⁹, Ministry of Culture and Tourism⁷⁰ and Ministry of Youth and Sports⁷¹ have issued regulations on funding. Among these, some Ministries have published application guidelines, announced application criteria, and publicized the amount of support provided in the last years along with the names of the projects supported. Ministry of Youth and Sports have issued application manuals for projects.⁷² Ministry of Culture and Tourism published the list of grantees and the amounts

of the funding on its website.⁷³ Another example is the Associations Grant Program: the DoA under Ministry of Interior has been implementing a grants programme for associations since 2011. In 2014, the DoA announced the 2014 project cycle and published project application guidebook with a manual for using PRODES (Proje Destek-Project Support) which allows online application and reporting. In this project cycle, Ministry of Interior allocated € 7.2 million to be distributed to associations. Ministry of Interior can support projects with amounts changing from € 1.800 up to € 54,000.⁷⁴ The Ministry of Interior has the right to change these amounts but the conditions under which the Ministry uses these rights are not mentioned. The application process for 2014 project cycle ended in March 2014 and results were announced in August 2014 on the website of PRODES. The full list of 2014 grantees is not accessible yet on DoA webpage.⁷⁵

Ministry of Development has a funding scheme named the Social Support Program (SODES) which has been operating since 2008. Through this program in 2013 495 CSO projects have been supported through an allocation of € 66 million. Over 30% percent of total budget of SODES has been allocated to CSOs with the rest being allocated to universities, local governments, professional organizations and other public institutions. According to project application toolkit of SODES, in 2013, the minimum amount of public funding is € 21.7 thousand and the maximum amount is determined as € 217.4 thousand.⁷⁶

There are Monitoring and Evaluation units under certain Ministries, but there is no data available regarding the methods they follow or any results of their monitoring on the impact of public funds. As an exception, an extensive study has been conducted for the evaluation of SODES produced intensive report regarding the impact of the program.⁷⁷

⁶⁶ The amount of budget allocated in 2013 and 2014 can be found in the website of Department of Associations. Date of access: 30 January, 2014. <http://www.dernekler.gov.tr/>

⁶⁷ *The regulation on public funding.* The Presidency for Turks Abroad and Related Communities <http://www.ytb.gov.tr/documents/ytb/files/mevzuat/idari-mali-destek-hakkinda-yonetmelik.pdf>

⁶⁸ *Regulation on Project and Activity Support Funding of Development Agencies.* Access date: November 17, 2014. <http://www.resmigazete.gov.tr/eskiler/2008/11/20081108-3.htm>

⁶⁹ Social Support Program (SODES). Ministry of Development. Access date: December 17, 2014. <http://www.sodes.gov.tr/Sodes.portal>

⁷⁰ *Regulation on funding from Ministry of Culture and Tourism to support projects of local administrations, associations, foundations and private theatres.* <http://www.resmigazete.gov.tr/eskiler/2007/03/20070315-7.htm>

⁷¹ *Regulation on Ministry of Sports and Youth Project Support Programs* <http://www.mevzuat.gov.tr/Metin.Aspx?MevzuatKod=7.5.16014&MevzuatIlski=0&sourceXmlSearch=>

⁷² *Ministry of Sports and Youth Project Application Manuals.* <http://gsb.gov.tr/Sayfalar/2221/2218/program-uygulama-kilavuzu.aspx>

⁷³ *Ministry of Culture and Tourism. List of grantees and the amount of the funding.* <http://sgb.kulturizim.gov.tr/Eklenti/26129.2013-yilinda-yapilan-yardimlar.pdf?0>

⁷⁴ *2014 Project Cycle documents.* Department of Associations. Access date: November 10, 2014 <http://www.dernekler.gov.tr/projeler/yeni-basvuru.aspx>

⁷⁵ *Results of project applications.* Department of Associations. Access date: November 10, 2014 <http://www.dernekler.gov.tr/ebulten/duyurular/proje-sonuc.aspx>

⁷⁶ *SODES 2013 Guide.* Ministry of Development. Access date: November 10, 2014 <http://www3.kalkinma.gov.tr/PortalDesign/PortalControls/WebCeriKosterim.aspx?Enc=83D5A6F03C7B4FC6CE60E5FE4E3440F>

⁷⁷ SODES funds have not been allocated in 2014. The report published in 2013 is the latest one.

Despite these developments, CSOs see public funding as a key problem area and public funding to civil society as an issue riddled with many problems and restrictions. Local governments may give in-kind support to CSOs. By contrast, ministries are able to form joint projects with CSOs however, by law; they are permitted to provide only half of the project-related expenses. The criteria for selecting CSOs to enter into joint projects with Ministries are not clear or transparent. It has been widely reported that SODES funding are allegedly not distributed in a transparent and accountable manner and inquiries on the allocation of these funding schemes are either not responded to or answered with insufficient information.⁷⁸ CSOs find information on the amount of public funds channeled into joint projects with public institutions hard to track and in general they claim that very little amounts of funding by a small number of public institutions were invested into the financing of joint projects.

The Law on the Relations of Associations and Foundations with Public Institutions (No 5072) prohibits state authorities granting in-kind support to CSOs other than pre-determined funding. Despite aforementioned Law, there are examples of cooperation between CSOs and public institutions based on protocols, especially on the local level. There is no data available with respect to personal favoritism and/or discrimination of state authorities against CSOs based on their loyalties or political affiliation. Compared to the relations of CSOs at central level public institutions, CSOs claim that “they work more effectively and closely with municipalities as opposed to governorships. Municipalities are more eager to offer in-kind support to CSOs, often in the form of free travel, meeting rooms, and assistance with announcing CSO activities to larger audiences”.⁷⁹ However, the relevant article of the Municipality Law (25874, 13.07.2005), which give responsibility to municipalities to assist and support CSOs, limit the organizations to be supported with the ones having a public benefit or tax exemption statuses. In addition, in 2012, an amendment was made on article 75 of the Municipality Law, which has the possibility to further

hamper cooperation between CSOs and municipalities.⁸⁰ TUSEV Civil Society Monitoring Report 2012, based on an expert opinion, stated that the new article contains neither a clarification regarding the types and nature of service activities to be supported nor the criteria for permission. In such a context, this revision increases the discretionary power of the central government and accordingly decreases the freedom of association.

According to results of the survey conducted in 2014, within the scope of this Project, only 10 CSOs out of 61 were granted in-kind support. 7% of organizations who participated in this survey stated they are not informed about in-kind support and 54% of CSOs have never applied for in-kind supports.

A national strategy with respect to public funding that regulates public funding mechanisms based on predetermined, concrete standards should be adopted in order to enhance the accountability and transparency of the public funding. The Law of the Relations of Associations and Foundations with Public Institutions (No 5072) should be revised and the monetary and in-kind support for CSOs by the public institutions should be expanded through defined, standard and transparent mechanisms. The information on the projects supported with public funding should be transparent.

In Turkey, funds from lotteries are not allocated to CSOs. According to a budgetary plan of Ministry of Finance, annual public contribution from lotteries is allocated to support Olympics Game Committee, Turkey Promotion Fund, Social Services and Society for the Protection of Children, Higher Education Loans and Dorms Directorate, which are all state bodies.

SUMMARY: There is no specific state institution to coordinate, monitor and facilitate public funding. Therefore, public funding is ad-hoc, inconsistent and scattered. Major criticisms by CSOs on transparency and

⁷⁸ *Civil Society Organizations and Public Sector Relations: Problems and Expectations. The Results of the Consultation Meetings and an Evaluation.* TUSEV. Access date: November 25, 2014. <http://www.siviltoplum-kamu.org/urfiles/files/Civil-Society-Organizations-and-Public-Sector-Relations.pdf>

⁷⁹ *The Results of the Consultation Meetings and an Evaluation.* TUSEV.2013. Access date: November 25, 2014. <http://www.siviltoplum-kamu.org/urfiles/files/Civil-Society-Organizations-and-Public-Sector-Relations.pdf>

⁸⁰ Municipality Law (No 25874, 2005: previous Article 75): *Municipality, can execute service projects in partnership with vocational/Professional organisations having a public institution nature, associations working for public benefit, disability associations and foundations, foundations provided a tax benefit status by the Council of Ministers and with vocational chambers governed by the Guilds and Small Artisans Law (507) on topics that fall in its duties and responsibilities in line with agreements made and upon the decision of the Municipal Assembly.* Municipality Law (No 25874, 2005: amended Article 75): *Municipality can execute service projects in partnership with vocational/Professional organisations having a public institution nature, associations working for public benefit, foundations provided tax exemption by the Council of Ministers and with vocational chambers governed by the Guilds and Artisans Organisations Law (5362). For service projects to be executed in partnership with other associations and foundations it is necessary to get the permission of the highest administrative authority of the district.*

accountability of funds allocated by the public bodies exist. A national strategy with respect to public funding that regulates public funding mechanisms based on predetermined, concrete standards should be adopted in order to enhance accountability and transparency of the public funding cycle. The Law of the Relations of Associations and Foundations with Public Institutions (No 5072) should be revised and the monetary and in-kind support to the CSOs by the public institutions should be expanded through defined transparent mechanisms. The information on the projects supported with public funding should be transparent.

EU CSF Guidelines 2014-2020: Objective (2) An enabling financial environment which support sustainability of CSOs (Result 2.4: 2.4.a, 2.4.b, 2.4c)⁸¹

No significant developments took place in 2014 and the government support to CSOs remains insufficient, unpredictable and not provided in a transparent, accountable, fair and non-discriminatory manner.

- There is no holistic approach or legislation with respect to regulation of the public funds granted to CSOs and there are no defined rules setting out CSO involvement
- CSOs evaluate the procedures of access to public funds as burdensome and the process not transparent.
- There is no general information on the percentage of the total budget allocated to CSOs in the general budget. Yet it is known that the budget remains insufficient and not proportional to the size and needs of civil society in Turkey. To illustrate, in 2014 through the budget of Ministry of Interior, the DoA only allocated 3.3 million € to associations. Only 6.74% of the sources of revenue of associations came from public funding.
- The Municipality Law that gives responsibility to municipalities to assist and support CSOs limit the organizations to be supported only associations having a public benefit status and with foundations having a tax exempt status are considered eligible for support.

⁸¹ DG Enlargement Guidelines for EU support to civil society in enlargement countries, 2014-2020. Access date: December 23, 2014. http://ec.europa.eu/enlargement/pdf/civil_society/doc_guidelines_cs_support.pdf

SUB-AREA 2.3.: HUMAN RESOURCES

The evaluation of this sub-area is based on following standards: (1) CSOs are treated in an equal manner to other employers; (2) There are enabling volunteering policies and laws.

In general, state policies and the legal environment does not provide special provisions for assuring an enabling environment for facilitating employment, volunteering and other engagements in CSOs.

In Turkey, CSOs are subject to the Labor Law (No 25134, 10.06.2003) and there are no special provisions with respect to CSO employees. The DoA and the GDoF have recently started to keep statistical data on the CSOs under several items but it is not known whether this information is incorporated to the national statistics system.

According to data provided by GDoF, there are 606 foundations working with volunteers with a total number of 1.107.827 volunteers in 2013.⁸² According to data obtained from the DoA, as of 2013, out of 109.391 employees of associations, 75.608 are volunteers and 33.783 are paid-staff. Based on the same data, personnel costs of associations constitute only about 12% of their total revenues.⁸³

In the national legislation, there is no specific regulation with respect to facilitating volunteering. The legal basis defining the contractual relationship between volunteers and CSOs is not defined or regulated and thus lacking. In such a context, CSOs working with volunteers can easily be charged with illicit employment. As a recent example, in 2012, an association with public benefit status that works with volunteers has been subject to a significant monetary fine. The Ministry of Labor and Social Security fined the organization for employing 'uninsured employees'. According to survey, only 2% of respondents agree that public policies stimulate volunteerism in Turkey. 18% of the survey participants have encountered administrative difficulties when engaging with volunteers

⁸² *New Foundations Statistics*. Directorate General of Foundations (DGoF). Access Date: November 25, 2014 <http://www.vgm.gov.tr/db/dosyalar/webicerik205.pdf>

⁸³ This is an average ratio. CSO with higher income spend % 19 of their budget for human resources. CSOs with smaller income spend % 5 of their budget for human resources.

and only 10% of respondents think the procedures for voluntary activities are not complicated.

Despite the lack of an enabling legal environment, there are initiatives to promote volunteerism in Turkey. The National Youth and Sports Policy Document (No 4242, 2012) undertakes to 1) increase the participation of young people in volunteering activities and removing obstacles for volunteering engagement; 2) Raise awareness of young people about participation in voluntary activities for disadvantaged people; 3) Support voluntary activities of young people and non-governmental organizations and informing young people about non-governmental organizations and volunteering. The stakeholders of these objectives are determined as: The Ministry of Youth and Sports, the Ministry of Family and Social Policies, the Ministry of Development and non-governmental organizations.⁸⁴

With the efforts of UN Volunteers Program, a National Volunteering Committee was set up in April 2013 with the participation of CSOs and public institutions. In 2014, the Committee initiated several meetings to act as a strategic advisory board for the recognition and empowerment of volunteering. In the public policy realm, apart from this recent initiative to promote volunteerism in Turkey, there is no reconciliation over the actions to be taken in this field. A recent discussion on legal aspect of volunteerism also reflects upon the possible impacts from the adoption of a volunteering law in the long run. Some experts stated CSOs may face possible restrictions that may occur due to having a national and legally binding definition of voluntarism once and if a volunteering law is adopted.

EU CSF Guidelines 2014-2020: Objective (1) An enabling legal and policy environment, for the exercise of the rights of freedom, expression, assembly and association (Result 1.2)⁸⁵

No significant developments occurred in 2014. The legal environment does not provide special provisions to provide an enabling environment for facilitating employment, volunteering and other engagements with CSOs.

- In Turkey, CSOs are subject to the Labor Law and there are no special provisions with respect to CSO employees.
- There is no specific regulation with respect to facilitating volunteering in the national legislation. The contractual relationship between volunteers and CSOs, which should provide a framework for rights and responsibilities are not yet defined and regulated. CSOs face possible fines for illicit employment.
- According to data provided by GDoF, there are 606 foundations working with volunteers with a total number of 1.107.827 volunteers in 2013. According to data obtained from the DoA, as of 2013, out of 109.391 employees of associations, 75.608 are volunteers and 33.783 are paid-staff. Based on the same data, personnel costs of associations constitute only around 12% of their total revenues.

⁸⁵ DG Enlargement Guidelines for EU support to civil society in enlargement countries, 2014-2020. Access date: December 23, 2014. http://ec.europa.eu/enlargement/pdf/civil_society/doc_guidelines_cs_support.pdf

⁸⁴ The National Youth and Sports Policy Document (2012/4242). Access Date: December 12, 2014. [http://www.gsb.gov.tr/content/files/TheNationalYouthandSportsPolicyDocument\(1\).pdf](http://www.gsb.gov.tr/content/files/TheNationalYouthandSportsPolicyDocument(1).pdf)

AREA 3: GOVERNMENT-CSO RELATIONSHIP

SUB-AREA 3.1.: FRAMEWORK AND PRACTICES FOR COOPERATION

The evaluation of this sub-area is based on following standard: (1) The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector.

There is not a singular, overarching and binding legislative framework to govern the relationship between CSOs and public institutions. Therefore, a strategic approach laying down clear goals, measures, responsibilities, action plans and accordingly available funding is also lacking.

Despite the lack of a general strategy document, there is a reference to communication and cooperation with respect to shared goals between the public sector and civil society in the Strategy Plans prepared by the ministries and various organizations in accordance with the Law No 5018 on Public Finance Management and Control. All public institutions including Ministries are required to draft strategic plans. These plans are not specifically drafted for civil society development or support but for planning all operations. According to the Regulation on Procedures and Principles of Strategic Planning in Public Administration (2006), Clause 5, the institution is responsible to ensure the participation of CSOs and that their contributions are received. However, no clear indication regarding the selection process, criteria, or methods and means of integrating the received contributions is available in the regulation. Furthermore, no consistent mechanisms for monitoring and reporting the participation of CSOs and/or their contributions have been defined. Thus, it is not possible to measure the extent of consultations with CSOs or to what extent their contributions were integrated in the plans.

With regards to the content of Strategic Plans, several Ministries such as the Ministry for Youth and Sports, Ministry for Family and Social Policy, Ministry for Science, Industry and Technology, and Ministry for Health defined CSOs as stakeholders and lay down relevant activities and goals in their strategic plans covering the period of 2013-2017. A few Ministries, such as the Ministry of Youth and Sports, and the Ministry for Family and Social Policy,

going one step further, have identified civil society as both a beneficiary and partners in service provision.⁸⁶ Although the public institutions are held responsible to publish progress reports on the implementation of strategic plans, due to the fact that no concrete and transparent monitoring and evaluation mechanism is available, it is not possible yet to assess the level of implementation of the actions and policies foreseen in the plans regarding civil society.

Another important policy document is the 10th National Development Plan of Turkey, drafted by the Ministry of Development in 2012-2013 with consultations held with CSOs. The plan mentions the need for legal and institutional reforms related with civil society; argues for a holistic policy for civil society that will also lay down the framework of public sector and CSOs relations including public funding; and for increased capacity of CSOs. The Plan also mentions several goals regarding civil society, specifically at local level. Some of the goals defined are (1) increasing human, administrative and technological capacities of CSOs at local level, (2) increasing participation to civil society (getting organized), (3) increasing the participation and contribution of civil society in local level policy processes. Based on these general objectives, the 10th National Development Plan foresees the following actions: 1) Comprehensive legal and institutional changes to support institutional capacities of CSOs to enhance their accountability and sustainability, 2) Supporting CSOs which pursue public benefit and operate in line with national priorities, 3) Reviewing and revising tax/fiscal treatment of CSOs to support their involvement in development process, 4) Revising tax exemption and public benefit statuses in accordance with international standards and practices, 5) Determining internal and external auditing standards for CSOs to reach efficient and objective audit practices.⁸⁷ In the 2014 programming document, Ministry of Development indicated responsible bodies as well as actors for possible collaboration for the implementation of actions to reach

⁸⁶ Ministry of Youth and Sports Strategy Plan. Access date: November 22, 2014 <http://dergi.gsb.gov.tr/2013-2017-GSB-STRATEJIK-PLAN/>

Ministry of Family and Social Policy Strategy Plan. Access date: November 22, 2014 http://sgb.aile.gov.tr/upload/Node/20076/files/stratejik_plan_2013_2017.pdf

⁸⁷ Ministry of Development. 10th Development Plan. Access date: November 24, 2014 <http://www.kalkinma.gov.tr/Lists/Kalkinma%20Planlar/Attachments/12/Onuncu%20Kalk%C4%B1nma%20Plan%C4%B1.pdf>

the defined objectives.⁸⁸ The 10th National Plan can be assessed as a progressive plan with regards to its civil society focus and approaches, and in comparison to the 8th National Development Plan of Turkey for the period 2001-2005 which had no reference to CSOs and no single policy action for civil society development⁸⁹ and 9th National Development of Turkey⁹⁰ which had only one single reference to civil society.

With regards to institutions, there is no specific institution responsible to facilitate and monitor relations between the public sector and CSOs. Except for a few examples, there are no relevant units within public institutions to maintain, sustain and foster relations with CSOs. Draft legislation on the Collection of Aid is expected to be submitted to the Parliament, includes provisions for establishment of several new bodies such as a Civil Society Council and a Civil Society Board as consultative bodies regarding civil society related matters in general. However, severe criticisms to the draft have been brought by various CSOs such as that these bodies are designed to operate under the Ministry of Internal Affairs, extensive consultation was not conducted during preparation and drafting of the law and CSOs are not meant to be equally represented in the proposed bodies as state representatives.⁹¹

Except for a few Ministries such as the Ministry for EU Affairs and Ministry for Youth and Sports, the majority of the Ministries do not have contact points for CSOs. The “Civil Society, Communication and Cultural Affairs Directorate” of the Ministry for EU Affairs operates with the aim to facilitate civil society participation in EU accession process, collect their input and opinions and coordinate relations among civil society, private sector, local administrations and universities. By 2013, Directorate organized 5 dialogue meetings with CSOs to conduct

consultations related to different thematic areas in EU accession process. The Ministry for EU Affairs has initiated the formation of institutionalized mechanisms to consult CSOs on EU accession process on a regular basis, via the “EU Advisory and Steering Committees” set up under the EU Offices of Local Governorships in 81 provinces.⁹² Another public institution that has contact points for civil society and has appointed a CSO communication officer to ensure outreach to CSOs in a pro-active manner and to facilitate relations with CSOs.⁹³ In 2013, the Ministry for Youth and Sports has set up a Department of Civil Society Organisations under the Directorate of Youth Services (DoCSO). In 2014, there is no new contact point set up to facilitate participation of CSOs.

There is a project entitled “Strengthening Civil Society Development and Civil Society-Public Sector Dialogue in Turkey Project” funded by the EU and the Republic of Turkey and has been implemented by a consortium of CSOs.⁹⁴ In the consultations made within the context of this project, CSOs mostly refer to the inadequacy of legal framework regulating state-civil society cooperation, the lack of transparency and accountability of the public sector, low levels of awareness and knowledge of public officials on the role of civil society and the existing laws and rights, non-egalitarian and discriminatory approach of the public sector towards CSOs, and lack of opportunities for CSOs in developing financial and human resources.⁹⁵

There is neither a government strategy nor relevant legal or operational framework laying out Public Sector-CSO relations. To this end, CSOs participation in the decision-making processes has not been ensured. The framework of the civil society-public sector cooperation, including provisions ensuring civil society participation in the legislation and formation of public institutions that would directly manage the relationship with civil society should be prepared in a participatory manner. Consultation with CSOs should be mandatory for all relevant laws.

⁸⁸ Ministry of Development. *Programming for 2014*. Access date: November 24, 2014. <http://www.kalkinma.gov.tr/Pages/content.aspx?List=3eed905c-13c1-46b3-ae59-964fa133617d&ID=22&Source=http%3A%2F%2Fwww%2Ekalkinma%2Egov%2Etr%2FPages%2FYillikProgramlar%2Easp&ContentTypeld=0x01000F382B06F403364EB21CE0CCE7B0889C>

⁸⁹ Ministry of Development. *Long-term Strategy and 8th Five-year Development Plan, 2001-2005*. Access date: November 24, 2014 <http://www.kalkinma.gov.tr/Lists/Kalknma%20Planlar/Attachments/2/Eight%20Five-Year%20Development%20Plan%202001-2005.pdf>

⁹⁰ Ministry of Development. *9th Development Plan, 2007- 2013*. Access date: November 24, 2014 <http://www.kalkinma.gov.tr/Lists/Kalknma%20Planlar/Attachments/1/Ninth%20Development%20Plan%202007-2013.pdf>

⁹¹ TUSEV brought their recommendations on the basis of results of consultations. Access date: November 25, 2014 http://www.tusev.org.tr/usrfiles/files/YardimToplamaKanunuTasarisi_TUSEV_Onerileri_16mayis.pdf

⁹² *Keeping Up the momentum: Improving Civil Society Cooperation with Public Institutions in the Western Balkans and Turkey*. TACSO. Access date: January 24, 2014 http://tacso.org/doc/doc_kmomentum_tr.pdf

⁹³ *Ombudsman Institution has been established*. Grand National Assembly of Turkey. Access date: February 12, 2014 http://global.tbmm.gov.tr/index.php/EN/yd/haber_detay/79

⁹⁴ Please see the details of this project in Annex 2, Supplementary TUSEV research: Civil Society- Public Sector Cooperation Project.

⁹⁵ *Civil Society Public Sector Cooperation. Local Consultation Meeting Outcomes Report*. TUSEV. Access date: February 13, 2014 <http://www.siviltoplum-kamu.org/usrfiles/files/Local-Consultation-Meetings-Outcomes.doc>

SUB-AREA 3.2.: INVOLVEMENT IN POLICY- AND DECISION-MAKING PROCESS

The evaluation of this sub-area is based on following standards: (1) There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner; (2) All draft policies and laws are easily accessible to the public in a timely manner; (3) CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes.

Due to the absence of legal and institutional framework, there is no holistic approach with regards to participation of CSOs in policydevelopment and decision making processes. Thus, participation usually occurs in an ad-hoc and inconsistent manner mostly based on personal relations and initiatives rather than on institutional duties and responsibilities. There are several pieces of legislation, which lay down different aspects of civil society-public sector relations, the most important ones being the Regulation on the Procedures and Principles of Legislation Preparation and the Law on Municipalities.

According to the Regulation on the Procedures and Principles of Legislation Preparation (19/12/2005, 9986), the Ministries may consult CSOs on draft laws, the consultation is not mandatory. Furthermore, according to Clause 7 of the Regulation, if and when consulted, CSOs should provide their comments on the draft laws within thirty days. If they do not provide their comments within this time frame, they are considered to have issued an affirmative opinion on the draft law. Last, but not least, following the consultation stage, the drafts are sent to the Prime Minister's office, and are prone to be amended at that stage with no further steps available for CSOs' to provide further comments. CSOs, cannot review the drafts until they come to the agenda of the General Assembly of Turkey. The by-law of the Grand National Assembly of Turkey (TGNA) does not lay down a participation or consultation procedure. Parliamentary committees are not obliged to consult civil society in law or policy-making processes. Thereby, as in all other levels of decision-making in Turkey, the initiative to involve CSOs in Parliamentary commissions lies with the chairperson of those committees. Public institutions should be held responsible to conduct consultations on draft legislation and on policy decisions. The process should be transparent and accountable.

Each municipality in Turkey is obliged to establish a City/ Urban Council, which allows for CSOs participation. According to the Law on Municipalities, City Councils should also include representatives from CSOs. Therefore, at local level, maintaining CSOs participation in these Councils is held mandatory for municipalities. In addition, the municipalities are held responsible to support (also financially) the activities of the City Councils. Last, but not least, the Law makes it mandatory for Municipalities to place opinions adopted by Councils on the agenda of the elected Municipal Council. However, problems in implementation are observed. The number of municipalities that established these councils is still limited and CSOs complain that participation are not maintained and sustained in a transparent and accountable manner.⁹⁶

Relevant laws and regulations such as the Regulation on the Procedures and Principles of Legislation Preparation, the Law on Municipalities, the Regulation on Procedures and Principles of Strategic Planning does not define objective mechanisms, procedures and criteria with respect to the selection processes of CSOs that are to be involved in policy processes (e.g. consultation, dialogue). Thereby, the process is not transparent and no accountability regarding the selection process could be sought for. In the absence of standards, guidelines and frameworks, dialogue between CSOs and public institutions are maintained and sustained via individual relations between civil servants and CSO representatives. Hence, civil society-public sector cooperation is often built via personal ties and hence especially rights-based CSOs, which do not enjoy some level of proximity to public institutions, are excluded from policy-making processes.

The knowledge level of the civil servants about civil society, means, ways, and methods of involvement of CSOs in policy processes becomes crucially important in the absence of standards, guidelines and frameworks. Unfortunately, CSOs complain that the level of knowledge and awareness of civil servants about civil society and participation topics are very low.⁹⁷ Majority (67%) of the survey respondents in 2014 have chosen "not at all" and "little" options, when they were asked to assess the

⁹⁶ *Civil Society Public Sector Cooperation. Local Consultation Meeting Outcomes Report.* TUSEV. Access date: February 13, 2014 <http://www.siviltoplum-kamu.org/urfiles/files/Local-Consultation-Meetings-Outcomes.doc>

⁹⁷ *Ibid*, p. 7.

statement “The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/training”.

State institutions do not prepare, provide or conduct comprehensive and systematic training programs on these topics. In addition, due to the fact that CSOs involvement in policy processes are not defined within responsibilities and work plans of public institutions, when and if a positive relation between CSOs and the public sector occurs, it is dependent on the approach and voluntary dedication of the civil servants concerned. Thereby, since the dialogue is not institutionalized, the relations are either halted or start from scratch when those civil servants are appointed to another position.

Some participation practices that occur at different levels of participation (information provision, consultation, dialogue and partnership) are consultations held by several Ministries on law and regulation drafts, on preparation of development plans or strategic plans, on EU accession process; consultations held by some Parliamentary Commissions on laws; joint committees held for monitoring implementation of laws and regulations; councils at local level to propose policies and programmes for Municipalities. In majority of these examples, CSOs are not natural and equal parties in decision-making, their engagement stays generally at advisory level and their participation is maintained via invitations from the relevant public body.

According to results of the survey conducted in 2014, 46% of the respondents have chosen the answers “not at all” and 33% “little” when asked to assess the statement “Public institutions routinely invite all interested CSOs to comment on policy/legal initiative at an early stage.” 36% of survey respondents do not agree with the statement “Sufficient information is provided to CSOs related to content of draft law in consultation processes.” Furthermore, CSOs, when and if consulted, are engaged only at the last stage of law-making, by being able to provide their opinions on the draft law already drafted, usually required to do so within short periods of time.

Based on their experiences, CSOs claim that the consultation processes have been led as one-sided and neither they nor the general public were informed of the following stages. A respondent stated that they participate in decision making processes to meet the procedural standards but they have the impression that

their contributions are not taken into account. Another qualitative assessment refers to the conditions under which CSOs participate in policy making: “We have been invited to consultation meetings but our participation is discouraged rather than encouraged. The invitations are made in short notice; they expect comments in very short notice; if and when invited to meetings, they do not cover travel expenses; and they do not inform about the results of the meetings.”

75% of the survey respondents (38 out of 51) have stated that in 2013-2014 they have not actively participated in law making processes. When respondents were asked to evaluate their level of involvement in decision making processes, only 3 CSOs have chosen “very high” and 36% of organizations have chosen “very low” and 15% have chosen “low”. 45% of the respondents have chosen ‘not at all’ and 36 % ‘little’ options when they were asked to assess the statement “Public institutions routinely invite all interested CSOs to comment on policy/legal initiatives at an early stage.”

Despite the fact that, there are rare examples of CSOs involved in taking part in the advisory committees established under some Ministries (e.g. Ministry of National Education), generally, such committees do not involve CSOs. Even in cases when they do, their roles are only advisory. CSOs state that important reports (e.g. Human Rights Commission Reports, Prison Commissions Reports) are prepared with no consultation with CSOs.⁹⁸ It has been reported that, CSOs participation in consultations are more welcomed in the field of social policy on which public institutions have limited capacity and expertise. In this field, CSOs offer their technical expertise and capabilities with their limited resources. In return, public sector elaborates on such relation as an indication of increasing civil society-public sector relations, whereas from the perspective of CSOs this is merely a one-sided, on demand technical supervision and cannot be presented as a holistic and meaningful participation.⁹⁹

⁹⁸ *Relations between CSOs and the Public Sector: Results of Consultation and an Evaluation Report*. TUSEV. Access date: June17, 2014 www.siviltoplum-kamu.org, Access date: June17, 2014

⁹⁹ *Civil Society Organizations and Public Sector Relations: Problems and Expectations. The Results of the Consultation Meetings and an Evaluation*. TUSEV. Access date: November 25, 2014. <http://www.siviltoplum-kamu.org/usrfiles/files/Civil-Society-Organizations-and-Public-Sector-Relations.pdf>

CASE STUDY: The Election Process of GREVIO

In 2014, the election process for the anti-violence expert action group called the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), to be elected for the monitoring of the Istanbul Convention of the Council of Europe (CoE) has been an illustrative case to observe the problems hindering CSO participation in policy making.

At a meeting on December 22, 2014, Ministry of Family and Social Policy selected the three CSOs whose representatives will participate in the nine-person committee that will be responsible for designating Turkey's nominees for the independent body of experts that will monitor the implementation of the Istanbul Convention (GREVIO).

Before this meeting, Istanbul Convention Monitoring Platform – Turkey; a Platform consisting of 85 women's and LGBTI organisations wrote to the Ministry with recommendations regarding the necessary steps to be taken towards implementation of the Convention and the GREVIO selection process. The Ministry did not reply to these written feedbacks and asked for "civil society's opinions" by December 15, 2014 through a note titled "Designation of GREVIO candidates," published on the Ministry website. On December 17, merely two days after the deadline set for the opinions,

the Ministry announced its top-down method for the selection of GREVIO candidates, which was foreseeing a selection committee of 9 representatives, 6 being from public institutions.

On the other hand, The Ministry informed some of the Platform members of a December 22th meeting on the GREVIO only 1.5 days before the meeting. The Ministry also required the participating organizations to bring documents showing official signatures and stamps by the organizations' president, the organizations' tax and registration numbers, original signature documents and personal IDs, creating many bureaucratic impediments.

As the result, Ministry of Family and Social Policy decided on the three CSOs, known for their close ties to the Justice and Development Party (JDP). These CSOs were "elected" after an overwhelming majority of the women's and LGBTI organizations in attendance walked out of the meeting in protest of the Ministry, which ignored their objections and suggestions regarding procedure leading up to, and then also at the beginning of the meeting.¹⁰⁰

¹⁰⁰ Turkey's Undemocratic GREVIO Candidacy Process. WWHR Press Release. Access date: December 29, 2014. <http://www.wwhr.org/turkeys-undemocratic-grevio-candidacy-process/>

At local level, although still not systematic, relatively better and more cases of consultation and dialogue with CSOs exist. Land Protection Commissions, disability centres of governorships, city councils and thematic committees under these councils are cited by CSOs as relatively good examples. Last but not least, Local Equality Action Plans implemented in several cities in Turkey, initiated by the UNDP and Ministry of Internal Affairs and supported by the Sabancı Foundation, present effective institutional mechanisms in planning, implementing and monitoring prioritized actions towards gender equality. These plans are monitored via a coordination committee consisting of representatives of public institutions, municipalities and CSOs. The City Councils, although important critique has been made by CSOs, regarding the selection of CSOs to take part and

the Council decisions to be effectively integrated in policy processes, are generally cited as positive examples of CSO participation. CSOs mentioned cases of best practices of City Councils in Nilüfer, Canakkale, Diyarbakir, Batman and Alanya municipalities where CSO participation were ensured in relatively more standardized and efficient processes.¹⁰¹

Another issue that hinders the involvement of civil society participation in policy-making is the lack of transparency in accessing information. Based on the Regulation on

¹⁰¹ Good examples mentioned are compiled from nine reports drafted by TUSEV summarizing the 11 local consultation meetings conducted within the Strengthening Civil Society Development and Civil Society-Public Sector Dialogue in Turkey Project. Reports are accessible at www.siviltoplum-kamu.org.

the Procedures and Principles of Legislation Preparation, policy drafts can be publicized by a ministry through printed or visual media to inform the public and to ask for feedback only if the draft concerns the general public. There is an increase in the number of published drafts, although not all of them are being published. Accordingly, the publication of the draft laws remains at the discretion of the Ministries.

The Right to Information Law (No. 4982, 9/10/2003) lay down some limitations to access to information. The most important problems in the existing legislation is that it gives the public institutions the right not to disclose information if the information requested (1) necessitates additional research and work, (2) is accepted as a “state secret”, (3) would challenge the “national security” or “economic benefits of the country” or (4) is related with the internal operations of the public institution having no public concern dimension. The concepts such as state secret, national security or economic benefits of the country are not defined in the legal framework and hence public institutions are given interpretation authority and discretionary power. In the preparation of consultation meetings and evaluation report 2014, TUSEV made 20 separate requests for information to clarify the relationship of ministries. In return, 16 Ministries responded and 4 out of 16 declined to provide information on the grounds that more research was needed (invoking their rights under Articles 7 and 12 of the Law on the Right to Information) and 4 ministries have not responded to the request for information entirely.

It is important to note that in scope of Open Government Partnership (OGP) Initiative¹⁰² government of Turkey has committed to publicize all draft legislations on a web platform to enable a wide scale consultation. Other web platforms are also among commitments of the government to increase transparency, accountability and participation.¹⁰³ However, in the plan proposed by the Government of Turkey, no specific deadline was

presented for the actions. Since 2011, no progress has been announced nor observed regarding the web portals committed in the Plan. In addition, although it is one of the requirements of the Open Government Partnership, no consultation or participation has been sought for in drafting, implementing or monitoring the action plans.

SUMMARY: Public-CSO relationships are not continuous and are left to the discretion of the public institutions’ decision makers. There are no specific, egalitarian, continuous and accessible mechanisms that regulate CSO involvement in policy making. There are no objective mechanisms and procedures with respect to the selection processes of the CSOs and their representatives that get involved in the consultation processes. Problems regarding applications made in accordance with the Right to Information Law continue to arise in practice. Common problems that are reported include differences in application procedures; instances where no response is provided within the time period prescribed under the law and questions left unanswered or insufficiently answered on the grounds that additional research is required to respond.

¹⁰² Open Government Initiative was set up in 2011 and governments of 65 participating countries (by December 2014) set up action plans with participation of civil society to undertake reforms to make governments more accountable, transparent, open and responsive to citizens.

¹⁰³ The action plan of Turkey includes setting up websites including; transparency.gov.tr, spending.gov.tr, regulation.gov.tr and electronic public procurement platform. <http://www.opengovpartnership.org/country/turkey>

EU CSF Guidelines 2014-2020: Objective (3) Civil society and public institutions work in partnership through dialogue and cooperation, based on willingness, trust and mutual acknowledgement around common interests (Result 3.1: 3.1.a, 3.1.b)¹⁰⁴

The existing legislation and policy framework governing CSO-public sector relations still needs to be improved in order to be brought in line with international standards.

- There is neither a binding legislative framework nor a national level institution or mechanism to govern the relationship between CSOs and public institutions;
- There is no objective mechanism that sets out the feedback, negotiation and cooperation methods regarding the consultation process;
- There is an increase in the number of published drafts, yet it is still a small percentage;
- Based on the results of the survey conducted by TUSEV in 2014, 75% of respondents (46 out of 61) have stated that in 2013-2014 they have not actively participated in law making processes. 46% of the respondents have chosen “not at all” and 33% “little” options when they were asked to assess the statement of “Public institutions routinely invite all interested CSOs to comment on policy/legal initiative at an early stage.” Majority (67%) of the respondents of the survey conducted in 2014 have chosen “not at all” (34%) and “little” (33%) options when they were asked to assess the statement of “The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/training”.
- CSOs are seldom able to participate in legislation and when they do engage in law making processes, they are only able to do so in a limited/one-way consultation. CSOs that are consulted prior to or during legislation are not provided regular updates on the progress of the legislative process and are excluded from the further or final steps of the process.

¹⁰⁴ DG Enlargement Guidelines for EU support to civil society in enlargement countries, 2014-2020. Access date: December 23, 2014. http://ec.europa.eu/enlargement/pdf/civil_society/doc_guidelines_cs_support.pdf

SUB-AREA 3.3.: COLLABORATION IN SOCIAL PROVISION

The evaluation of this sub-area is based on following standard: (1) CSOs are engaged in different services and compete for state contracts on an equal basis to other providers.

Same information from the report drafted in 2013 is used for this section since there have been no changes in the legal and institutional framework.

The relevant laws and regulations treat CSOs as equal to other legal entities and do not restrict the provision of services by CSOs in various areas in cooperation with the public sector. Yet, the legislation does not include special provisions with respect to service provision by CSOs. Although, CSOs are able to obtain contracts in competition with other providers and engage in provision of various services (e.g., education, environment, research, and training); since there is no practice of promoting the competition examples of service provision by the civil society remain very limited. There should be special provision with respect to service agreements of CSOs in the relevant legal texts.

There is also no general regulation with respect to involvement of CSOs in different stages of service development, from needs assessment to monitoring and evaluation. CSOs are able to contribute to different stages of service provision, if the protocol or tender assign them such duties. The relevant legislation currently in force and the provisions of the regulations provides for legal monitoring of the quality of the services provided by civil society.

CSOs receive public funding for the provision of different services through procurement, contracting or grant mechanisms. The budget enables funding for services by CSOs to be multi-year, but there is no holistic approach and terms of funding depend on the conditions of the each contract. There is no data on whether CSOs receive sufficient funding to cover the basic costs of services they are contracted to provide, including proportionate institutional (overhead) costs. There were instances in which CSOs reported there were delays in payments.

There is no regulation specifying the defined procedures for contracting services which allow for transparent selection of CSO to provide services. The procedures with

respect to services are regulated under the legislation. This legislation covers CSOs as well. There is no holistic approach with regard to selection criteria. Yet, in some of the cases price is the lead criterion for selection of service providers but also there are instances that service providers are selected in accordance to their technical capacities. A broad policy document should be drafted with respect to public funding which explicitly define the conditions of selection.

The monitoring and evaluation procedures of service provision are defined in the relevant legislation. This legislation does not include special provisions with respect to CSOs. There is no sufficient data on the quality of monitoring process since the results are not shared with the public. Monitoring and evaluation conditions with respect to service provision should be explicitly defined and shared with the relevant parties ahead of the tendering process.

FINDINGS AND RECOMMENDATIONS (TABULAR)¹⁰⁵

¹⁰⁵ Please note that the 12 core standards and indicators are marked in dark green color.

| Area 1: Basic Legal Guarantees of Freedoms | | | |
|---|--|---|---|
| Sub-area 1.1.: Freedom of association | | | |
| Principle: Freedom of association is guaranteed and exercised freely by everybody | | | |
| STANDARD 1 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 1. All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online | <p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a legal framework according to which any person can establish associations, foundations and other types of non-profit, non-governmental entities (e.g., non-profit company) for any purpose. 2) The legal framework allows both individual and legal persons to exercise this right without discrimination (age, nationality, legal capacity, gender etc.). 3) Registration is not mandatory, and in cases when organizations decide to register, the registration rules are clearly prescribed and allow for easy, timely and inexpensive registration and appeal process. 4) The law allows for networking among organizations in the countries and abroad without prior notification. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) Civil society organizations may only be registered as associations or foundations. The legal framework does not regulate establishment of other types of non-profit legal entities. The law also requires associations to secure a minimum of seven founding members for registration. 2) Individuals and legal persons with legal capacity have the right to establish CSOs. There are certain restrictions in special laws applicable to the members of the Turkish Armed Forces, the Police force and civil servants. In addition, restrictions are in place for children and for individuals who are not citizens of Turkey. 3) Registration is required to operate as a CSO. Rules are clearly defined; inexpensive and timely for associations but not for foundations. In addition, Foreign CSOs are required to get permission (provided by the Ministry of Internal Affairs and the opinion of the Ministry of Foreign Affairs) for their operations and cooperation in Turkey. 4) The legal framework allows for cooperation of CSOs in national, regional and international levels with no prior authorization. At national level, CSOs can establish federations or con-federations without prior notification but the number of required CSOs to establish such umbrella organizations is quite high. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) The barriers to establishing civil entities in forms other than the two set out by the existing law, should be lifted, enabling citizens to engage in collective action via different forms of association. The minimum number of founding members ought not to be more than three. The minimum mandatory number of founding, executive and audit board members ought to be lowered. 2) Heavy restrictions before the freedom of association of various groups should be lifted and brought in line with international standards. 3) Unregistered civic activity should be acknowledged by the law. Procedures for foreign CSOs should be easier and apolitical. 4) Number of entities necessary for setting up federations and con-federations should be lowered. |
| | <p>Practice:</p> <ol style="list-style-type: none"> 1) Every individual or legal entity in practice can form associations, foundations or other non-profit, non-governmental organizations offline or online. 2) Individuals and legal entities are not sanctioned for not-registering their organizations. 3) Registration is truly accessible within the legally prescribed deadlines; authorities decide on cases in non-subjective and apolitical manner. 4) Individuals and CSOs can form and participate in networks and coalitions, within and outside their home countries. | <p>Practice:</p> <ol style="list-style-type: none"> 1) Individuals have to register their CSO in the form of either an association or a foundation. Laws do not allow establishing CSOs online. 2) The law does not allow individuals to act collectively through unregistered groups or organizations. Registration is required for operating as a CSO. 3) The timeline for establishing a foundation varies depending on the work load of the courts. CSOs are required to declare the type of work/activities they intend to carry out in writing in official documents, such as Statutes of Associations or Articles of Foundations. When CSOs (specifically foundations) decide to broaden or alter the scope of their activities, they need to deal with various bureaucratic procedures. In 2014, 2 LGBTI associations faced closure requests based on 'general morality'. Permit process for the registration of foreign CSOs is highly political. 4) There are no barriers on CSOs' international networking and cooperation; however, regional disparities exist with respect to the frequency of such activities. Number of federations or confederations is low since the number of required minimum number of entities is quite high. | <p>Practice:</p> <ol style="list-style-type: none"> 1) Online registration should be introduced 2) Although no sanctioning for this has been reported, the legal framework should be amended to acknowledge and permit un-registered civic activity. 3) Vague limitations should be amended (e.g. general morality, public order) and/or clarified to ensure non-subjective registration. Changes in statutes or articles should be made easier. The procedure for the registration of foreign CSOs should be easier and similar to the one required for national CSOs. 4) Establishment of and operations for platforms, federations and confederations should be made easier. The number of CSOs required to set up umbrella organizations should be lower. |

| Area 1: Basic Legal Guarantees of Freedoms | | | |
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| Sub-area 1.1.: Freedom of association | | | |
| Principle: Freedom of association is guaranteed and exercised freely by everybody | | | |
| STANDARD 2 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 2. CSOs operate freely without unwarranted state interference in their internal governance and activities | <p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework provides guarantees against state interference in internal matters of associations, foundations and other types of non-profit entities. 2) The state provides protection from interference by third parties. 3) Financial reporting (including money laundering regulations) and accounting rules take into account the specific nature of the CSOs and are proportionate to the size of the organization and its type/scope of activities. 4) Sanctions for breaching legal requirements should be based on applicable legislation and follow the principle of proportionality. 5) The restrictions and the rules for dissolution and termination meet the standards of international law and are based on objective criteria which restrict arbitrary decision making. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework does not lay down guarantees against state interference. Relevant laws grant authority to the administration not only for criminal affairs but for many associational procedures including the inspection of their activities to assess if they are in line with the purposes set out in their statutes. 2) There is no special provision in this respect. 3) Although the applicable legislation gives the authority to prepare special accounting regulations for CSOs to the administration, the legal framework provides only two types of accounting rules and specific nature of grassroots and smaller CSOs are not taken into account. 4) Sanctions for breaching legal requirements are regulated in a very detailed form under the applicable legislation but contain disproportionate fees and penalties with no warning mechanisms in place. 5) There are specific provisions in the laws with respect to liquidation and dissolution procedures that regulate automatic dissolution, temporary suspension of activities and termination of associations and foundations. Some provisions exist that grant the administration with arbitrary decision making powers. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) Explicit provisions prohibiting public administration from interfering with the internal matters of associations and foundations should be introduced to the legislation. 2) The deficiencies in the legislation with respect to the definitions concerning audits and sanctions should be addressed. In order to ensure that the audit is not discriminatory or arbitrary, the frequency, duration and the scope of the authority granted to the inspectors should be explicitly regulated under the applicable legislation. 3) Special and user-friendly accounting standards should be prepared for CSOs and at least three different accounting procedures should be introduced. 4) The sanctions should be amended for becoming proportionate, number of sanctions and penalties should be decreased and a warning mechanism should be introduced to give CSOs with correction possibility. 5) The legal framework should be amended so that associations will not be terminated by the administration if their aim is against "general morality". In addition, for foundations, the list of prohibited aims that might result with termination is quite vague and should be made in line with international standards. |
| | <p>Practice:</p> <ol style="list-style-type: none"> 1) There are no cases of state interference in internal matters of associations, foundations and other types of non-profit entities. 2) There are no practices of invasive oversight which impose burdensome reporting requirements. 3) Sanctions are applied in rare/extreme cases; they are proportional and are subject to a judicial review. | <p>Practice:</p> <ol style="list-style-type: none"> 1) There are examples of state interference in internal matters of associations/foundations in practice. According to the 2014 survey results, 54% of the respondents perceive that state interference exists to a varying degree between "a little" and "very much". One reason among others for this perception being the audits conducted right after Gezi Park Protests, at some rights based CSOs including LGBTI and human rights organizations. In addition, 18% of the respondents stated that state is either directly or indirectly interfering in their internal matters. 2) CSOs are required to keep various books for their operations, as well as providing annual reports to the administration. Keeping too many books make it burdensome. While associations have to report many details in the annual report, including their activities, platform memberships, very detailed account of their income and expenditures (in addition to the financial reporting they do for the tax authority) and many other information. In addition to the annual reporting, CSOs are required to report different actions during the year (e.g. each time they receive donations/aid/grants from abroad; when they conduct their general assemblies, when they change their address). 3) CSOs are expected to pay high amount of fees (250-300 euros) for not fulfilling some minor administrative requirements such as late notification of foreign donations, address change, general assembly information, or for not keeping their books properly. CSOs may even face administrative and/or criminal charges at times when they forgot to register an e-mail correspondence in their official correspondence register. | <p>Practice:</p> <ol style="list-style-type: none"> 1) As mentioned above, audits should be explicitly regulated and its scope and conditions should be clarified to ensure subjective and un-discriminatory implementation. Internal interference should be clearly prohibited in legislation. 2) Number of mandatory books should be decreased, the annual reporting templates should be made easier and the information requested should be less and more simple. Financial reporting should not be mandatory and the administration should retrieve that information from the tax authority. Case-by-case reporting requirement of foreign funding during the year should be annulled and reported in the annual report. 3) Number of sanctions and penalties should be decreased to become proportional and warning mechanisms should be in place to allow time for correction. |

| Area 1: Basic Legal Guarantees of Freedoms | | | |
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| Sub-area 1.1.: Freedom of association | | | |
| Principle: Freedom of association is guaranteed and exercised freely by everybody | | | |
| STANDARD 3 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 3. CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities | <p>Legislation:</p> <ol style="list-style-type: none"> 1) Legislation allows CSOs to engage in economic activities. 2) CSOs are allowed to receive foreign funding. 3) CSO are allowed to receive funding from individuals, corporations and other sources. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) CSOs can engage in economic activities only when/if they set up a separate commercial entity. No direct economic activity is possible. 2) CSOs may accept cash and in kind donations from persons, institutions and organizations abroad subject to notification requirement. However, since foreign aid is not clearly defined in the legislation, even membership fees or individual donations transferred from other countries are subject to notification requirement. This is very burdensome for CSOs, since they have to notify the administration each and every time they receive a membership fee or donation (even very small amounts) from their members or supporters. 3) CSOs may accept donations and assistance from corporations, individuals and other sources to realize the purposes set out in their bylaws/charters. However, strict limitations and restrictions as well as burdensome procedures in place for public fundraising under the Collection of Aid Law. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) CSOs' engagement with economic activities should be made easy. 2) The concept of foreign aid should be clearly defined in the legislation in a way that membership fees or small donations from individuals should not be accepted as foreign aid. In addition, rather than case-by-case, annual reporting/notification should be the only requirement. 3) Collection of Aid Law should be amended to ensure effective and smooth fundraising. |
| | <p>Practice:</p> <ol style="list-style-type: none"> 1) Legislation on CSOs engaging in economic activities is implemented and is not burdensome for CSOs. 2) There are no restrictions (e.g. administrative or financial burden, preapprovals, or channelling such funds via specific bodies) on CSOs to receive foreign funding. 3) Receipt of funding from individuals, corporations and other sources is easy, effective and without any unnecessary cost or administrative burden. | <p>Practice:</p> <ol style="list-style-type: none"> 1) Dealing with economic activities is burdensome and bureaucratic for CSOs. The low number of CSOs that set up such separate commercial entities is an indication. 2) Use of foreign funds is not subject to approval; however, notifications each time a transfer is made from abroad should be made to the administration, which is cumbersome. 3) There is no legal barrier on accepting grants/donations from individuals, corporations and other sources. It is mandatory that cash donations or grants shall be sent and received through bank transfers. There are no extra costs to making or receiving a cross-border donation. However, Collection of Aid Law poses problems for public fundraising of CSOs. Several CSOs' bank accounts were blocked when they circulated their bank accounts via internet or Facebook. | <p>Practice:</p> <ol style="list-style-type: none"> 1) Economic activities of CSOs should be encouraged and those that are in line with the mission of the CSO should be held exempt from corporate tax. 2) Annual notification should be the only requirement. 3) Collection of Aid Law should be amended. In addition, policies and programs should be in place to promote and facilitate corporate and individual philanthropy. |

| Area 1: Basic Legal Guarantees of Freedoms | | | |
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| Sub-area 1.2.: Related freedoms | | | |
| Principle: Freedoms of assembly and expression are guaranteed to everybody | | | |
| STANDARD 1 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 1. CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly | <p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework is based on international standards and provides the right for freedom of assembly for all without any discrimination. 2) The laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies. 3) The exercise of the right is not subject to prior authorization by the authorities, but at the most to a prior notification procedure, which is not burdensome. 4) Any restriction of the right based on law and prescribed by regulatory authority can be appealed by organizers. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) Pursuant to the Constitution, everyone has the right to organize meetings and demonstrations without having to obtain any prior authorization. However, this right has been restricted and limited to a great degree by other Laws and secondary legislation. Assembly right of some groups are limited or restricted such as individuals under the age of 18, foreigners or people who do not have the legal capacity. 2) Advance notification (at least 48 hours prior to event) is required to organize an assembly, protest or public gathering. In the absence of this notification, the event is accepted as unlawful. Thereby, it can be said that the law does not allow spontaneous demonstrations. With regards to simultaneous or counter-assemblies, no provision exists in the legislation to regulate them. 3) A notification is required at least 48 hours in advance. Right of assembly and demonstration may be restricted by law for national security, public order, and prevention of crime, protection of public moral, public health and the rights and freedoms of others. In addition, the legal framework lays out a long list of sites, routes or places in which assemblies cannot be conducted. Last, but not least, the legal framework strictly restricts the timing of the assembly (no assembly can be hold at night time). 4) The right of the CSOs to appeal to the prohibitions introduced by the public authority is not regulated in the applicable legislation. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) Since, there are too many articles that are not in line with international standards in the existing Law (and related regulation), its amendment will not solve all problems. Thereby, it is recommended that the Law is completely annulled and a new law recognizing the right to assembly in line with international standards should be accepted. |
| | <p>Practice:</p> <ol style="list-style-type: none"> 1) There are no cases of encroachment of the freedom of assembly, and any group of people can assemble at desired place and time, in line with the legal provisions. 2) Restrictions are justified with explanation of the reason for each restriction, which is promptly communicated in writing to the organizer to guarantee the possibility of appeal. 3) Simultaneous, spontaneous and counter-assemblies can take place, and the state facilitates and protects groups to exercise their right against people who aim to prevent or disrupt the assembly. 4) There are cases of freedom of assembly practiced by CSOs (individually or through their organizations) without prior authorization; when notification is required it is submitted in a short period of time and does not limit the possibility to organize the assembly. 5) No excessive use of force is exercised by law enforcement bodies, including pre-emptive detentions of organizers and participants. 6) Media should have as much access to the assembly as possible. | <p>Practice:</p> <ol style="list-style-type: none"> 1) Arbitrary practice is common in practice. While some assemblies in the same place and time are allowed, some others might not. 2) Article 18 of the Law provides that the administration notify the organizers about a postponement or a prohibition of an assembly at least 24 hours in advance. However, the legal framework already brings heavy restrictions regarding the place and timing of assemblies. 3) Although, there is no specific mention at simultaneous or counter-assemblies in the legislation, the Law sets out sanctions applicable to those who prevent or disrupt the assembly or demonstration. 4) The instances where the CSOs may exercise their freedom of assembly without prior notification is limited and such cases indicate assembly of pro-governments groups do not face limitations or excessive use of force by the police. 5) There are various examples of excessive use of force by the police, including battering, tear gas, water cannons, chemical water usage, etc. during peaceful demonstrations. There have been excessive use of force on numerous occasions, demonstrations critical of government policies including breaking up numerous Kurdish issue related gatherings in the south-east, protests relating to Gezi events, demonstrations in Taksim square in Istanbul, ally of workers following Soma mine disaster. 6) Media is allowed to attend the assemblies; however, there is no regulation encouraging such attendance. Furthermore, in some instances, media representatives were battered, detained, or questioned by police during assemblies. Arbitrarily, in some cases, the police did not allow media representatives to take photos or visuals. | <p>Practice:</p> <ol style="list-style-type: none"> 1) Since the Law on Meetings and Demonstrations is very restrictive, limiting and grants the administration with arbitrary powers, it should be annulled completely. |

| Area 1: Basic Legal Guarantees of Freedoms | | | |
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| Sub-area 1.2.: Related freedoms | | | |
| Principle: Freedoms of assembly and expression are guaranteed to everybody | | | |
| STANDARD 3 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 3. Civil society representatives, individually and through their organizations, have the rights to safely receive and impart information through any media | Legislation: <ol style="list-style-type: none"> 1) The legal framework provides the possibility to communicate via and access any source of information, including the Internet and ICT; if there are legal restrictions, these are exceptional, limited and based on international human rights law. 2) The legal framework prohibits unjustified monitoring of communication channels, including Internet and ICT, or collecting users' information by the authorities. | Legislation: <ol style="list-style-type: none"> 1) The Constitution guarantees freedom and privacy of communication for all. However, there are regulations granting public institutions the authority to restrict the right to an extent that is not in line with the international standards. 2) Pursuant to the relevant law, unless there is a duly issued judicial decision based on one or more of the following: "national security", "public order", "prevention of crime", "protection of public health", "public moral or rights and freedoms of others". | Legislation: <ol style="list-style-type: none"> 1) Regulations granting excessive authorities to the government in connection with restriction of the right to use the internet should be limited in order to provide freedom of expression. 2) The definitions of the vague phrases (public order, general morality, etc.) used in the law should be clarified. |
| | Practice: <ol style="list-style-type: none"> 1) There are no cases in practice where restrictions are imposed on accessing any source of information, including the Internet or ICT. 2) The Internet is widely accessible and affordable. 3) There is no practice or cases of unjustified monitoring by the authorities of communication channels, including the Internet or ICT, or of collecting users' information. 4) There are no cases of police harassment of members of social network groups. | Practice: <ol style="list-style-type: none"> 1) Internet censorship by the government is common and has increased in the last couple of years. The Law on Regulation of the Publications Made on the Internet and Fight against the Crimes Committed via such Publications (The Law on the Internet) had a significant negative impact on freedom of expression. The Number of Blocked websites by the Telecommunications and Communication Presidency (TIB) is 19.363. 2) Based on the data from 2014, 53.5% of the total population accessed the internet in the last three months. Comparing to 2004, this rate was only 23.6 % back then. Although the use of internet has increased considerably in the last years, the regional disparities remain. Furthermore, despite decrease in the prices and increase in the bandwidth, due to lack of technological literacy especially among the elderly population, the use of internet remains limited. 3) The Law on the Internet does not define content crimes well. This in turn is leading to arbitrary practice. 4) Freedom on the Internet 2014 report reports that Turkish internet users increasingly face arrests and legal prosecution for their online activities. According to report, decisions to punish users or restrict content on disproportionate political, social, or religious grounds continue to restrict Turkish internet freedom in Turkey. On several occasions, high-level officials criticized the social media as a threat to society. In 2014, Amnesty International monitored the trials of 29 people who sent messages via Twitter in the first days of the Gezi Park protests. | Practice: <ol style="list-style-type: none"> 1) The Law on the Internet needs to be revised in line with European standards. |

| Area 2: Framework for CSOs' Financial Viability and Sustainability | | | |
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| Sub-area 2.1.: Tax/fiscal treatment for CSOs and their donors | | | |
| Principle: CSOs and donors enjoy favourable tax treatment | | | |
| STANDARD 1 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 1. Tax benefits are available on various income sources of CSOs | <p>Legislation:</p> <ol style="list-style-type: none"> 1) The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs. 2) The law provides tax benefits for economic activities of CSOs. 3) The law provides tax benefits for passive investments of CSOs. 4) The law allows the establishment of and provides tax benefits for endowments. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) Grants and donations received by the CSOs are tax-exempt. 2) There is no special advantage for economic activities. The commercial enterprises of associations and foundations are treated as business corporations. 3) There is no tax benefit for the income the foundations obtain from securities. Foundations and associations may obtain rent from their real estate, dividend from contribution shares and share certificates, interest over bonds and Turkish Lira and foreign currency investments. Pursuant to the Income Tax Law all of the foregoing revenues are subject to withholding tax to be paid by the payer of the relevant revenue item. 4) The legislation allows the establishment of endowments. CSOs are exempt from Inheritance and Gift Tax and Corporate Taxes in connection with the donations made to their endowments. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) The scope of tax exemptions should be expanded. 2) Certain exceptions should be defined with respect to the economic activities of CSOs. 3) Taxes applied to CSOs' passive investments should be removed. 4) The Law on Collection of Aid should be revised so that the existing barriers on collecting donations by foundations and associations are removed. |
| | <p>Practice:</p> <ol style="list-style-type: none"> 1) There is no direct or indirect (hidden) tax on grants reported 2) Tax benefits for economic activities of CSOs are effective and support the operation of CSOs 3) Passive investments are utilized by CSOs and no sanctions are applied in doing so. 4) Endowments are established without major procedural difficulties and operate freely, without administrative burden or high financial cost. | <p>Practice:</p> <ol style="list-style-type: none"> 1) Donations and grants are tax-exempt. Associations' and foundations' donation collection outside of their center and income generating activities are regulated under the Law on Collection of Aid. The aforementioned law subject donation collection to heavy bureaucratic rules and does not promote CSOs financial sustainability. 2) There are no tax benefits for economic activities of CSOs. 3) It is allowed to make passive investments; however, there are different tax treatments applicable. 4) Establishing an endowment is mandatory for foundations. There is no administrative difficulty in their establishment or operation. The minimum endowment amount for foundations was increased to €19.700 in 2014. | <p>Practice:</p> |

| Area 2: Framework for CSOs' Financial Viability and Sustainability | | | |
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| Sub-area 2.1.: Tax/fiscal treatment for CSOs and their donors | | | |
| Principle: CSOs and donors enjoy favourable tax treatment | | | |
| STANDARD 2 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 2. Incentives are provided for individual and corporate giving | <p>Legislation:</p> <ol style="list-style-type: none"> 1) The law provides tax deductions for individual and corporate donations to CSOs. 2) There are clear requirements/conditions for receiving deductible donations and these include a wide range of publicly beneficial activities. 3) State policies regarding corporate social responsibility consider the needs of CSOs and include them in their programs. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) Legal persons and entities can deduct a maximum of 5% of their taxes when and if they donate to tax-exempt foundations or to associations with public benefit status. There is no tax deduction applicable to individual employees who are on payroll. 2) The conditions required to be met for a tax deduction are regulated in the legislation. Although they are clearly indicated, provisions are quite complicated and necessitate technical knowledge. In addition, high deduction rates are provided only to a very limited range of thematic CSOs' areas. 3) The state does not have a corporate social responsibility policy or strategy that protects the needs of civil society and promotes development of the sector. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) Existing tax incentives should be increased. Regulations ensuring that the donations made by individual employees are tax-deductible should be introduced. 2) Legislation should be amended to become clear and easily comprehensible. Deduction percentages should be increased for a wider range of public benefit thematic activity area. 3) Corporate social responsibility policies should be in place, promoted and certain tax exemptions should be introduced. |
| | <p>Practice:</p> <ol style="list-style-type: none"> 1) There is a functional procedure in place to claim tax deductions for individual and corporate donations. 2) CSOs are partners to the state in promoting CSR. 3) CSOs working in the main areas of public interest, including human rights and watchdog organizations, effectively enjoy tax deductible donations. | <p>Practice:</p> <ol style="list-style-type: none"> 1) Tax deduction is only applicable if individuals and corporations donating to CSOs with having a special status, tax-exempt status (for foundations) and public interest status (for associations), granted by the Council of Ministers. The status of "serving the public good" may only be granted by a Cabinet decision and since acquiring this status is quite a lengthy, cumbersome and politically/ideologically-determined process, only a handful of CSOs are officially recognized as serving the public good. Based on the results of the local consultation meetings held in Turkey, CSOs in general agree that fundraising is a key legal challenge and claim they struggle to raise donations and to collect membership fees. 2) There is no specific regulation or incentive mechanism with respect to CSR for CSOs to become partners. 3) Only organizations that have tax-exempt or public interest status may benefit from donations subject to tax deduction. Based on data from the 2014, the rate of foundations with tax-exempt status is 5% and the rate of associations with public interest status is 0.04%. Rights based CSOs claim that it is not easy to get public benefit statutes since they are provided by the Council of Ministers and is highly political. | <p>Practice:</p> <ol style="list-style-type: none"> 1) Public benefit should be clearly defined in the legislation; and accordingly the status(es) should be more broadly and easily accessible. The process of defining and status provision should involve meaningful CSO participation at all levels. 2) CSR policies and programs should be accepted by the relevant public institutions to encourage and promote corporations. 3) Criteria to obtain public benefit should be clearly defined and accessible for all. The process of criteria identification should involve meaningful CSO participation at all levels. |

| Area 2: Framework for CSOs' Financial Viability and Sustainability | | | |
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| Sub-area 2.2.: State support | | | |
| Principle: State support to CSOs is provided in a transparent way and spent in an accountable manner | | | |
| STANDARD 1 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 1. Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants | <p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a law or national policy (document) that regulates state support for institutional development for CSOs, project support and co-financing of EU funded projects. 2) There is a national level mechanism for distribution of public funds to CSOs. 3) Public funds for CSOs are clearly planned within the state budget. 4) There are clear procedures for CSO participation in all phases of the public funding cycle. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) There is no holistic legislation with respect to state supports. The Central Finance and Contracts Unit (CFCU) ensures that the EU administrative procedures pertaining to the grants, works, supplies and procurement of services adhered to in the context of EU funded programs in Turkey. 2) There is a national unit (CFCU) for EU funds. Other funds are individually distributed through relevant public institutions and ministries. 3) Although there is a budget item in the state budget, referring to cash transfers made to not-for-profit organizations; neither the definition and types of NPOs this budget line refers to exist, nor a general percentage is allocated to this budget item in a systematic manner. The total amount of cash transfers can be identified but it is not possible to access neither the lists of CSOs or activities nor the amounts provided. Lottery proceeds are not allocated to CSOs in Turkey. 4) There is no special regulation with respect to CSOs' involvement in the distribution of public funds. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) A national strategy with respect to public funding and fund distribution should be developed and the applicable legislation should be revised accordingly. 2) A national coordination unit/mechanism should be created to coordinate, monitor and report public funding to CSOs. 3) Funds that will be distributed to CSOs should be announced annually together with the list of names of CSOs, amount of public funding, project aims, etc. 4) Fund distribution process should be transparent and open to CSOs' involvement at every stage. |
| | <p>Practice:</p> <ol style="list-style-type: none"> 1) Available public funding responds to the needs of the CSO sector. 2) There are government bodies with a clear mandate for distribution and/or monitoring of the distribution of state funding. 3) Funding is predictable, not cut drastically from one year to another; and the amount in the budget for CSOs is easy to identify. 4) CSO participation in the public funding cycle is transparent and meaningful. | <p>Practice:</p> <ol style="list-style-type: none"> 1) There is no regular and continuous public funding to support the infrastructure and activities of CSOs. There are relatively small amounts of funding transferred to CSOs by the Ministries, but such resources remain insufficient. Public funds are allocated to CSOs through Ministries mostly in the form of project partnerships while grant allocations and service contracts are only rarely seen. Public funding to CSOs is an issue riddled with many problems and restrictions. Despite the fact that Ministries are able to implement joint projects with CSOs, they can only provide half of the project-related expenses. 2) The Ministries distributing the funds are also responsible from monitoring such funds. General budget audit is carried out by the Ministry of Finance. There is no specific body with the mandate to coordinate and monitor public funding to CSOs. 3) As the public funds are not distributed in a transparent manner, it is not possible to foresee the funds allocated to CSOs. The determination of the funding amount is at the discretion of the Ministries and may vary from year to year. 4) Public funds are not distributed in a transparent manner. There are no defined rules setting out CSO involvement. As it was reported in local consultation meetings, public funding process to support civil society has been detected as a key problem area in terms of transparency and accountability. | <p>Practice:</p> <ol style="list-style-type: none"> 1) The 50% threshold should be lifted. The amount of public funding dispersed to CSOs should be increased, clearly identified within the budget, transparent and accountable. They should be accessible for all. 2) Monitoring mechanisms should involve meaningful CSO participation at all levels. 3) A code of conduct (or good practice) should be developed and accepted for state support. |

Area 2: Framework for CSOs' Financial Viability and Sustainability

Sub-area 2.2.: State support

Principle: State support to CSOs is provided in a transparent way and spent in an accountable manner

| STANDARD 2 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
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| 2. Public funding is distributed in a prescribed and transparent manner | <p>Legislation:</p> <ol style="list-style-type: none"> 1) The procedure for distribution of public funds is transparent and legally binding. 2) The criteria for selection are clear and published in advance. 3) There are clear procedures addressing issues of conflict of interest 4) in decision-making. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) There is no systematic procedure for public funding. However, the (No.5018) Public Financial Administration and Control Law (No. 5018), regulates state budget and funding in general, lay down conditions and principles for inspection, expenditure, and reporting. Another important piece of legislation is the Regulation No.26231 namely the "Regulation on Providing Aid from Public Institutions Budgets to Associations, Foundations, Unions, Organizations, Institutions, Endowments and Similar Entities". According to this regulation, public institutions should annually announce their support to not for profit organizations, with their names, total amount of funding provided, aims and reasons for this support. This regulation only holds central administration responsible for announcing their support, but not Municipalities or Provincial Administrations. Lastly, several Ministries have issued regulations and directives of their own for providing state funding. These Ministries also published application guidelines, the amount of support provided, the names of CSOs and projects supported. However, regarding the selection process, the distribution is left to the discretion of the commissions formed under the relevant Ministries. Commission decisions do not disclose the projects that apply for funding in their entirety or the reasons for selecting the chosen project. 2) There are no uniform, standardized criteria for providing state funding. Several Ministries have drafted their criteria for their support and announced it openly. The vast majority of the public institutions do not have any selection criteria and arbitrary selection/decisions are observed. 3) Since there is no standardized and uniform system in place, the Ministries themselves decide on their own procedures. The ones that published regulations included in them relevant articles for dissolving disputes. | <p>Legislation:</p> <ol style="list-style-type: none"> 1)A clear procedure should be in place for a uniform, standardized, transparent and binding state support. Last, but not least, a new regulation should be accepted to also hold Municipalities and Provincial Administrations responsible for the accountability of state support. 2)Clear code of conduct or good practices should be available for a standardized and independent system of selection. Project funding decisions, selection of CSOs for project-based collaboration and project management processes ought to undergo independent oversight and inspection. 3)CSOs should have the right to object to disputes that may arise during the selection process. The procedure should be clearly defined in the legislation. |
| | <p>Practice:</p> <ol style="list-style-type: none"> 1) Information relating to the procedures for funding and information on funded projects is publicly available. 2) State bodies follow the procedure and apply it in a harmonized way. 3) The application requirements are not too burdensome for CSOs. 4) Decisions on tenders are considered fair and conflict of interest situations are declared in advance. | <p>Practice:</p> <ol style="list-style-type: none"> 1) As there are no transparent mechanisms or procedures regulating the application for and the process of allocation of public funds to CSOs, most of the time, the Ministries do not set out the total budget, selection criteria and selection conditions for funds allocated to CSOs. There is no common practice for Ministry funds other than EU funding. Furthermore, even when the total budget is announced by the Ministries, detailed information with respect to the allocation of the funding is not shared with public. Except a few Ministries, no public institution is abiding by their responsibilities laid down in Regulation no. 26231. 2) No framework or standard procedures exist, so lack of common understanding and practice is observed in connection with provision of financial aid to CSOs by the Ministries. 3) Application to public funding does not create an additional cost for CSOs. Bureaucratic conditions vary between different funding mechanisms. 4) There is no information with respect to the fairness of the tenders. | <p>Practice:</p> <ol style="list-style-type: none"> 1) All public institutions should fulfill their responsibilities under the Regulation No. 26231 namely the "Regulation on Providing Aid from Public Institutions Budgets to Associations, Foundations, Unions, Organizations, Institutions, Endowments and Similar Entities". Standardized procedures should be in place. |

| Area 2: Framework for CSOs' Financial Viability and Sustainability | | | |
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| Sub-area 2.3.: Human resources | | | |
| Principle: State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs | | | |
| STANDARD 1 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 1. CSOs are treated in an equal manner to other employers | Legislation: 1) CSOs are treated in an equal manner to other employers by law and policies. | Legislation: 1) CSOs are subject to the Labor Law as is the case in other sectors. There are no special provisions with respect to employees of CSOs. | Legislation: |
| | Practice: 1) If there are state incentive programs for employment, CSOs are treated like all other sectors. 2) There are regular statistics on the number of employees in the non-profit sector. | Practice: 1) Although there are different incentive programs, CSOs are not one of the sectors covered with those programs. 2) Statistics on associations and foundations kept by the DoA and the GDoF and regularly updated. GDoF has been publishing annual statistics on the number of employees and volunteers for the last years and DoA has started to provide this information as of 2014. | Practice: 1) State statistics should follow international standards and statistical system for unified sector information. |

| Area 2: Framework for CSOs' Financial Viability and Sustainability | | | |
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| Sub-area 2.3.: Human resources | | | |
| Principle: State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs | | | |
| STANDARD 2 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 2. There are enabling volunteering policies and laws | <p>Legislation:</p> <ol style="list-style-type: none"> 1) Legislation stimulates volunteering and incorporates best regulatory practices, while at the same time allowing for spontaneous volunteering practices. 2) There are incentives and state supported programs for the development and promotion of volunteering. 3) There are clearly defined contractual relationships and protections covering organized volunteering. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) There is no special legislation and regulation with respect to volunteering. In the absence of a voluntarism or volunteering acknowledgment in the relevant legal framework, it is legally not acceptable to work with volunteers; they are accepted as illicit employment. 2) The Ministry of Education promotes classes regarding social responsibility in secondary education institutions. Works regarding volunteering are carried out in community centers. Universities are offering classes on social responsibility. However, there is no holistic state policy. Lastly, several Ministries and Municipalities have volunteer programs (e.g. Ministry for Youth and Sports, Ministry for Family and Social Policy, Kadıköy Municipality). 3) There is no special legislation regulating the relationship between CSOs and the volunteers. It is known that certain CSOs have developed their own volunteering policies. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) Voluntarism should be acknowledged in the Labor Law and should be accepted as a relationship between the CSO and the volunteer. Different forms of voluntarism should be sought for in the legal framework in a flexible manner. |
| | <p>Practice:</p> <ol style="list-style-type: none"> 1) Incentives and programs are transparent and easily available to CSOs and the policy/ strategic document/ law is fully implemented, monitored and evaluated periodically in a participatory manner. 2) Administrative procedures for organizers of volunteer activities or volunteers are not complicated and are without any unnecessary costs. 3) Volunteering can take place in any form; there are no cases of complaints of restrictions on volunteering. | <p>Practice:</p> <ol style="list-style-type: none"> 1) There is no specific legislation or a policy document on this issue. National Volunteering Committee was formed and facilitated by UN Volunteers in 2012. In 2014, several meetings convened with participation of CSOs representatives, scholars and public officials to set up a strategic framework to facilitate enabling environment for volunteering in Turkey. 2) No specific procedures exist in a uniform manner. Different institutions (public and private) implement different procedures. 3) There have been two recent cases in which CSOs working with volunteers were charged with significant monetary fines because their volunteers are treated as uninsured workers. | <p>Practice:</p> |

| Area 3: Government – CSO Relationship | | | |
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| Sub-area 3.1.: Framework and practices for cooperation | | | |
| Principle: There is a strategic approach to furthering state–CSO cooperation and CSO development | | | |
| STANDARD 2 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 2. The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector | <p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a national level institution or mechanism with a mandate to facilitate cooperation with civil society organizations (e.g., Unit/Office for cooperation; contact points in ministries; council). 2) There are binding provisions on the involvement of CSOs in the decisions taken by the competent institution or mechanism(s). | <p>Legislation:</p> <ol style="list-style-type: none"> 1) There is neither a legislative framework nor a national level institution or mechanism to govern the relationship between civil society organizations and public institutions. 2) There is no binding provision. The Regulation on the Procedures and Principles of Legislation Preparation includes provisions regarding CSO consultation. However, the consultation for draft legislations is not held mandatory and left to discretion of the Ministries. One piece of legislation that consultation with civil society is held mandatory is the Regulation for Strategic Plan Preparation. According to the regulation, public institutions are obliged to consult with CSOs while drafting their 5-year Strategic Plans. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) Relationship with civil society is not an area that the public sector considers strategic. Public institutions that would directly manage the relationship with civil society should be formed. |
| | <p>Practice:</p> <ol style="list-style-type: none"> 1) The national level institution or mechanism(s) has sufficient resources and mandate for facilitating CSO-government dialogue, discussing the challenges and proposing the main policies for the development of Civil Society. 2) CSOs are regularly consulted and involved in processes and decisions by the competent institution or mechanism(s). | <p>Practice:</p> <ol style="list-style-type: none"> 1) There is no special mechanism with respect to Public-CSO relationship within the DoA and the GDoF, which are mainly regulatory and supervisory bodies for the sector. There is no specific institution or mechanism with a mandate to facilitate the relationship. 2) There is no holistic practice as there are no egalitarian, sustainable and accessible mechanisms. The results of the Consultation meetings and evaluation report (TUSEV, 2014) states: “CSOs are seldom able to participate in legislation and when they do engage in law making processes, they are only able consult on a limited/one-way capacity. CSOs that are consulted prior to or during legislation are not provided regular updates on the progress of the legislative process and are excluded from the further or final steps of this process.” | <p>Practice:</p> |

| Area 3: Government – CSO Relationship | | | |
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| Sub-area 3.2.: Involvement in policy- and decision-making processes | | | |
| Principle: CSOs are effectively included in the policy and decision-making process | | | |
| STANDARD 1 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 1. There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) There are clearly defined standards on the involvement of CSOs in the policy and decision making processes in line with best regulatory practices prescribing minimum requirements which every policy-making process needs to fulfil. 2) State policies provide for educational programs/trainings for civil servants on CSO involvement in the work of public institutions. 3) Internal regulations require specified units or officers in government, line ministries or other government agencies to coordinate, monitor and report CSO involvement in their work. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) Rules with respect to CSO involvement in decision-making are set out in the Regulation on the Procedures and Principles of Legislation Preparation. As consulting CSOs is not mandatory under this regulation, involvement of CSOs takes place through invitation and is usually limited with objecting to or approving the decisions. Various examples exist, one of which, from 2014, is covered in the above report as a brief Case Study. 2) There is no holistic approach and no regular policies for educational programs/policies. One of the findings of Consultation meetings and evaluation report (TUSEV, 2014) related to capacities of public institutions highlight that public officials have very low levels of awareness on the significance of roles of CSOs in democratic governance and basic grasp of human rights and rights based thinking Consequently, public servants have difficulty engaging with CSOs and reluctant to take necessary steps to ensure participation of CSOs in decision making. 3) Although, it is hard to detect in the organizational structure of institutions, under certain units of some of the ministries, there are certain public officials carrying out cooperation with civil society. Another example is the Ombudsperson's Office in which an expert is appointed to be responsible for cooperation and coordination with CSOs. As a positive development, Consultation meetings and evaluation report (TUSEV, 2014) indicates preparation of five-year strategic plans of the Ministries which involves plans to furthering their dialogue with civil society. | <p>Legislation:</p> <ol style="list-style-type: none"> 1) The legislation defining CSO involvement in decision making is not binding for the public institutions. Provisions ensuring civil society participation should be added to the legislation. |
| | <p>Practice:</p> <ol style="list-style-type: none"> 1) Public institutions routinely invite all interested CSOs to comment on policy/legal initiatives at an early stage 2) CSOs are provided with adequate information on the content of the draft documents and details of the consultation with sufficient time to respond. 3) Written feedback on the results of consultations is made publicly available by public institutions, including reasons why some recommendations were not included. 4) The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/ training. 5) Most of the units/officers coordinating and monitoring public consultations are functional and have sufficient capacity. | <p>Practice:</p> <ol style="list-style-type: none"> 1) Public-CSO relationships are not continuous and are left to the discretion of the public institutions' decision makers. There are no specific, egalitarian, continuous and accessible mechanisms that regulate CSO involvement in policy making. Public institutions may act differently on the same issue area since formalized procedures or frameworks of action to govern civil society-public sector cooperation are not convened (TUSEV, Consultation Meetings and Evaluation Report 2014). 2) The Regulation on the Procedures and Principles of Legislation Preparation states that Professional organizations with public institution status and CSOs should provide their comments on the drafts within thirty days. Otherwise, they are considered to have issued an affirmative opinion. However, in practice the time allowed for consultation is much shorter. 3) There is no objective mechanism that sets out the feedback, negotiation and cooperation methods regarding the consultation process. As an example, it is known that, various trainings have been provided to civil servants during the preparation process of the strategy documents of the relevant ministries and public institutions. The scope and number of such trainings are unknown. 4) It is known that, various trainings have been provided to civil servants during the preparation process of the strategy documents of the relevant ministries and public institutions. The scope and number of such trainings are unknown. According to results of the survey, CSOs do not find capacities of public officials who have authority and who coordinate consultations sufficient. 5) It is not possible to assess level of functionality since such officers do not usually exist or M&E information is missing. | <p>Practice:</p> |

| Area 3: Government – CSO Relationship | | | |
|---|---|---|--|
| Sub-area 3.2.: Involvement in policy- and decision-making processes | | | |
| Principle: CSOs are effectively included in the policy and decision-making process | | | |
| STANDARD 2 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 2. All draft policies and laws are easily accessible to the public in a timely manner | <p>Legislation:</p> <ol style="list-style-type: none"> Existing legislation obliges public institutions to make all draft and adopted laws and policies public, and exceptions are clearly defined and in line with international norms and best practices. Clear mechanisms and procedures for access to public information/documents exist. There are clearly prescribed sanctions for civil servants/units for breaching the legal requirements on access to public information. | <p>Legislation:</p> <ol style="list-style-type: none"> The Regulation on the Procedures and Principles of Legislation Preparation includes provisions setting forth that, in the event that it concerns the general public, drafts may be brought to the general public attention by the relevant ministry through the internet, press or broadcasting in order to inform or take the feedback into account during the opinion evaluation process. Publication of the legislation prepared is at the related public institution’s discretion. However, the internet sites of public institutions in Turkey vary in terms of the amount and type of information they contain about the work carried out by the corresponding public institutions. Under the penal provisions of the Right to Information Law there are sanctions applicable to civil servants and other public officials in the event that they are negligent, at fault or willful in the implementation of the law. | <p>Legislation:</p> <ol style="list-style-type: none"> All draft legislation and policy documents prepared by the public institutions must be accessible by all, required mechanisms for the CSOs to provide their opinions should be developed and a sufficient time to respond should be provided. The legislation should be binding in order to be able to solve the problems faced during the implementation of the Right to Information Law. |
| | <p>Practice:</p> <ol style="list-style-type: none"> Public institutions actively publish draft and adopted laws and policies, unless they are subject to legally prescribed exceptions. Public institutions answer the majority of requests for access to public information within the deadline prescribed by law, in a clear format, provide written explanations on the reasons for refusal, and highlight the right to appeal and the procedure for appealing. Cases of violations of the law are sanctioned. | <p>Practice:</p> <ol style="list-style-type: none"> There is an increase in the number of published drafts, yet not all drafts are being published. In the process of transition to “e-government” in Turkey, there has been some technological advancement in accessing information. Yet, public institutions provide the standard information they are mandated to publish on their websites in different formats and to varying degrees. Problems regarding applications made in accordance with the Right to Information Law continue to arise in practice. Common problems that arise often include differences in application procedures; instances where no response is provided within the time period prescribed under the law and questions left unanswered or insufficiently answered on the grounds that additional research is required to respond. Although there are certain initiatives to that effect, there is no data on whether any such sanctions are applied. | <p>Practice:</p> |

| Area 3: Government – CSO Relationship | | | |
|---|---|---|---|
| Sub-area 3.2.: Involvement in policy- and decision-making processes | | | |
| Principle: CSOs are effectively included in the policy and decision-making process | | | |
| STANDARD 3 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 3. CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes | <p>Legislation:</p> <ol style="list-style-type: none"> Existing legislation requires public institutions to invite CSO representatives on to different decision-making and/ or advisory bodies created by public institutions. There are clear guidelines on how to ensure appropriate representation from civil society, based on transparent and predetermined criteria. | <p>Legislation:</p> <ol style="list-style-type: none"> CSOs involvement in decision-making process is not required/ mandatory by the existing legislation. There are no defined criteria in the legislation. | <p>Legislation:</p> <ol style="list-style-type: none"> Provisions with respect to CSOs involvement in the decision-making process should be added to the legislation. |
| | <p>Practice:</p> <ol style="list-style-type: none"> Decision-making and advisory bodies on issues and policies relevant for civil society generally include CSO representatives. CSO representatives in these bodies are enabled to freely present and defend their positions, without being sanctioned. CSO representatives are selected through selection processes which are considered fair and transparent. Participation in these bodies does not prevent CSOs from using alternative ways of advocacy or promoting alternative stand-points which are not in line with the position of the respective body. | <p>Practice:</p> <ol style="list-style-type: none"> Practice varies between public institutions and ministries. Yet, it has been reported that: “Public institutions have proved more ready to cooperate with CSOs on issue areas that require specialized expertise on social groups such as women, people with disabilities and refugees.” Same report highlights example of City Councils and their adjacent assemblies of women, people with disabilities and youth which have been served as novel and effective mechanisms to assist the visibility of CSOs and the civilian oversight of public institutions (TUSEV, Consultation Meetings and Evaluation report 2014). In the local level, the participation of CSOs to City Councils, Provincial Employment Boards, Development Boards are compulsory by law. It has been reported that, public institutions often select the CSOs that local bureaucrats have favorable relationships with (TUSEV, Consultation Meetings and Evaluation report 2014). There are no objective mechanisms and procedures with respect to the selection processes of the CSOs and their representatives that get involved. Some CSOs mention that depending on the relevant institution, personal relationships may have an impact on the selection process. Although there is no supportive mechanism it is known that there are CSOs that use alternative ways of advocacy. | <p>Practice:</p> |

| Area 3: Government – CSO Relationship | | | |
|--|--|--|--|
| Sub-area 3.3.: Collaboration in service provision | | | |
| Principle: There is a supportive environment for CSO involvement in service provision | | | |
| STANDARD 1 | INDICATORS | FINDINGS | RECOMMENDATIONS FOR THE STANDARD |
| 1. CSOs are engaged in different services and compete for state contracts on an equal basis to other providers | <p>Legislation:</p> <ol style="list-style-type: none"> Existing legislation allows CSOs to provide services in various areas, such as education, healthcare, social services. CSOs have no barriers to providing services that are not defined by law ("additional" services). Existing legislation does not add additional burdensome requirements on CSOs that do not exist for other service providers. | <p>Legislation:</p> <ol style="list-style-type: none"> Relevant laws and regulations allow CSOs to provide services in various areas in cooperation with the public sector. Provisions in the relevant regulations are binding with respect to the additional services to be provided by CSOs as well. The relevant legislation and regulations do not discriminate between CSOs and other legal entities. | <p>Legislation:</p> <ol style="list-style-type: none"> There is no special provision in the legislation with respect to service provision by CSOs. CSOs should be identified as participants and special provisions with respect to service agreements of CSOs should be included in the relevant texts. |
| | <p>Practice:</p> <ol style="list-style-type: none"> CSOs are able to obtain contracts in competition with other providers and are engaged in various services (e.g., education, health, research, and training). CSOs are included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation). When prior registration/licensing is required, the procedure for obtaining that is not overly burdensome. | <p>Practice:</p> <ol style="list-style-type: none"> Although there are no barriers on CSO competition, as there is no practice of promoting such competition either, examples of service provision by the civil society are limited. Although there are certain examples in practice, there is no general regulation with respect to CSOs involvement to such processes. There is no data. | <p>Practice:</p> |

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USEFUL LINKS

Civil Society Development Centre (STGM) Website.<http://www.stgm.org.tr/>

Civil Society Index Project in Turkey<http://www.step.org.tr/>

Human Rights Joint Platform (IHOP) <http://www.ihop.org.tr/english/>

İstanbul Bilgi University. NGO Training and Research Center. <http://stk.bilgi.edu.tr/>

Ministry of Development, Social Support Programme Website.<http://www.sodes.gov.tr/SODES.portal>

The International Center for Non-Profit Law.<http://www.icnl.org/research/monitor/turkey.html>

Transparency International Turkey. http://www.seffaflik.org/index_tr.asp

ANNEX 1

LIST OF INTERVIEWEES

1. CSO representative - Education field - 08.10.2013
2. CSO representative - Social Services - 10.10.2013
3. CSO representative - Environmental field - 10.10.2013
4. CSO representative - Education field - 23.10.2013
5. Expert of Environmental CSOs - 01.11.2013
6. CSO representative - Environmental field - (phone interview) - 05.11.2013

LIST OF CONSULTATIONS

I. New Approaches in Civil Society Conference, Istanbul, Turkey for 2 days with 128 participants on November 21-22 2013

Within the scope of its 20th year anniversary, TUSEV organized a two-day international conference entitled “New Approaches in Civil Society” on November 21-22, 2013 in Istanbul. The conference aims to provide CSOs and other stakeholders with a platform for sharing future projections regarding the next 10 years of the civil society. The parallel workshop with theoretical focus on the “Space for Peaceful Protests” (Area 1 of Monitoring Matrix) moderated by Katerina Evans from ECNL where the feedback and experiences of the participants were collected and reported.

II. Civil Society-Public Sector Dialogue National Conference, Ankara, Turkey for 1 day with 82 participants on February 26 2014

Civil Society-Public Sector Dialogue National Conference was organized by TUSEV within the scope of the “Development of Civil Society and Civil Society-Public Sector Dialogue Strengthening Project” on February 26th, 2014 in Ankara. Speakers of conference were from EU Delegation of Turkey, General Directorate of Foundations, Ministry of Development, Ministry of EU Affairs and Ministry of Internal Affairs. 82 participants from public institutions, the EUD and CoE, civil society and the media were present in the conference. The thematic meeting on drafting the Code of Conduct for civil society-government cooperation that was held in the second session following the conference provided insight of CSO

representatives and public officials on the civil society-public sector relations that corresponds to third section of Monitoring Matrix methodology. There were three major parts in the meeting in which the participants discussed general principles, specific objectives and methodology that must be included in the preparation process of the Code of Conduct. At the end, all participants have reached a consensus on several principles, aims and objectives, responsibilities and undertakings, fields of cooperation and finally tools for cooperation for both CSOs and public institutions for the development of the cooperation. The feedback and experiences of the participants reflected in these sessions were collected and reported.

III. Think Civil Project Consultation Meeting, Ankara, Turkey for 2 days with 100 participants on 29-30 April 2014

EU Delegation to Turkey designed flexible and reformer Think Civil project for supporting needs of activists, CSOs, networks and platforms of Turkey. Local Policy and Advocacy Coordinator of the Project attended this meeting and moderated discussion in thematic meetings to stimulate discussion, to have insight from CSOs on their experiences related to legislation in Turkey and share some findings from the Turkey 2013 Report. The feedback and experiences of the participants reflected in these sessions were collected and reported. Please see the program from this link.

IV. Turkic World NGO Summit, Eskişehir, Turkey, for 2 days with 200 participants on 11-13 May 2014

Turkic World NGO Summit which is organized by the Public Research Foundation with the support of Eskişehir Governorate Turkish World Capital of Cultural Agency 2013, took place on 11-13 May 2014 in Eskişehir. The conference was attended by around 200 relevant key representatives from CSOs, universities and as well as public officials. On the behalf of TUSEV, Local Policy and Advocacy Coordinator of the project attended and in the second panel, the paper define the MM methodology and include key findings with recommendations from the Monitoring Enabling Environment for Civil Society Development Project was presented for the audience composed by CSO representatives, public officials and scholars. This paper was included in the conference booklet which can be reached from conference [website](#).

In the ideas market session, Turkish translation of the MM methodology toolkit and 2013 Turkey report was distributed to conference participants. The feedback and experiences of the participants reflected in these sessions were collected and reported.

Further information on the conference is available at the [Turkic World NGO Summit website](#).

V. The Civil Voices Festival, Ankara, Turkey, for 2 days with participation of 110 CSOs on 15- 16 May 2014

The Civil Voices Festival, organised by Civil Society Development Centre (STGM), hosted various grassroots and local civil society organisations from Turkey. The festival was financed under “Supporting Civil Society Development and Dialogue in Turkey Project” supported by the European Union. The Civil Voices Festival aimed to bring active CSOs working in the realms of gender, human rights, environment, the rights of the disabled, youth, children and culture/cultural rights, in order to increase dialogue and partnerships among them. The festival enabled exchange of experiences between different civil society organisations as well as creates partnership opportunities between CSOs from Turkey.

TUSEV organized a workshop entitled “What kind of problems do CSOs face related to legal framework in Turkey?” In this workshop, as part of the Civil Society Law Reform Programme of TUSEV and as part of BCSDN, the Local Policy and Advocacy Coordinator of the Project, presented the major findings from 2013 Turkey report in a consultative manner for the participants to get their opinion and insight on the legal framework in Turkey. TUSEV also had a stand in the festival and distributed reports to participants festival. Moreover, in order to gather further qualitative data, throughout festival participants were asked to fill a form and state their experiences related to legislation on CSOs in Turkey. The feedback and experiences of the participants reflected in these sessions were collected and reported. Please see the program from this [link](#).

ANNEX 2

SUPPLEMENTARY TUSEV RESEARCH

In drafting the Monitoring Matrix on Enabling Environment for Civil Society Development; the data has been collected was supported with the available data produced through TUSEV’s different projects conducted in civil society law reform programme area. These data has been collected through extensive field work during 2012-2013

1. CIVIL SOCIETY- PUBLIC SECTOR COOPERATION PROJECT

- In the consultation meetings held within the scope of the project, civil society representatives and experts shared their previous experiences on public sector-civil society dialogue as well as providing feedback on the code of conduct for civil society public dialogue and relations. In total, 150 CSO representatives from 118 different CSOs have been consulted throughout 2012 –2013. One of the concrete and important expected outputs of the project is expected to be the drafting of a Code of Conduct for CSO-Public Sector relations. Within the context of the project, in 2012-2014, TUSEV has initiated 11 local consultation meetings conducted with 150 participants from 118 different CSOs from 12 cities in Turkey. CSO representatives expressed their positive or negative experiences regarding the public sector and civil society cooperation and discussed principles required to improve such cooperation in Turkey. Additional information about the project is available at <http://www.tusev.org.tr/en/civil-society-law-reform/civil-society-public-cooperation-project>.
- TUSEV has initiated further consultation meetings in 2014 for drafting amendments based on the results of research entitled “Active Participation In Civil Society: International Standards, Obstacles in National Legislation, Recommendations” conducted by legal scholars (Ayata & Karan, 2014). These meetings were held in Istanbul, Ankara and Bursa and attended by 39 CSOs with 47 representatives from these organizations. In these consultation processes, CSOs mostly refer to the inadequacy of legal framework regulating state-civil society cooperation, the lack of transparency and accountability of the public sector, low levels of awareness and knowledge of public officials on the role

of civil society and the existing laws and rights, non-egalitarian and discriminatory approach of the public sector towards CSOs, and lack of opportunities for CSOs in developing financial and human resources

2. CIVIL SOCIETY MONITORING REPORT PROJECT

- TUSEV has been analyzing the state of civil society in Turkey through the Civil Society Monitoring Project annually since 2011 under the following headlines: Legislative Framework, Institutional Capacity, International Relations and Research. Civil Society Monitoring 2012 report was prepared through collecting opinions from more than eighty representatives who actively work in the area of civil society via interviews, e-mails, and phone interviews. TUSEV has also applied to public institutions on the basis of right to Information Act and available data is supported with the media review which has been conducted forever a 3 months period. Additional information about the project is available at <http://www.tusev.org.tr/en/research-and-publications/civil-society-monitoring-project/civil-society-monitoring-report-2012>.
- The 2013 Civil Society Monitoring Project, funded by the MATRA Fund is adopting a new approach and will be regularly publishing case studies on current and important subjects concerning civil society. In 2013, TUSEV has been sharing important analyses on current developments in the civil society through cases analyses via its website and social media channels (@TUSEV and @stkizleme). Some of case studies (in Turkish) are available at <http://www.tusev.org.tr/tr/arastirma-ve-yayinlar/sivil-toplum-izleme-raporu-1/sivil-toplum-izleme-raporu-2013-vaka-analizleri>

3. 2013 NEW TRENDS IN CIVIL SOCIETY RESEARCH

- The preliminary findings of this research (unpublished) on the projections regarding the next 10 years of the civil society in Turkey was collected through five thematic focus group meeting, desk-research and feedback from six civil society experts.

ANNEX 3 INTERVIEW GUIDE

CIVIC ENGAGEMENT TO THE EDUCATIONAL SYSTEM

1. Does educational system in Turkey promote civic engagement with policies/strategies/ laws?
2. Are civil society related issues covered in official curriculum?
3. Could you elaborate on the opportunities of CSOs providing formal education?
4. How did you design and develop your education programme?
5. Could you tell how and when did you start a partnership between Ministry of Education and other formal institutions? Could you explain the specificities of this partnership?
6. Do tender agreement or grant agreements define your partnership framework?
7. Are there instances of your education programme applied to formal education? Can you share your experiences?
8. What are the opportunities /constraints for CSOs provide formal education?
9. Could you elaborate on the positive/ negative impact of CSO's providing formal education?

CSO INVOLVEMENT IN SERVICE PROVISION

10. In which fields does your institution involve in service provision?
11. Which law/regulations does apply in your service provision?
12. What are the preconditions for being eligible to bidding in tender?
13. Are there clearly defined procedures for contracting services which allow for transparent selection of service providers including CSOs ?
14. Does legal framework allow fair competition with businesses in bidding to tenders?

15. Are CSOs included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation) ?
16. Do you sign long-term contracts for the provision of services?
17. Do you receive sufficient funding to cover the basic costs of the services including proportionate institutional (overhead) costs?
18. Are there delays in payments?
19. Is there opportunities to use funding in a flexible way with the aim of providing the best quality of services?
20. Are there clear guidelines to ensure transparency (e.g. Access to guidelines) ? How do you follow call for tenders?

21. Based on your experiences, what is the lead criterion in selection of service providers? (Price, quality of service, experience of service provider, financial situation of competitors) ?
22. Is there right of avoidance to results of biddings?
23. Could you assess the technical capacities of the civil servants (their knowledge on the contracting services to CSOs? Could you share our experiences?

CONCLUSION

24. There is worldwide trend that CSOs become service providers in the areas such as social help, health and education. Could you elaborate on the situation in Turkey?
25. Could you elaborate on the positive/ negative impact of CSO's provided services in their field of expertise?

ANNEX 4

TURKEY: ECONOMIC, POLITICAL AND SOCIAL INDICATORS

| | |
|---|---|
| UN Humanitarian Development Report 2013 | Score: 0.722/1 Rank: 90 (Among 187 countries) |
| Freedom House World Freedom Report 2014 | Status: Partly Free Freedom ranking: 3,5/7 Civil liberties: 4/7 Political rights: 3/7 (1 = BEST, 7 = WORST) |
| Freedom House Freedom on the Net Report 2014 | Status: Partly Free Score: 49 (0 = BEST, 100 = WORST) Obstacles to Access (0-25) : 12 Limits on Content (0-35): 18 Violations of User Rights (0-40): 19 |
| Freedom House Freedom of the Press Report 2014 | Status: Not Free Rank: 134 (Among 197 countries) Score: 62 (0 = Best, 100 = Worst) Legal Environment: 23 (0 = Best, 30 = Worst) Political Environment: 26 (0 = Best, 40 = Worst) Economic Environment: 13 (0 = Best, 30 = Worst) |
| Reporters without Borders . World Press Freedom Index 2014 | Rank: 154 (Among 180 countries) |
| International Transparency Organization - Corruption Perceptions Index 2013 | Rank: 53 (Among 177 countries) |
| Charities Aid Foundation - World Giving Index 2014 | Rank:128 (Among 135 countries) Donating Money: % 12 Volunteering time rate: % 5 Helping a stranger rate:% 38 |
| Hudson Institute Philanthropic Freedom Index 2013 | Score: 3.1 (Best:1 Worst:5) |
| Social Watch Basic Capabilities Index 2011 | Score: 94/100 |
| Social Watch the 2012 Gender Equity index | Score: 0.45 (Best:1) |
| Bertelsmann Stiftung's Transformation Index (BTI) 2014 | Status Index (1-10) : 7.51 Rank: 20 Political Transformation (1-10) : 7.55 Rank: 26 Economic Transformation (1-10) : 7.46 Rank: 22 Management Index (1-10) : 6.66 Rank: 14 (Among 129 countries) |

| 2014 WORLD BANK DATA | |
|--|-----------------------|
| Capital | Ankara |
| Official Language | Turkish |
| Population, 2012 | 74.93 million |
| GDP, 2012 | 820.2 billion dollars |
| GNI per capita, Atlas method (current US\$) | \$10,950 |
| Life expectancy at birth, total (years) | 75 |
| Poverty headcount ratio at national poverty line (% of population) | 2.3 % |

| 2011 CIVICUS CIVIL SOCIETY INDEX (CSI) | |
|--|-------------------------------|
| Key data on Civil Society | |
| CSI Scores | Total Score: 46,5 |
| | Citizen Participation: 31,4 |
| | Level of Organization: 54,6 |
| | Application of Values: 48,98 |
| | Perception of Effect: 40,2 |
| | Setting: 57,6 |
| | Rank: 29 (Among 33 countries) |
| Interpersonal Trust | 4,8 % |
| CSO network membership | 41,1% |
| Political activities | 50,4 % |

TÜSEV was established by Turkey's leading civil society organizations, and has now grown to a supporting network of over 100 associations and foundations that share a vision of strengthening the legal, fiscal and operational infrastructure of the third (non-profit) sector in Turkey. TÜSEV has been contributing to improving civil society laws, generating research about the sector, and encouraging dialogue and cooperation among private, public and non-profit actors since 1993.



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