



Monitoring Matrix on Enabling Environment for Civil Society Development

Country Report:
Albania
2019



monitoring
matrix



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Country Report for Albania 2019

June 2020

Publisher: Partners Albania for Change and Development

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Tirana, Albania 2020

An electronic version is available at Partners Albania website: www.partnersalbania.org, at the National Resource Centre for Civil Society in Albania: www.resourcecentre.al, at the BCSDN website: www.balkancsd.net and at: <http://www.monitoringmatrix.net>

This report is part of the activities of the Project "Protecting Civic Space - Regional Civil Society Development Hub", financed by Swedish International Development Cooperation Agency (SIDA) and implemented by the Balkan Civil Society Development Network (BCSDN) in cooperation with its member organizations from the Western Balkans, and part of the activities of National Resource Centre for Civil Society in Albania, funded by the European Union and implemented by Partners Albania for Change and Development, in partnership with Albanian Center for Population and Development and European Movement in Albania.

This publication was made possible through the financial support of the European Union and Swedish International Development and Cooperation Agency (SIDA). The contents of this publication are the sole responsibility of the Partners Albania for Change Development and do not necessarily reflect the views of European Union and do not represent the official position and opinion of SIDA.

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List of abbreviations

ASCS	Agency for the Support of Civil Society
BCSDN	Balkan Civil Society Development Network
CSO	Civil Society Organization
GDT	General Directory of Taxation
EU	European Union
EUD	European Union Delegation
FY	Fiscal Year
MM	Monitoring Matrix
MP	Members of Parliament
NCEI	National Council for European Integration
NCSS	National Council for Civil Society
NRC	National Recourse Centre
NPEI	National Plan for European Integration

Introduction

Partners Albania for Change and Development, National Resource Centre for Civil Society in Albania, and the Balkan Civil Society Development Network are pleased to present the seventh edition of the *Monitoring Matrix on Enabling Environment for Civil Society Development*, covering developments in Albania in 2019.

This report is part of a series of country reports covering seven countries in the Western Balkans and Turkey: Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Montenegro, Serbia and Turkey. A Regional Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country at www.monitoringmatrix.net.

The Monitoring Matrix, developed in 2013 by BCSDN with support of its members, partners, ICNL and ECNL, 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-areas¹:

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

The principles, standards and indicators rely on 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 that can be followed and implemented by public authorities. Having in mind that the main challenges lay in implementation, the indicators are defined to monitor the situation on level of legal framework and its practical application².

In addition to the in-depth and qualitative monitoring, in 2015 an assessment of the enabling environment with categorization ranging from fully disabling to fully enabling environment was introduced. The system was created in order to address the need for 'compressed' and effective visual communication of findings and systematic presentation of changes in the enabling environment for CSDev on the level of standards across countries and years. It does not replace, but complements the qualitative assessment, as the narrative country reports are the basis on which the categorization is conducted.

The research conducted under the MM aims to provide for shadow reporting on the enabling environment for CSDev and influence Enlargement policy and funding support towards sustainable and strategic development of the sector.

¹. As a research tool for measuring the health of the legal, regulatory, and financial environment in which CSOs in WBT operate, the Matrix aims to respond to the need of CSOs to have evidence-based research products and capacities to advocate for policy changes towards a more enabling civil society environment.

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

Acknowledgments

The Monitoring Matrix on Enabling Environment for Civil Society Development – Country Report for Albania 2019 is prepared by Partners Albania and the National Resource Centre for Civil Society in Albania with collaborative effort and support of CSOs.

Partners Albania and NRC would like to express their gratitude to the executive directors and high level managers of CSOs for their cooperation, contribution, and time devoted to the survey with 152 CSOs, and to the public institutions that responded to the requests for information.

PA and NRC would like to thank the European Union Delegation in Albania and Balkan Civil Society Development Network (BCSDN) for their support in the development, orientation and implementation of this monitoring effort.

Background - Country overview

The development of the civil society sector in Albania has been shaped based on the country advancement and associated with legal initiatives and changes that influence the enabling environment for the operation and development of CSOs. During these three decades, the size of the civil society sector is increasing not only in numbers, but also in the influence and impact in society, reflected in legal changes and activism of CSOs in the country.

In 2019, the political environment in the country was tense. In February, the opposition MPs gave up on their mandates as their initiative on the vetting of politicians was voted down by Parliament, and announced a boycott of the Local Election on 30 June 2019 until the resignation of the Prime Minister and the formation of a transition government. But, not all opposing parties' members embraced this political decision, and new MPs were certified by the Central Election Commission and are representing the opposition parties in Parliament. The political crisis intensified further as clashes between the Parliament and President increased. The president revoked his decree to the date of Local Elections on 30 June 2019, while the Parliament passed a resolution declaring the revocation invalid.³ The Local Elections were held on 30 June, with the main opposition parties not participating in the process, and voters had few meaningful choices between political options.⁴

Despite the positive unconditional recommendation from the Commission to start the accession negotiation with Albania, in October 2019 the European Council decided to postpone the decision.⁵ From the other side, 86% of the Albanian citizens are in favour of the EU accession of the country.⁶ In order to enter the European Union, in recent years, a series of economic reforms are being implemented. Nevertheless, much should be done for the ease of doing business, as the country dropped with 19 spots of its position compared to a previous year according to Doing Business Report⁷.

On 26th of November a powerful earthquake struck Albania. It was one of the most powerful earthquakes ever to hit the country, where 51 people passed away and thousands became homeless. This natural disaster revealed a massive sense of solidarity and highlighted the facet of volunteering characteristic to Albanians⁸ were CSOs engaged actively in the relief efforts, by providing not only goods in a coordinated way, but also psychological support services and recreational activities for children, women and the elderly.

³ "Republic of Albania, Local Election 30 June 2019 ODIHR Election Observation Mission Final Report", OSCE - OHDIR 2019 [Online] <https://www.osce.org/odihr/elections/albania/429230?download=true>

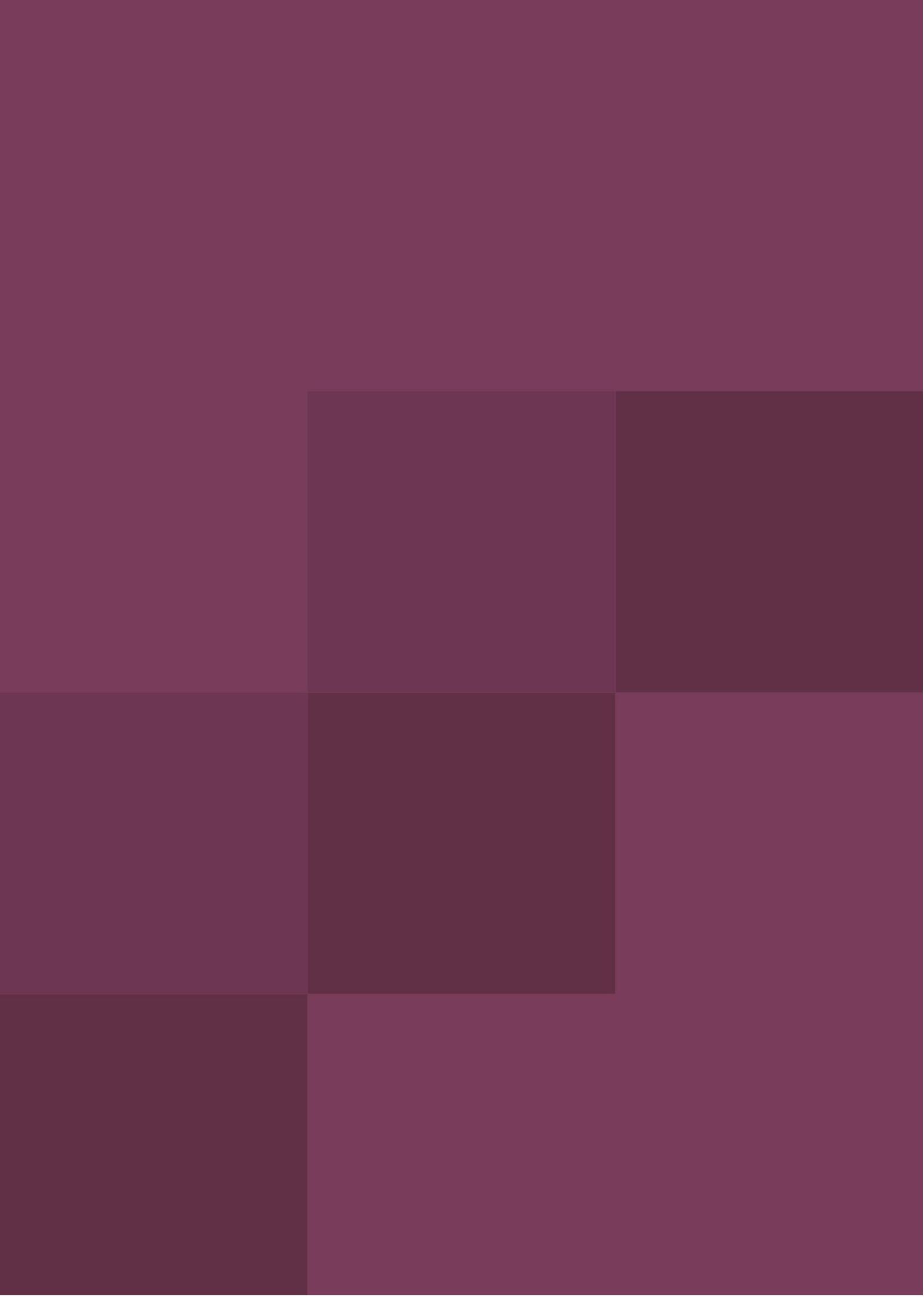
⁴ "Local Elections 2019 Statement of preliminary findings and conclusion, Election Observation Mission, OSCE - OHDIR, June 2009 [Online] <https://www.osce.org/odihr/elections/albania/424433?download=true>

⁵ Opening accession negotiations with North Macedonia and Albania, Resolution of European Parliament [Online] https://eeas.europa.eu/delegations/albania/69440/resolution-european-parliament_en

⁶ "Balkan Barometer 2019: Public Opinion Survey" Regional Cooperation Council, 2019 [Online] <https://www.rcc.int/pubs/89/balkan-barometer-2019-public-opinion-survey>

⁷ "Doing Business, Measuring Business Regulation 2020", World Bank, 2019 [Online] https://www.doingbusiness.org/content/dam/doingBusiness/pdf/db2020/Doing-Business-2020_rankings.pdf

⁸ "View on Philanthropy, Quarterly Bulletin" Partners Albania 2019, [Online] <http://partnersalbania.org/wp-content/uploads/2020/03/October-December-2019.pdf>



Executive summary

Civil Society Overview

	2018	2019
Number of registered organizations	11,426 CSOs (400 new CSOs registered in 2018)	11,739 CSOs (313 new CSOs registered in 2019)
Main civil society laws	<ul style="list-style-type: none"> - Law no. 8788 "For the Non-Profit Organization" - Law no. 8989 "For the Registration of Non - Profit Organization" - Civil Code of Albania - National Accounting Standard for Non Profit Organizations - Law for the Right of Information - Law for Notification and Public Consultations 	
Relevant changes in legal framework	Law no. 25/2018 " For Accounting and Financial Statements"	Instruction no. 34, dated 02.12.2019 "On a Modification of the Instruction No. 6, Dated 30.01.2015 "On The Value Added Tax in The Republic of Albania", as amended" (VAT Refund) Roadmap
State funding (key bodies and amounts)	For the FY 2018 the budget of ASCS in grants for CSOs was 108 million ALL (approx.857,000 EUR)	For the FY 2019 the budget of ACSC in grants for CSOs was approx. 100 million ALL (approx. 793,000 EUR).
Human resources (employees and volunteers)	8, 917 employees No information on volunteers	9, 966 employees No information on volunteers
CSO-Government Cooperation (relevant/new body: consultation mechanism)	National Council for Civil Society	
Other key challenges	<ul style="list-style-type: none"> - Lack of unified data and accurate information for CSOs - Financial viability and sustainability of the sector remains weak. The sector is donor depended, and the foreign donor support constitutes the main source of their incomes. 	<p>Lack of data and accurate information for CSOs</p> <p>Financial viability and sustainability of the sector remains weak. The sector is donor depended, and the foreign donor support constitutes the main source of their incomes.</p>

Key findings

In general, the legal framework governing registration of CSOs is regulated in most of its aspects. However, it still presents some problematic issues in terms of centralization of registration/re-registration process in Tirana, and lack of an electronic register with comprehensive records for CSOs sector.

In the last year, it is noticed an increased state institutions control over CSOs operations through approved laws, especially under money – laundry and anti-terrorist package that impede the independence of the sector.

In July 2019, the Albanian Government approved the Road Map for the Government Policy towards a More Enabling Environment for Civil Society Development 2019-2023. The document reflects a revised version of The Road Map 2015 – 2018, which almost 80% of the actions proposed were not implemented. The establishment of the National Council for Civil Society hardly has conducted any productive discussion in voicing CSOs priorities in policy-making processes and as result has limited the wide participation and engagement of CSOs in those processes. In addition, it is noticed a lack of interaction of the members from civil society in the Council with other CSOs that they represent.

With regards to social service, CSOs are one of the main providers of social services. Nevertheless, their contribution is neither fully recognized by the state, nor supported through an enabling legal framework that would facilitate their operation and access to state funds or other non-financial state support.

Key findings of the report	
1.	Lack of an electronic register with comprehensive records for CSOs to be used by public institutions and other interested stakeholders.
2.	Increased state institutions control over CSOs operations, through approval of laws under anti-money laundry and anti-terrorist package that impede the independence of the sector.
3.	Strategies and mechanisms in place for state-CSOs cooperation (the Road Map and the NCCS) are not producing the expected results towards a more enabling environment for civil society, due to poor implementation and lack of reflection on the sector related problematics.
4.	Although CSOs are the main providers of social services, their contribution is neither fully recognized by the state, nor supported through an enabling legal framework that would facilitate their operation and access to state funds or other non-financial state support.

Key recommendations

The main recommendation is with regards to public data. The creation of the electronic register would enable comprehensive, reliable and up-to-date information on CSOs, by relevant public institutions and public.

With regards to CSOs - state cooperation, a better regulatory framework in place and proper implementation is needed, including the one on the National Council for Civil Society. In addition, one recommendation on this regard is the effective inclusion of CSOs in consultation processes, discussions and joint working groups for the preparation of draft laws and other regulations that affect CSOs work at the very early stage of legislative process.

CSOs are one of the main service providers. One recommendation on this regard is to support through state funding schemes for CSOs providing social services, and easy access to funding schemes, and procurement mechanisms of state funds.

Key recommendations	
1.	Creation of the electronic register that would enable comprehensive, reliable and up-to-date information on CSOs, by relevant public institutions and public.
2.	Effective inclusion of CSOs in consultation processes, discussions and joint working groups for the preparation of draft laws and other regulations that affect CSOs work at the very early stage of legislative process.
3.	Proper implementation of regulatory framework in place and revision of scope of work and modalities of cooperation mechanisms between state institutions and CSOs, as a way to reflect the changes in socio-economic and political context of the country.
4.	Increased support through state funding schemes for CSOs providing social services, and easy access to funding schemes, and procurement mechanisms of state funds.

Findings

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1. Freedom of association

1.1.1. Establishment of and Participation in CSOs

There were no changes in the legal framework that regulates the establishment of and participation in CSOs during 2019. The legislation in place allows individuals to establish and participate in associations, foundations and centres that pursue legitimate purpose(s). The registration is not mandatory. The registration and re-registration process of CSOs continues to be centralized at the Tirana District Court. The electronic register that would enable comprehensive records for the sector is not available yet, despite being a legal obligation according to the Law “For the Registration of Non-profit Organizations”.

In addition, public data collected by public institutions is not reliable and available in consolidated form. According to the data provided from the Tirana District Court, the total number of registered CSOs is 11,739, out of which 8,292 are registered during the period 2001 – 2019. The Court has failed to explain where the discrepancy of 3,447 CSOs comes from. For the 2019 fiscal year, the Court reports that the total number of registered CSOs is 313 CSOs, respectively 193 associations, 79 centres, and 41 foundations. According to the information received from the General Directory of Taxation the total number of registered CSOs is 4,777 CSOs, out of which 238 CSOs are registered in 2019. No information was provided on their form of organizations. The figures provided by the Court and Tax administration on CSOs registered in 2019, show that the processes (registration in the court and then to the tax authorities) go in parallel, more or less at the same incremental number.

In practice, the registration at Tirana District Court presents lengthy procedures of registration for individuals or groups that want to establish a CSO. According to the CSOs registered in 2019 that participated in the survey, only 2 out of 5 claimed that the registration procedures were completed within 15 days as stipulated in the Law for Registration the Non-Profit Organizations. For the other 3 CSOs the registration procedures took up to 5 months. CSOs find the process of registration to be impartial, but as the required documents are not clear to everyone, this contributes to the delays in the registration process. The legal obligation to register or re-register at Tirana District Court presents challenges to CSOs residing outside Tirana, being costly and time consuming.

Concerning coalitions and networks the legal framework does not impede the establishment of and participation in a network or coalition, being domestic or outside the country. Nevertheless, there is no provision in the Law 8789, dated 7/05/2001, “For the Registration of Non-profit Organizations”⁹ that regulates registration of coalitions and networks. They should choose the appropriate form out

⁹ Law no. 8789, dated 7/05/2001 “For the Registration of Non-profit Organizations”, Official Gazette 28/2001 [Online] <https://qbz.gov.al/share/8xeayD8XRvmJSqqvqVGew>

from three forms of organizations stipulated in the Law.

Concerning participation of CSOs in networks and coalitions, as shown in Graph 1, 78% of 152 surveyed CSOs are members in domestic networks and coalitions, while 49% of them are members of international networks and coalitions.

As noticed, there is an increased tendency of CSOs to join networks and coalitions. Therefore, (as also recommended by the surveyed CSOs) amendment of the legal framework on non-profit organizations in order to recognize networks and coalitions as legal forms of organizations is required. This will ease the challenges faced by networks and coalitions to adapt their internal regulations in line with the current legal requirements for registration of CSOs.

1.1.2. State Interference

The legal framework guarantees the rights of CSOs to operate freely and independently, by regulating their internal structure and management procedures without intervention from the state. Nevertheless, in the last year there was a tendency from the government to interfere in the operation of CSOs.

To mention is the approved Law No. 75/2019 "For Youth"¹⁰ It aims to determine the activities, mechanisms, and public authorities responsible for the protection and promotion of the rights of young people in Albania and in diaspora, as well as financing youth activities. The Law stipulates the creation of a National Youth Council (NYC), a consultative body aiming to propose strategies and policies with regards to youth to the responsible Ministry of youth. The NYC is expected to be composed by 14-16 members, half of them from CSOs working with or for youth. The Law undermines the independence of the CSOs since the criteria and procedures for selection of NYC members, as well as the way how the Council will be organized and function, are approved by a decision of the Council of Ministers. In addition, the members of the National Youth Council are appointed by the respective Minister of youth. This creates the possibility of a direct political dependence of the members coming from youth organizations. The same structures with same problematic issues are foreseen to be established at the local level, Local Youth Councils, where the Mayor is the chair of the council who also has the authority to appoint its members.

The most problematic article in the law for youth, as identified by civil society organisations, and especially youth ones, is Article 13 for the establishment of the National Youth Representation Organisation. Point 3 of this article stipulates that the criteria to be fulfilled by the National Youth Representation Organisation, to be recognised as such from institution responsible for youth (a public institution under the ministry responsible for youth), are approved through a decision of the Council of Ministers. This is in full contradiction with the Constitutions, and the Law on Non for Profit Organisations, and it severely impairs the principles of free organisation and independence of CSOs.

The law was opposed strongly by youth organizations and in December 2019 the President did not enact and turned it back to the Parliament for further legal improvements. Nevertheless, on 27th December 2019, the Parliament approved the law without taking into consideration the

¹⁰ Law No. 75/2019 "For Youth", Official Gazette 171/2015 180/2019 [Online] <https://qbz.gov.al/eli/fz/2019/180/7d10ef94-7c6e-4988-8c5d-362df7023217;q=Ligji%20per%20rinine>

recommendations from civil society actors and the President of the Republic.

In terms of financial statements, the main reporting requirement for CSOs remains the submission of annual financial statements based on the Directive of the National Accounting Standard for Non Profit Organisations.¹¹ The Standard stipulates specifications on financial statements and reporting formats of CSOs, and presents different reporting requirements for CSOs based on their annual turnover. It introduces simplified reporting requirements for organizations with annual revenues below 5 million ALL (approx. 37,000 EUR). These organizations are required to apply cash-based accounting and to prepare and submit only the statement of cash flow with explanatory notes on the type of activity or services provided. In the new Law on Accounting and Financial Statements, Law 25/2018,¹² new requirements are introduced for CSOs that have a value of total assets or income over 30 million ALL (approx. 235,000 EUR). They are obliged to prepare a performance report and to publish it along with the annual financial statements on their official websites. The template of the report is still under discussion and is expected to be issued within 2020 by the National Accounting Council. In addition, these CSOs are also obliged to submit to Tirana District Court the financial statements, even though the Court does not have an institutional mandate to manage and use this kind of information.

CSOs are subject to anti-money laundering and financing of terrorism inspections, and operational audit inspections. With regards to money laundering, some initiatives and legal amendment took place during 2019. To mention is the Law no. 33/2019 which reflects an amendment to the law on prevention of money laundering and financing of terrorism¹³, and the Instruction no. 19, dated 9.7.2019 "For the supervision of the non for profit organizations in the function of money laundering and financing of terrorism"¹⁴. This instruction regulates the procedures that can be followed by the tax authorities, as a supervisory body, for the control of the activities of CSOs, in order to avoid the possibility of money laundering or terrorist financing. It aims to establish and unify the standards in order to guarantee accurate share of information between the General Directory of Taxation and General Directory for the Prevention of Money Laundering with the scope to identify the cases of money laundering or financing of terrorism through CSOs. The instruction contains 38 risk indicators in order to measure the risk activity of CSOs related with money laundering and financing of terrorism. This instruction reflects the country measures in implementing money laundering and financial of terrorism action, but it increases state institutions control over CSOs operations, and impede the independence of the sector.

According to the information received from the General Directory of Taxation, a total number of 12 CSOs have been subject of control by tax authorities during 2019.

Referring to the dissolution of the organization, no legal changes occurred in 2019. The Law on Non-Profit Organizations amended¹⁵ and the Law on Tax Procedures, amended¹⁶, regulates dissolution or termination of CSOs. As mentioned in the MM Report 2018¹⁷, one of the challenging issues with

¹¹ Directive no. 62, date 17.09.2015 "For the Announcement of the National Accounting Standard for Non - Profit Organizations and for its mandatory application", issued by the Ministry of Finance, Official Gazette 171/2015 [Online] https://qbz.gov.al/share/msVHnvi8QJ-INGH_26ccqQ

¹² Law no. 25/2018 "On Accounting and Financial Statement", Official Gazette 79/2018 [Online] https://qbz.gov.al/share/msVHnvi8QJ-INGH_26ccqQ

¹³ Law no. 33/2019 "For some changes and additions to the Law No. 9917, date 19.05.2008 "On prevention of Money Laundry and financing of terrorism", amended, Official Gazette 99/2019 [Online] <https://qbz.gov.al/share/sC4WmeBESCK2tXgkknal7w>

¹⁴ Instruction no. 19, dated 9.7.2019 "For the supervision of the non for profit organizations in the function of money laundering and financing of terrorism", Official Gazette 102/2019 [Online] <https://qbz.gov.al/share/sC4WmeBESCK2tXgkknal7w>

¹⁵ Law no 8788, date 07/05/2001, on "Non Profit Organizations", amended, Chapter VII, Official Gazette 36/2013 [Online] https://qbz.gov.al/share/s0AXcHUmTAm53LiuW_wbpQ

¹⁶ Law no. 97/2018, date 3.12.2018 "For some changes and amendments to the Law on Tax procedures in the Republic of Albania" Official Gazette 187/ 2019, [Online] <https://qbz.gov.al/share/dfCkGpG0Qtaj-P4xOxC3xO>

¹⁷ "Monitoring Matrix for Enabling Environment for Civil Society Development - Country Report for Albania, May 2018 - May 2019" Partners Albania [Online] <https://partnersalbania.org/wp-content/uploads/2019/07/Monitoring-Matrix-Country-Report-for-Albania->

dissolution is the fact that the law holds legally liable the legal representative of CSO and permits the Tax Administration to collect debts or unpaid taxes, even after de-registration of a CSO with the Court. It remains unclear how the tax authorities can do that, especially as the same law requires for de-registration in the Court to happen only after the CSO has paid all its debts and obligations through the tax authorities. Based on data received from the Tirana District Court, there are in total 150 CSOs de-registered in the Court, while according to General Directory of Taxation there are in total 177 CSOs that have been de-registered or in the process of deregistration with tax authorities.

In regards to practice, the majority of the surveyed CSOs expressed that the organizations operate independently and have not faced state interference in their internal operations. Only 2 CSOs out of 152 surveyed expressed that they have faced inspection controls from public authorities without prior notification.

With regards to sanctions applied, 10% of the surveyed CSOs expressed that they have been subject to sanctions by state authorities. The sanctions are applied in form of fines and are mostly related to delays of online tax declarations. From this poll of CSOs, 73% of them declared that the sanctions were proportional to the breach.

Asked about the opportunity to appeal the decision in Court, the responses show that CSOs are aware of this right, but only 50% of them exercise this right.

1.1.3. Securing Financial Resources

CSOs can freely seek and secure financial support for their activities from various domestic and foreign sources, without pre-screening and pre-approval from the state. The legislation in place allows CSOs to engage in economic activity, receive foreign funding support and funding from corporations. Individual donations are not prohibited by the Law and as such CSOs receive donations even though for the individual donations there are no tax incentives available.

In terms of engaging in economic activity, CSOs are allowed to generate incomes from fee for services, sales, rents, etc. The economic activity should not be the primary activity of the CSOs (the non-economic activity should obviously prevail) and the annual revenues from the economic activity should not exceed 20% of the total annual income. According to the Law no. 65/2016, dated 09.06.2016 "For Social Enterprises in the Republic of Albania"¹⁸, CSOs are the only eligible entity that can exercise their activity as social enterprises (SE) after obtaining the status. The Instruction no. 607, dated 01.08.2018 of the Minister of Health and Social Protection,¹⁹ stipulates the procedure and the documentations that CSOs should submit to the Minister in order to obtain the status of SEs, but it does not envisage the right to appeal in cases when a CSO asks for the status and is refused by the evaluation committee. Also, the Law on Social Enterprises gives the right to the local government to participate in the decision making body of the social enterprise. These criteria, including the condition on the salary level, the right to get the SE status and exercise the activity as SE with state funding, not only limit the space for SEs to exercise their activity but also turn them into state controlled enterprise. According to the response received by the Ministry of Health and Social Protection there are 6 CSOs out of 9 CSOs applying in 2019 that have received the status of SE

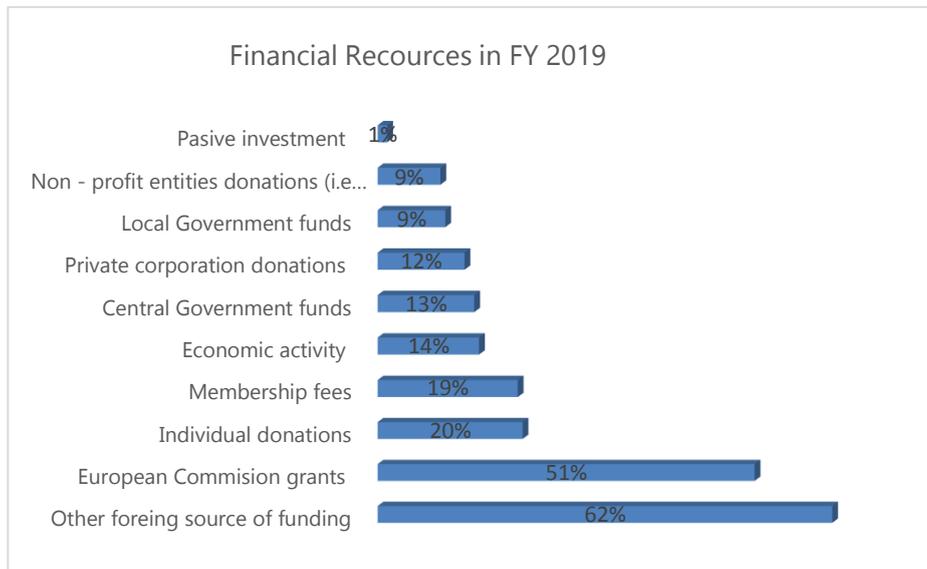
[2018.pdf](#)

¹⁸ Law no. 65/ 2016, dated 09/06/2016 "For Social Enterprises in the Republic of Albania", Official Gazette 118/2016, [Online] <http://qbz.gov.al/eli/ligj/2016/06/09/65-2016>

¹⁹ Instruction no. 607, date 01.08.2018, "On the procedures and documentation required for recognition of the status of social enterprises" [Online] <https://shendetesia.gov.al/wp-content/uploads/2019/01/Udhezim-nr.607-dt-01.08.2018-PER-MARRJEN-E-STATUSIT-TE-NDERMARRJES-SOCIALE.docx>

and can exercise their economic activity under this given status.

Figure 1: Financial Resources in FY 2019



The main source of income for the surveyed CSOs remains foreign donor institutions, which provide 62% of the total income of their financial resources for FY 2019, while funds from the European Commission constitute 51% of the total funds. Part of EU funding, IPA funds (are coordinated by the Ministry for Europe and Foreign Affairs and managed through the General Directory of Financing and Contracting for EU, World Bank and Other Donors Fund (CFCU), which is the responsible operating structure within the Ministry of Finance and Economy for indirect management of IPA funds, World Bank and other donators funds. Based on the information published at the Ministry for Europe and Foreign Affairs, 12 grants contract were awarded to CSOs in the frame of EU IPA Action Programme 2014²⁰ in December 2018 with a total amount of fund 757,949.14 EUR, and 13 grants contracts in the frame of EU IPA Action Programme 2015²¹ with a total amount of fund 647,359.63 EUR.

According to the awarded CSOs under EUIPA 2014, the application and contracting process lasted almost two years, no orientation sessions with the awarded grantees were organized, and the instructions for the implementation and reporting were provided almost at the end of the project implementation period. These issues were addressed in the call in the frame of EU IPA 2015, leading to a slight progress with regard to application and implementation process. Based on the experience of the grantees, CFCU is perceived more as an intermediary institution between grantees and the EU, with no clarity on its competences and authority and not ready to bear responsibility on its actions and instructions given to the grantees. There is lack of institutional feedback from CFCU on the questions raised by grantees. It is evidenced lack of confidence and insecurities to handle and respond to all questions and issues raised with regards to the implementation of funded projects, leading to evasive and vague responses. Approval from the European Union Delegation in Albania (EUD) was expected in most cases, leading to delays and barriers to the work of the grantees and uncertainties on whether the decisions are made by the CFCU and the EU.

²⁰ The information is retrieved from the Ministry for Europe and Foreign Affairs [Online] <https://punetegashtme.gov.al/en/grant-contracts-awarded-during-december-2018/>

²¹ The information is retrieved from the Ministry for Europe and Foreign Affairs [Online] <https://punetegashtme.gov.al/en/grant-contracts-awarded-during-september-2019/>

Another issue evidenced by the beneficiaries is related with the role of the Ministry for Europe and Foreign Affairs as the coordinating authority for the EU IPA program. There is confusion among grantees on the obligations that they have towards the Ministry, and the role of the Ministry in their activities, in terms of visibility, monitoring and evaluations.

In addition, promotion and facilitation of communication and networking among grantees by CFCU and the Ministry is considered relevant for the grantees to share and discuss their experiences, problems, lessons learned and increased networking and cooperation among grantees.

Sub-area 1.2. Related-freedoms

1.2.1. Freedom of Peaceful Assembly

Despite improvement from the 2018 with the adoption of the procedures from Police State based on Ombudsman recommendations, amendment the legal framework on peaceful assemblies are still needed. Law "On Assemblies"²² is the main law governing them. Persistent with the previous MM reports, the Law on Assemblies needs amendments to clarify the legal confusion between notification versus request/ permission, as stipulated in some of its articles. Also, it needs to address the right for spontaneous and counter – assemblies, and creation of notification templates available online in order to enable the notification procedure for citizens and interest groups via online.

In practice, during 2019 many assemblies had been organized especially in Tirana. The nature of protests was diverse, such as advocating for a better regulatory framework in education, protection of human rights, protection of environment, etc. Also, due to the tense political situation, many anti-government protests were organized. The wave continued for several months and while some were peaceful, others turned violent with protesters throwing objects at the police and public institutions and riot police using teargas to disperse protesters²³.

Based on the responses from surveyed CSOs, 49% of them have participated in a peaceful assembly, either as organizers or participants, 39% of them have participated in simultaneous assemblies and 7% in spontaneous assemblies. The prior authorization from State Police to organize an assembly is assessed as burdensome by the surveyed CSOs.

1.2.2. Freedom of Expression

In 2019, The Government of Albania drafted an anti-defamation legal package that regulates the electronic media.

The draft laws oblige online publication sites to consider any written complaint by every person on the program published by the site, including request for content removal. In cases where the online media overturn the complaint or do not give a response within 72 hours, then it is in the competencies of AMA to assess it and impose sanctions if the decision is not in line with the

²² OG 23/2001, Law no. 8773, date 23.04.2001 "On the Assemblies" [Online] http://www.qbz.gov.al/botime/fletore_zyrtare/2001/PDF-2001/23-2001.pdf

²³ The information is retrieved from CIVICUS organization [Online] <https://monitor.civicus.org/updates/2019/05/20/tirana-witnesses-violent-protests-anger-spills-streets/>

response given by the online media. International standards and best practices with regards to media freedom and ethical issues, such as the right to respond to a complaint, encourage media self-regulation on these issues.

The package was widely opposed by the journalists' community and human rights organisations, according to which the proposed draft laws expand the role Albanian Media Authority (AMA) and the Authority Electronic and Postal Communications giving them almost judicial competences, with a sanctioning nature against media. The anti-defamation legal package was opposed by media organizations as a violation of the right to freedom of expression. They issued three public statements during 2019 to address their concerns especially with the fines that according to them are non-proportional and the measures are drastic.

Even the international organisations reacted on the legal package. The Office of the OSCE Representative on Freedom of the Media issued an analysis of the draft laws, presenting some recommendations for further improvements²⁴. Nevertheless, the package was approved by the Parliament on 19th December 2019, but the President did not enact the Law and turned it back for further improvements. Following this, and after the pressure from national organizations and international institutions, the Parliament withdrew from its further review, and the Monitoring Committee of the Albanian Parliament requested the opinion of the Venice Commission regarding this package²⁵. The opinion from Venice Commission is expected to be released by the end of March 2020.

Defamation remains a criminal offence, although not charged with imprisonment.²⁶

Interviews with the surveyed CSOs do not evidence any infringement of the right of freedom of expression. Nevertheless, media organizations express concern about the pressure exercised on journalists by the government and public officials in cases of opposing opinions and articles to the government.

1.2.3. Access to sources of information

The legal framework does not impose any limitation about the use of internet and web based platforms. The Law no. 9887, dated 10.03.2008 "For the Protection of Personal Data", amended²⁷ stipulates specific guarantees toward collection of personal data, its storage, disclosure, and transfer, of users' information. Information and Communication Technology (ICT) usage in households and by individuals reveals that the number of people using the internet has surged over the year²⁸, where 82.2% of Albania households have internet access.

In the last years, CSOs have increasingly used social media and creation of online platforms in order to inform and communicate with the public and to advocate for concerning issues. According

²⁴ The information is retrieved from OSCE webpage [Online] <https://www.osce.org/representative-on-freedom-of-media/425462?download=true>

²⁵ The information is retrieved from the National Television of Albania [Online] <http://rti.rtsh.al/2020/01/23/anti-defamation-package-to-be-reviewed-by-venice-commission-in-march/>

²⁶ "EU Enlargement Package 2018 – Freedom of Expression – Information Society and Media", European Commission, 2018. [Online] https://euwesternbalkansmediadays.eu/images/FREEDOM_of_EXPRESSION_INFO_SOCIETY_AND_MEDIA_2018.pdf

²⁷ Law no. 9887, dated 10.03.2008 "For the Protection of Personal Data", amended (with Law no. 48/2012 (Official Gazette 53/2012) and with Law no. 120/2014 (Official Gazette 160/2014), [Online] https://www.idp.al/wp-content/uploads/2016/11/fletepalosje_ligji_per_mbrojtjen_e_te_dhenave_personale.pdf

²⁸ "How Albanians Use the Internet Today?", Invest in Albania [Online] <https://invest-in-albania.org/how-albanians-use-the-internet-today/>

to the report of National Resource Centre²⁹, the communication channels and tools most used by organizations to inform and interact with the general public are social media, specifically Facebook in 90% of the cases, the organizations' website for 56.5% of organizations as well as local audio-visual media in 55% of cases.

Box 1: EU Guidelines assessment

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

- With regards to operation of CSOs, there is a tendency for state interference in the operation of CSOs, as reflected in some of the laws recently approved, as: the Law on Youth, the Law on Social Enterprises, and the Law on Accounting and Financial Statements.

- With regards to freedom of assemblies, the Law No. 8773, dated 23.4.2001 on Assemblies needs to be amended, in order to be in fully compliance with international standards and best practices of freedom of assemblies' regarding and online notification procedure, and regulation of spontaneous and counter – assemblies.

- With regards to freedom of expressions, the new anti-defamation legal package presented and approved by the parliament, introduces new additional competences to the AMA that are inconsistent with international standards and widely opposed by media organisations and even international institutions.

Result 1.1.c. Progress in the adoption and implementation of relevant legislation

- Despite being a legal obligation, the electronic register of CSOs that would enable comprehensive records for the sector is not available yet, leading to non-reliable data from public institutions and not available in a consolidated form.

²⁹ "Capacity and needs assessment for civil society organisations in Albania", Partners Albania for Change and Development 2019, [Online] <https://resourcecentre.al/wp-content/uploads/2019/12/Need-Assessment-Report-2019.pdf>

Area 2: Framework for CSO Financial Viability and Sustainability

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

2.1.1. Tax Benefits

In December 2019, the Ministry of Finance and Economy issued an instruction on VAT refund procedure for foreign donors' funds to CSOs³⁰. With this regulation in place, all bilateral and multilateral agreements ratified by the Albanian Parliament or grant agreements approved by the Council of Ministers, qualify for VAT refund. Also, subject of VAT reimbursement are sub-granting schemes implemented through intermediary organizations. This is a huge step towards improvement of legal regulation on VAT refund and reflects the results of the advocacy efforts of the sector to this regard. According to the General Directory of Taxation there are 12 certifications issued for VAT reimbursement of IPA projects, but there is no official data on the actual number of VAT reimbursement executed.

CSOs' activity continues to remain subject to VAT, while goods and services related to social assistance and care, child protection and young people, sport and physical education, and cultural and education, are exempted from VAT. Tax exemption for such goods and services is issued based on certain criteria CSOs should meet and is regulated by government decision³¹.

CSO can carry out economic activity which shall be in line with its mission and does not make the primarily activity of the CSO. The revenues from the economic activity should not exceed 20% of the total annual income of the CSO and are subject to VAT if the amount exceeds the VAT registration limit specified in the Law on Tax Procedures. Claiming of VAT reimbursement from the CSOs is practically impossible, as they may not fulfil the two minimum conditions of claiming a refund because of the non-continuity of the economic activity of CSOs: (1) having carried forward an amount of tax credit for three successive months, and (2) refund amount claimed must exceed 400,000 ALL (approx. 3,000 EUR).

According to the data received from the General Directory of Taxation, there are 1,562 CSOs registered for VAT reporting. Compared with the MM Report 2018 the number has increased almost by 4 times.

Regarding local taxes, in general there is no differentiated treatment for CSOs, taking in consideration their non-profit nature, mission, financing model, ways of operation, and beneficiaries. Most of big municipalities apply the same tax levels for CSOs as for businesses.

With regards to social enterprises and referring to financial terms, based on the Law 65/2016 "For the Social Enterprises in the Republic of Albania"³² the social enterprise is obligated to use *"the entire profit (positive balance) for its development and expansion"*, which is taxed according to

³⁰ Instruction no. 34, dated 02.12.2019 "On a Modification of the Instruction No. 6, Dated 30.01.2015 "On The Value Added Tax In The Republic Of Albania ", as Amended, Official Gazette 169/2019 http://partnersalbania.org/wp-content/uploads/2016/02/Udhezim_34_5.12.2019_per_TVSH_FZ-2019-169.pdf

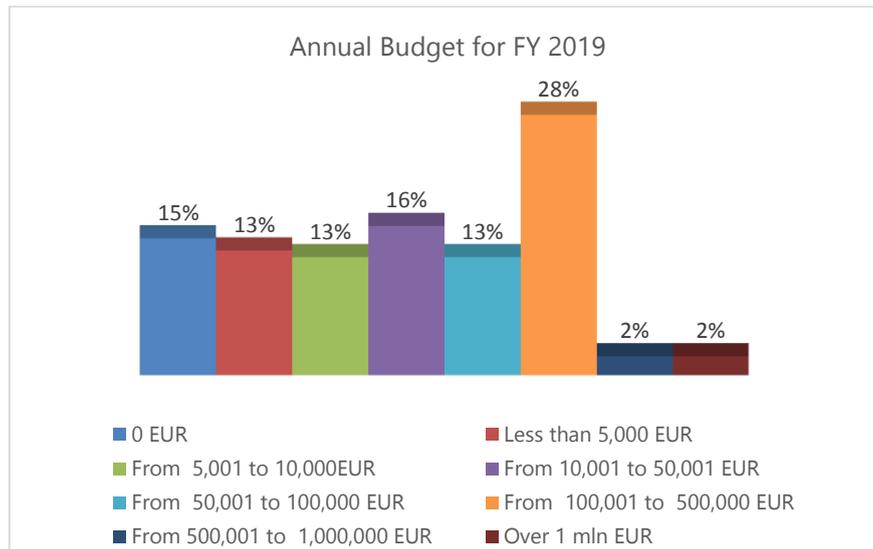
³¹ Decision no. 953, date 29.12.2014 "On Implementation Provisions to the Law no 92/2014 "On Added Value in the Republic of Albania", amended. [Online] <https://www.tatime.gov.al/eng/shkarko.php?id=707>

³² Law no. 65/2016 "On Social Enterprises in the Republic of Albania", Official Gazette 118/2016 [Online] <https://qbz.gov.al/eli/liqi/2016/06/09/65-2016>

the Income Tax Legislation.

Financial viability and sustainability remains the weakest aspects of CSOs in Albania. As shown in Figure 2, 28% of the surveyed CSOs have an annual budget of less than 5,000 EUR or have no funds (13% with less than 5000 EUR and 15% with no funds).

Figure 2: Annual Budget for FY 2019



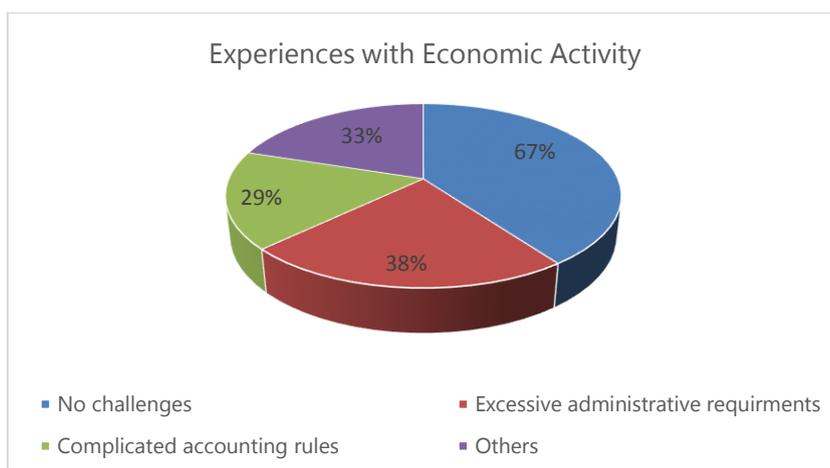
Only three organizations have an annual budget higher than 1,000,001 EUR and they are all branches of international organizations, serving also as intermediaries in sub-granting for larger donor institutions.

The 28% of surveyed CSOs that declared an annual budget between 100,001 and 500,000 EUR are organizations that provide social services and assistance to marginalized groups and people with special needs, and 82% of their budget comes from European Union funding schemes and other foreign institutions.

Only 21 out of 152 surveyed CSOs are engaged in economic activity out of which 67% declare to perform the economic activity without any challenges, 38% are faced with excessive administrative requirements to obtain a license, and 29% with complicated accounting rules.

Overall, the surveyed CSOs report unclearness and confusion with the interpretation of legal framework on social enterprises and VAT reimbursement procedures.

Figure 3: Experiences with Economic Activity



With regards to fiscal treatment, 67% of the surveyed CSOs declare that they have not been subject to any fiscal benefits. Only 15% of surveyed CSOs, mostly those that provide social services, have benefited from VAT exemption.

2.1.2. Incentives for Individual/Corporate Giving

The legal framework on individual and corporate giving has not changed during 2019. The only law governing donations is the Law no. 7892, dated 21.12.1994 “On Sponsorship”, amended³³. According to this law, sponsors are *“only those subjects having the quality of merchant, being physical or judicial persons, local of foreign or joint ventures”* and the amount of sponsorship is recognized as a deductible expense up to the amount of 3% and 5% for the press publishers and publications of literature, scientific and encyclopedia, as well as cultural, artistic and sportive activities. Individual giving is not recognized by the law on sponsorships or any other law, and as a result is not regulated or subject to any fiscal treatment.

A proposal to amend the Law on Sponsorship was initiated by the Ministry of Education, Youth and Sport in 2019. The proposal affects only sport activities. According to the draft law, for sponsorships of sports organized in teams which have a wide popularity, the deduction is recognized up to 20% of profit tax; and for sponsorship of other sports, the deduction is up to 10% of profit tax. The initiative is expected to be consulted in 2020.

In October 2019, the Prime Minister announced the government intention³⁴ to create a philanthropic fund to address problems of people in needs. The fund is called #Shqipëria Solidare (Solidary Albania), and will be created with contribution from the private sector to be co-managed by the private sector and the government. The government proposal is for business owners (not the business entity) to be obligated to contribute a certain percentage of their profit. But, at the moment no legal initiative on this regard has started.

Data from the media monitoring of philanthropic activity in Albania conducted by Partners Albania shows an increase with 94% in the total value of private donations for FY 2019 compared with the previous year, with a total amount of 1,555,626,791 ALL (approx. 12,545,377.35 EUR). For FY 2019 corporations donated a total amount of 518,599, 556 ALL (approx. 4,182,254.48 EUR), while individual donated a total amount of 122,916,858 ALL (approx. 991,265 EUR). The high

³³ Law no. 7892, dated 21.12.1994 “On Sponsorship”, amended, Official Gazette 130/ 2007 [Online]

<https://qbz.gov.al/eli/ligj/2007/09/20/9807/d3730c57-27d0-4a54-85d2-ead691eb9f45;q=Ligj%20per%20sponsorizimet>

³⁴ The information is retrieved from Albanian Telegraphy Agency website [Online] <https://ata.gov.al/2019/10/03/video-rama-me-biznesin-e-madh-fondi-i-shqipërise-solidare-nje-ide-te-ciles-i-ka-ardhur-koha/>

percentage of donations is linked with the earthquake that struck Albania in November 2019, as it is evidenced a higher number of donations during November-December 2019. The main fields of donations are: support to marginalized groups, natural disaster (influenced by the devastating earthquake in November), and poverty relief. The value of donations from CSOs for FY 2019 has increased with 10%, with a total amount of 13,728,930 (approx.110,000 EUR). These figures cannot be taken as fully accurate due to the limitation of methodology employed.

Box 2: EU Guidelines assessment

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

- Data from the media monitoring of philanthropic activity in Albania shows an increase with 62% in the total value of private donations for FY 2019 compared with the previous year, with a total amount of 1,555,626,791 ALL (approx. 12,545,377.35 EUR). For FY 2019 corporations donated a total amount of 518,599, 556 ALL (approx. 4,182,254.48 EUR), while individual donated a total amount of 122,916,858 ALL (approx. 991,265 EUR). These figures cannot be taken as fully accurate due to the limitation of methodology employed.

Result 2.3.a. Quality of the system of tax benefits for the CSOs' operational and economic activities

- VAT refund remains one of the main challenges of CSOs. Even though in principle they are eligible by the law, claiming of VAT refund for CSOs is practically impossible, due to the minimum threshold of the amount of VAT claimed, and the continuous character of the economic activity.

- A big step towards the improvement of the fiscal framework for CSOs, is the issuing of the instruction by the Ministry of Finance and Economy on the VAT reimbursement procedure for all foreign donors grants, for which financial agreements are ratified by the Parliament or grant agreements are approved by the Council of Ministers.

- VAT exemption procedure for activities classified as "to public interest" did not work and very few CSOs benefited from it. The procedure is long and not very clear, which has created hesitation in the sector to use it.

- Regarding local taxes, in general there is no differentiated treatment for CSOs, taking in consideration their non-profit nature, mission, financing model, ways of operation, and beneficiaries.

Sub-area 2.2. State support

2.2.1. Public Funding Availability

The legal framework that regulates state support for institutional development of CSOs, project support and co-financing of EU funded projects did not change in 2019. For this monitoring exercise the following are the sources of funding from public institutions identified for FY 2019 as reflected at table 1:

Table 1: Public funding for FY 2019

Institutions	Number of call for proposals	Application Submitted in total	Awarded CSOs	FY 2019
ASCS	1	161	52	100 million ALL (approx. 793,000 EUR)
Ministry of Culture	1	91	63	27,486,212 ALL (approx. 220,000 EUR).
National Lottery Fund	1	N/A	6	N/A
AASCA	1 ³⁵	N/A	N/A	95 million ALL (approx. 754,000 EUR)
ReLOaD	2	N/A	69	1,130,952 EUR ³⁶

- **Agency for the Support of Civil Society (ASCS)**

It is the main institution at the national level that provides financial support to CSOs. The mandate of ACSC is to support the institutional development of civil society in the country, provide funding to sector initiatives in line with its strategy designed through a consultative process with the sector, and provide co-funding for EU funded projects.

For FY 2019 the budget of ASCS in grants for CSOs was approx. 100 million ALL (approx. 793,000 EUR). Compared with the previous year, there is a slight decrease of funding allocated to the sector by 8,000,000 ALL (approx. 63,500 EUR). According to the response of the ASCS to the FoI request sent, in the 2019 call for proposals 161 CSOs applied, out of which 45 CSOs were awarded³⁷ a grant, while according to the information on ASCS website there are 52 CSOs awarded on this call for proposals³⁸. The call did not set a minimum or maximum amount of grant size, but judging by the list of awardees the minimum grant size has been 700.000 ALL (approx. 5,500 EUR), while the maximum 3,000,000 ALL (approx. 24,000 EUR). In 2019, the Agency did not provide any institutional development grants or co-financing for EU funded projects.

- **Ministry of Culture**

Another source of public funds for CSOs is the Ministry of Culture, which annually launches one call for proposals inviting individuals and CSOs to submit project proposals in the areas of art, culture and cultural heritage. According to the information received by the Ministry, the total budget distributed through the call for proposals for the FY 2019 was 27,486,212 ALL (approx. 220,000 EUR).

³⁵ The call for proposal is prepared but not launched during 2019. It is expected to be launched in the coming year.

³⁶ This figure is in total of the grant scheme.

³⁷ The information is retrieved from the webpage of the Agency for the Support of Civil Society [Online] <http://www.amshc.gov.al/web/thirrje/12/>

³⁸ The information is retrieved from the webpage of the Agency for the Support of Civil Society [Online] <http://www.amshc.gov.al/web/thirrje/12/Lista%20e%20projekteve%20fituese%20-%20Th12.pdf>

In total 91 CSOs applied, out of which 63 CSOs were awarded. The minimum grant size has been 200,000 ALL (approx. 1,500 EUR), while the maximum 1,000,000 ALL (approx. 8,000 EUR).

- **The National Lottery Fund**

The National Lottery Fund launched one call for proposals in 2019. Based on the data available³⁹ 8 project proposals are awarded, among which 6 proposals from CSOs. There is no information on the amount of financial support given and focus of the projects funded.

- **The Agency for Administration of Sequestered and Confiscated Assets (AASCA)**

As stipulated in the Law 39/ 2019 “For Administration of Sequestered and Confiscated Assets”⁴⁰ the Agency for Administration of Sequestered and Confiscates Assets is allowed to create a special fund approved by the Ministry of Finance and Economy to distribute and allocate it to entities and CSOs⁴¹. In 2019, the Agency planned a total fund of 95 million ALL (approx. 754,000 EUR) to support civil society organizations. The fund is expected to be launched in the next year.

In 2019, in the frame of collaboration with Partners Albania for the implementation of “C.A.U.S.E - Confiscated Assets used for Social Experimentations”, an innovative initiative funded by EU, two other confiscated assets from the organised crime (adding to the first one in 2018) were given to CSOs for the establishment of social enterprises⁴² through a usufruct contract with the (AASCA) for a period of at least 5 years.

In regards to public funding at the local level, The Programme for Local Democracy in Western Balkans (ReLOaD) is a funding scheme supporting CSOs at local level. It targets 12 municipalities of Albania through a grant of 1,130,952 EUR, from which 80% is the contribution of the Programme and 20% the contribution from municipalities in a three years’ period. So far, three public calls for proposals have been launched targeting local CSOs, especially grassroots organizations aiming to strengthen the capacities of small and inexperienced organizations working in the 12 municipalities⁴³. The call addressed priorities defined by Local Self-Government Units. According to the available information, 69 projects proposal were awarded in both calls for proposals, respectively 30 CSOs at the first call for proposal and 39 CSOs for the second call for proposal.

As shown from Figure 4, consistent with the previous years, only a limited number of CSOs (based on the survey with 152 CSOs) have benefited any financial and/or non-financial support from central or local government institutions in 2019.

³⁹ The information is retrieved from the website of the National Lottery [Online] <https://lotaria.al/kreu/ceshtjet-e-mira/viti-2019/>

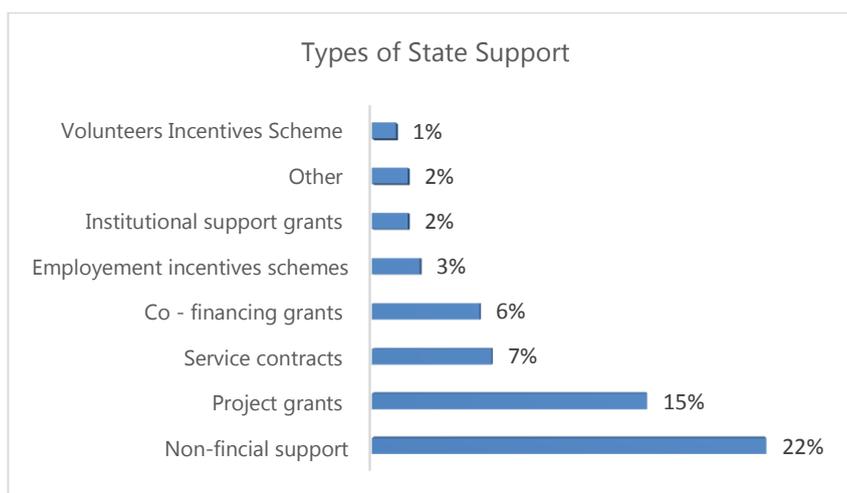
⁴⁰ Law 39/ 2019 “For Administration of Sequestered and confiscated Assets” [Online] <http://parlament.al/Files/Akte/20190624141111ligj%20nr.%2034,%20dt.%2017.6.2019.pdf>

⁴¹ Ibid, article 25

⁴² The information is retrieved from the website of Partners Albania for Change and Development [Online] <http://partnersalbania.org/News/fact-sheets-of-the-social-enterprises-supported-through-c-a-u-s-e-confiscated-assets-used-for-social-experimentation-project/>

⁴³ The information is retrieved from the United National Development Fund Albania [Online] http://www.al.undp.org/content/albania/en/home/operations/projects/poverty_reduction/regional-local-democracy-programme-.html

Figure 4: Types of State support



Only 21 CSOs out of 152 surveyed (13% of surveyed CSOs) have received funds from central government institutions, and only 14 of them (9% of the surveyed CSOs) have benefited from local government funds. 22% of the surveyed CSOs have benefited from non-financial support.

Public funding is limited for the support of CSOs. Based on CSOs experience, 67% of them do strongly disagree (21%) and disagree (42%) that public funding responds to CSOs needs.

2.2.2. Public Funding Distribution

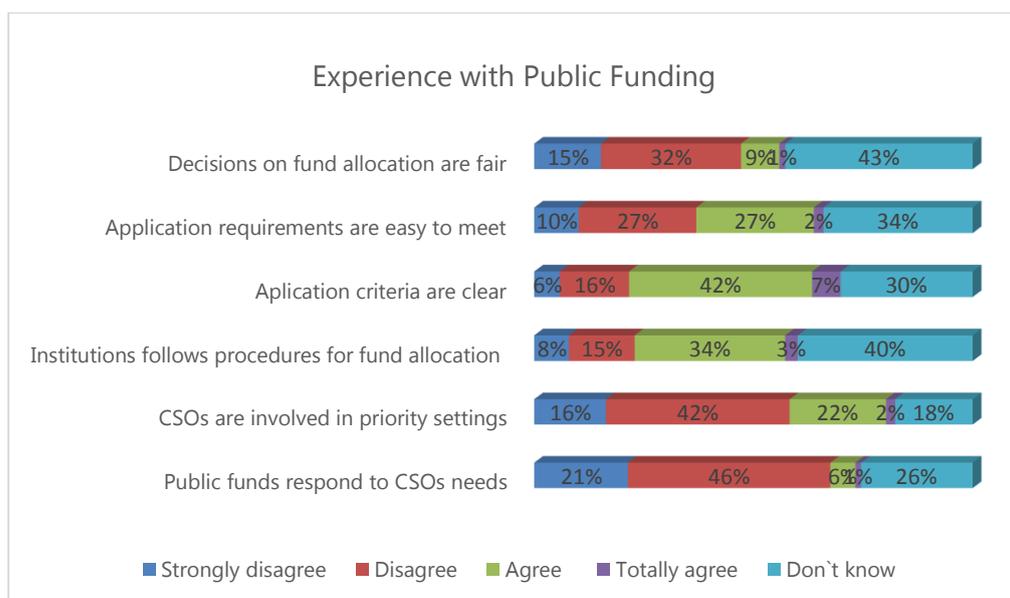
The ACSC has clear regulation in place through which the whole process of announcing the grant procedure and selecting the supported projects is carried out. The announcement for the procedure is public and it provides sufficient time to prepare (more than 30 days) and submit project proposals and all required documents. The ASCS published in advance the criteria and methodology for evaluation of projects are publicly available since the call for proposal is launched. In addition, conflict of interest rules are clearly prescribed in the internal regulation of ASCS⁴⁴.

Only 24% of the surveyed CSOs respond that priorities of the calls for proposals are set with participation of CSOs for, while 37% of them, mostly small and outside of Tirana CSOs, declare that the application requirements are not easy to meet.

On other side, the transparency of public funding distribution is weak. Decisions on fund allocations are not considered fair by 47% of the surveyed CSOs.

⁴⁴ "Internal Procedure on the grant financing", ACSC, December 2016 [Online] <http://www.amshc.gov.al/web/doc/Vendim-per-Miratimin-e-Rregullores-Mbi-Procedurat-e-Financimit-Me-Grante.pdf>

Figure 5: Experience with Public Funding



2.2.3. Accountability, Monitoring and Evaluation of Public Funding

The only legal documents publicly available and known to CSOs that regulate the accountability, monitoring and evaluation of public funding are those of the ASCS. The Law⁴⁵ and the Regulation of ASCS on grant financing procedures⁴⁶ have clear rules about how the project funding will be evaluated and monitored, and they are an integral part of the distribution system/process. All recipients of state funds are required to submit reports detailing the use of funds received.

From the monitoring of all webpages of identified public institutions that provide financial support to CSOs, it was noticed that no evaluation reports on the impact of public funding distributed to CSOs were published.

According to the surveyed CSOs, only 9 CSOs, out of 43 CSOs that have received public funding have been subject to monitoring by state authorities for the implementation of the project supported through public funds. Two (2) of them stated that the monitoring was in line with criteria set in advance, and one (1) of them expressed that they have received a notification in advance for the monitoring by state officials.

2.2.4. Non-Financial Support

There is no legal framework or regulation in place with specific provisions that authorize state authorities to provide non-financial support to CSOs.

22% of the surveyed CSOs have received non-financial support from public institutions in the form of free office space for events or work, free of charge training, equipment, etc. Other CSOs include

⁴⁵ Law no. 10093, dated 9.3.2009 "For the Organization and Functioning of the Agency for the Support of Civil Society" [Online] http://www.amshc.gov.al/web/doc/ligjore/LIGJ_Nr._10093_date_9.3.2009.pdf

⁴⁶ Regulations of the Procedures with Financing of Grants [Online] <http://www.amshc.gov.al/web/doc/Vendim-per-Miratimin-e-Regullores-Mbi-Procedurat-e-Financimit-Me-Grante.pdf>

partnership with Local Government Units for the organisation of raising awareness campaigns.

Box 3: EU Guidelines assessment

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

- Public funding is limited for the support of CSOs. Based on the survey with 152 CSOs, their perception is that public funding does not respond to CSOs need (42 % of CSOs disagree that public funding responds to CSOs needs, and 21% strongly disagree).
- Decisions on fund allocations aren't considered fair by 47% of the surveyed CSOs.

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

- There is no unified framework for all state funding dedicated to civil society organisations. Therefore, all public institutions design and implement their framework based on the legislation and practices in place.
- Regarding public funding dedicated to CSOs through the ASCS, there is a framework publicly available with rules and procedures for the distribution and management of the annual fund. Because this fund is not supported by long-term and well-planned strategy, it has failed to address key priority needs of the sector.
- Based on experience, for 37% of the surveyed CSOs, mostly small and outside of Tirana CSOs, expressed that the application procedures for state funds are not easy to meet, limiting their opportunity to apply and benefit from state funds.

Sub-area 2.3. Human resources

2.3.1. Employment in CSOs

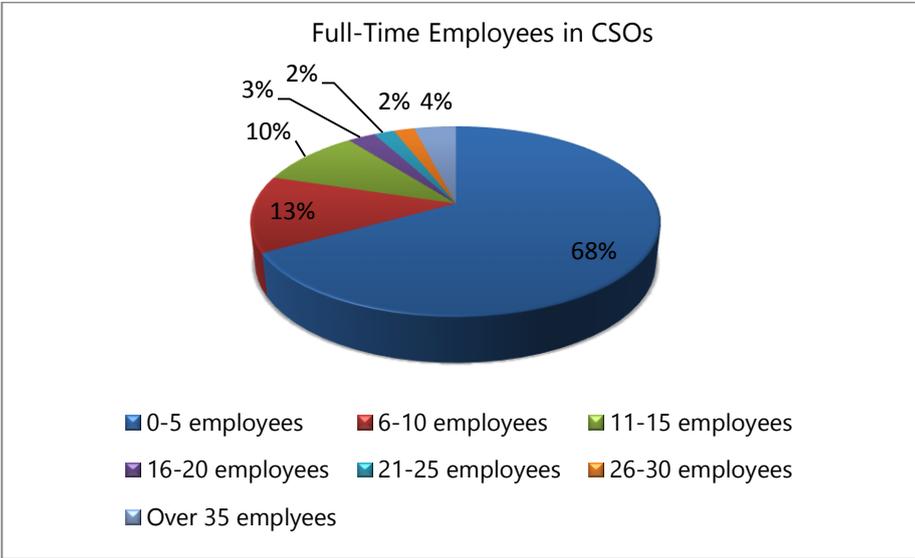
The legislation in place does not hinder nor stimulate the employment in CSOs. The Labour Code and all related legislation treat all the employees in an equal manner, including those employed by CSOs. In 2019, the Law 15/2019, dated on 13.03.2019 “For the Encouragement of Employment”⁴⁷ was approved. Its implementation is expected to increase the level of employment by offering services and public programs for employment, self-employment and professional qualifications.

Article 21 of the Law stipulates the creation of the Social Fund for Employment for employment of “special groups”.⁴⁸ It will be used for programs aimed at employment, self-employment, job rehabilitation, vocational training and rehabilitation, orientation and counselling for employment, support services, reconstruction and adaptation of the workplace for employment, social reintegration programs, and support to promote the employment of family members of persons with disabilities and other persons from the special group. An Administration Board of the Social Fund for Employment will be established and administrate the allocation of the Fund. To date, there is no information on the allocation of the Social Fund for Employment.

According to the information received by the General Directory of Taxation there are 9,966 employees working within the sector. No information was provided in terms of full-time employees, part-time employees, and number of volunteers, even though this information is collected through declarations submitted by CSOs.

Based on the findings of the survey, as reflected in Figure 6, most of the organizations that participated in the survey have 0 - 5 full-time employees.

Figure 6: Percentage of Full - time employees in CSOs



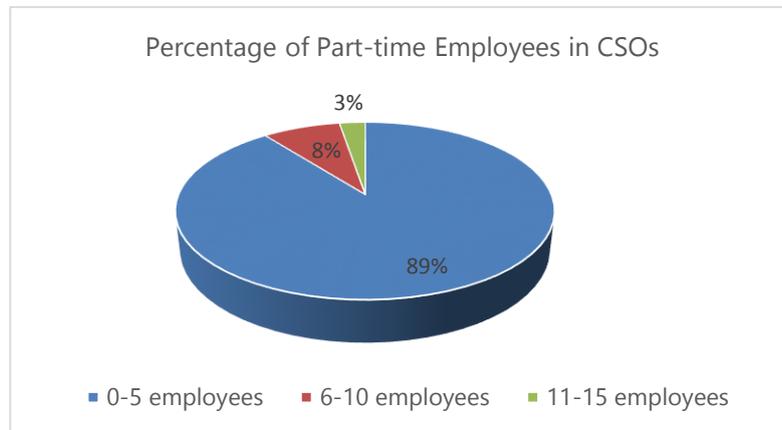
The organisations that have over 35 full-time employees represent 4% of the surveyed CSOs and are organizations that provide social services located in different cities. 89% of the surveyed CSOs

⁴⁷ Law 15/2019, dated on 13.03.2019 “For the Encouragement of the Employment” [Online] <http://www.parlament.al/Files/ProjektLigje/20190318131036ligj%20nr.%2015,%20dt.%2013.3.2019.pdf>

⁴⁸ Ibid, article 3

have 0 - 5 part-time employees.

Figure 7: Percentage of Part-time Employees in CSOs



2.3.2. Volunteering in CSOs

Volunteers are a very important part of CSOs human resources. No data is available on the number of volunteers engaged in civil society organizations. In accordance with the Law on Voluntarism, in 2018, two orders were approved by the Minister of Finance and Economy: Order no. 229/2018 "The Format and Content of Volunteer Card"⁴⁹ and Order no. 300/ 2018 "The Format and Content of the Volunteering Contract Register"⁵⁰. In July 2019, the Council of Minister approved the "Code of Ethics for Volunteers"⁵¹. To be noted is the fact that these documents are approved through "closed - door" policies, and the majority of CSOs are not aware of the two orders issued by the Minister of Finance and Economy.

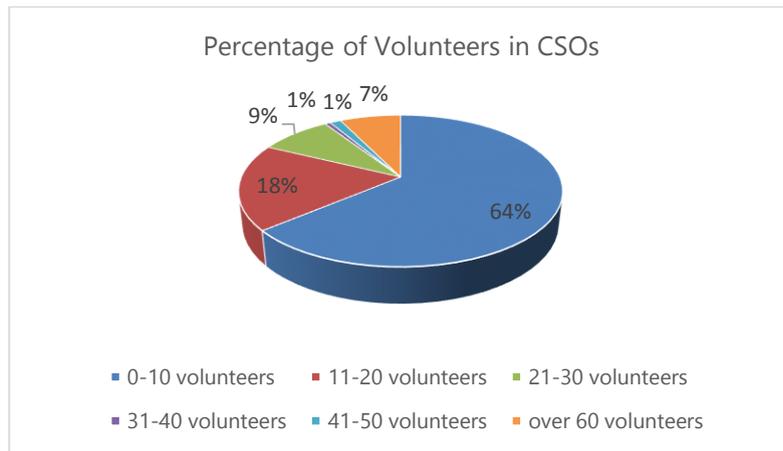
Most of the organizations participating in the survey have 0 - 10 volunteers (64%), as shown in the Figure 8. Organizations that have more than 60 volunteers are those established and represented by young individuals. These organizations conduct massive awareness raising campaigns, advocate and protect youth, women and children rights.

⁴⁹ Order no. 229, dated 06.11.2018 "The Format and Content of Volunteer Card" issued by Minister of Finance and Economy.

⁵⁰ Order no. 300, dated 06.11.2018 "The Format and Content of the volunteering Contract Register", issued by Minister of Finance and Economy. No available link for this document

⁵¹ DCM No. 506, dated 17.07.2019 "Code of Ethics for Volunteers" Official Gazette [Online] 105/2019 <https://qbz.gov.al/share/7z7QPMOjSqagyGlfH8AWw>

Figure 8: Percentage of Volunteers in CSOs



With regards to declaration of volunteers, 13% of the surveyed CSOs declared that they have registered volunteers at the National Employment Office and Tax Authorities. None of the surveyed CSOs declared to have registered the volunteers at the National Employment Service (NAS) as stipulated in the law on voluntarism because the register is not yet functional.

Persistent with the MM Report 2018, CSOs face uncertainties and have lack of clarity in the involvement of volunteers in their projects and activities. Some of the issues raised by them on the practical implementation of the law on voluntarism are: the insurance of volunteers (there is a lack of awareness from CSOs on costs that they have to pay and how this cost is calculated); contracting procedures of volunteers; their registration at the register of volunteers, and confusion of competences of law enforcement institutions in charge for volunteers and voluntarism.

2.3.3. Non-Formal Education

In the Law 15/2017 “on the Formation and Professional Education in the Republic of Albania”⁵² the definition of non-formal education is planned learning through organized activities, not necessarily drafted as learning areas, but that contain important learning experiences. The non-formal education is stipulated in different legal regulations issued by the Ministry of Education, Sport, and Youth, the Ministry of Economy and Finance, and the Ministry of Health and Social Protection to provide non – formal education with other stakeholders, including CSOs. Voluntary and the volunteering is part of civic education in education programmes, but it is treated not so broadly, only as a topic.

In practice, CSOs are widely involved in non-formal education through provision of capacity building programmes, services and professional courses. Over 319 CSOs poses a license and provide social and educational services⁵³.

⁵² Law 15/2017 on the Formation and Professional Education in the Republic of Albania [Online] <https://financa.gov.al/wp-content/uploads/2018/06/ligj-nr-15-dt-16-2-2017.pdf>

⁵³ “Overview of social enterprises eco – system in Albania”, Partners Albania for Change and Development, 2019 [Online] <http://partnersalbania.org/wp-content/uploads/2019/04/Overview-of-Social-Enterprises-Eco-system-in-Albania.pdf>

Box 4: EU Guidelines assessment

Result 1.2.a. Number of employees in CSO (permanent and part-time)

According to the information provided by the General Directory of Taxation there are 9,966 employees working in CSOs. There is no divided information for permanent and part-time employees. 68% of the surveyed CSOs have 0 - 5 full-time employees and 89% part-time employees.

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

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

Result 1.2.f. Quality of legislative framework

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

Area 3: Government-CSO Relationship

Sub-area 3.1. Framework and practices for cooperation

3.1.1. State Policies and Strategies for Development of and Cooperation with Civil Society

In July 2019, the Albanian Government approved the Road Map for the Government Policy towards a More Enabling Environment for Civil Society Development 2019-2023. The document reflects a revised version of The Road Map 2015- 2018 which lacked proper implementation. The first Road Map 2015 - 2018 lacked its implementation in most of the measures. Based on a reporting from ASCS, only 4 measures out of 53 were implemented⁵⁴.

The revised Road Map document presents a series of actions and concrete measures in a variety of interrelated and complementary policy areas: the legal framework with emphasis on improving the registration issue, a strengthened institutional framework for the work of CSOs, clearer and more transparent public funding mechanisms for CSOs programmes, inclusive involvement of CSOs in social service delivery on national and local level according to standards, regulated consultations with CSOs in drafting new laws, a favourable tax policy for CSOs, a more conducive legal, fiscal, and institutional framework for the promotion of volunteering, and an enabling environment for the promotion of philanthropy.

Three strategic areas have been associated with a set of 42 actions to be undertaken by the respective institutions so as to further create and maintain conducive environment for civil society. To ensure proper monitoring of the implementation, a monitoring framework with 130 indicators has been defined to the 42 actions, followed by a budget forecast required for its implementation. Based on the document, CSOs will be involved in the monitoring process by giving their opinions and contributions to monitoring of measures stipulated in the Road Map 2019- 2023. The ASCS will be responsible to create channels for collecting the CSOs views online questionnaires. In 2019, no questionnaire was launched online by the Agency.

The majority of CSOs (68% of the surveyed CSOs) are aware of the existence of the Road Map for Civil Society, 30% of them are aware of the content and measures of the Road Map, while 38% of the surveyed CSOs have no information of its content. 78% of the surveyed CSOs have not participated in public consultations conducted in the frame of the Road Map 2019-2023. The reasons given are for lack of trust that the opinion of CSOs will be taken into consideration, lack of information for the conduction of public consultations for the Road Map, lack of interest by CSOs themselves to engage on it, or lack of information that such a document exists. Based on the information received from the ASCS, 4 regional meetings were organized with CSOs, and 20 CSOs provided their input for the revised Road Map.

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

With regards to structures and mechanisms for dialogue and cooperation between civil society and public institutions, two are the main collegial consultative bodies: The National Council for Civil

⁵⁴ The information is retrieved from the ASCS website [Online] <https://drive.google.com/file/d/1yG-BnN2eldotN186tdunYG86XCem30IN/view>

Society and The National Council for European Integration.

The National Council for Civil Society (NCCS) is a collegial consultative body aiming to guarantee institutional collaboration between the State and CSOs, in support of good governance, participatory democracy, and increase of transparency through meaningful participation and involvement of civil society in this process. In line with the Law “For the Establishment and Functioning of the National Council for Civil Society”⁵⁵ the Council consists of 27 members, 13 representatives from the Government institutions, 13 representatives from CSOs and 1 representative from the National Economic Council. In September 2019, the NCCS selected four new members from civil society replacing the ones whose mandate⁵⁶ ended.

The selection process is done accordantly with the Regulation on organization and functioning of the National Council for Civil Society⁵⁷, through online voting. The ASCS that acts as a secretariat issues the call for nominations, inviting CSOs to submit their proposals on the members of the NCCS. The results are published at the ASCS website.

During 2019, the NCCS hardly has conducted any productive discussion in voicing CSOs priorities in policy-making processes. According to the information on ACSC website during 2019 the Council conducted only one meeting, while the decisions of the meeting are not publicly available yet.

Similar with the previous MM Report 2018, the Law for the Establishment and Functioning of the National Council for Civil Society needs to be amended in order to address the proper representation from ministry lines (i.e. changes in the ministerial portfolios) and number of representatives from each ministry (i.e. reduction in number of ministerial portfolios) in order to meet the required balance of representation.

Another important structure, in the frame of accession of Albania in the European Union, is the National Council for European Integration (NCEI)⁵⁸. It is an advisory body for the European integration process, established by the Parliament, aiming to promote and guarantee a comprehensive cooperation between political forces, public institutions and civil society, and increase transparency in decision-making on integration issues. According to its internal regulation, civil society is represented by three members, a number that was increased into 8 in 2018. The change in the number was not supported by respective changes in the regulation. According to the 2019 Annual Report of the National Council for Integration, the Council has announced two calls for membership applications from CSOs on 16 April 2018 and on 24 April 2019. The elections and renovation for members from CSOs were finalized in September 2019. Based on the annual report of NCEI the number of CSOs representatives was increased to 18 members⁵⁹. On the other side, there is a need to increase the visibility of the Council since its work is not promoted and well-known in the sector.

From the surveyed CSOs, about half of them (58%) declared that they are informed about the work of the National Council for Civil Society, as shown in Figure 9.

⁵⁵ OG 200/2015, Law no.119/2015 “On the establishment and functioning of the National Council for Civil Society” [Online]

<https://qbz.gov.al/share/q9X3GXAjROi2QTN3otTFAA>

⁵⁶ https://drive.google.com/file/d/189rmOpJqXmnqD7UrTpdA9N-oysGlpnK0/view?usp=drive_web

⁵⁷ The information is retrieved from the ASCS website [Online]

<https://drive.google.com/file/d/1xOY3QQRybRIK0EVimImS8IoJH6ab00Xj/view>

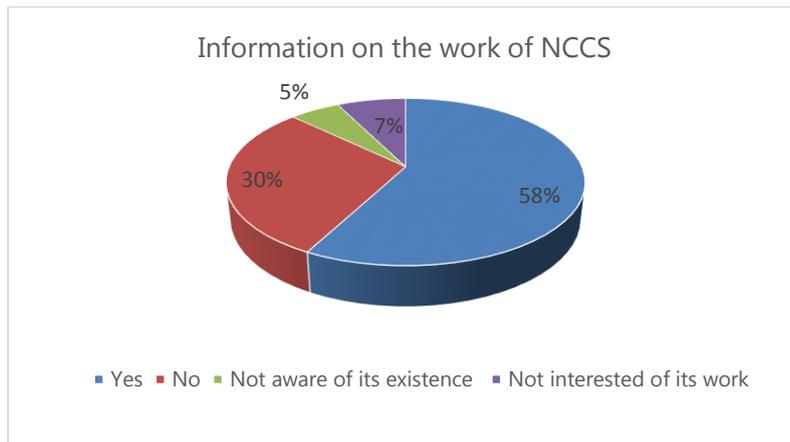
⁵⁸ Law no. 15/2015 “For the Role of the Albanian Parliament in the integration process of Albania in European Integration” [online]

https://www.parlament.al/Files/Integrimi/Iqij_15-2015-1.pdf

⁵⁹ “Annual Report of the National Council for European Integration”, National Council for Integration 2020 [Online]

<http://parlament.al/Files/Integrimi/Raporti%20vjetor%20i%20KKIE%202019.pdf>

Figure 1: Information about NCCS work



Asked on the level of agreement with the following claim: *“The decisions of the NCCS are based on CSOs recommendations and input”*, 45% of the surveyed CSOs answered that they do not know, while 30% of them disagreed or strongly disagreed.

One recommendation from the surveyed CSOs for the members of the Council elected from and representing civil society is to increase their interactions with other CSOs that they represent for a better representation of CSOs voice within the Council.

Box 4: EU Guidelines assessment

Result 3.1.b. Quality of structures and mechanisms in place for dialogue and cooperation between CSOs and public institutions in terms of: - CSO representation in general, - representation of smaller/weaker CSOs, - visibility and availability, - government perception of quality of structures and mechanisms, - CSOs perception on structures and mechanisms;

- A new, improved Road Map for Drafting Policy and Measures for Enabling Environment for Civil Society 2019 - 2023 was approved in July 2019, including concrete indicators to measure its implementation and a budget.

- There is a poor perception of CSOs on the effectiveness of the Road Map, reflected in a high percentage of the surveyed CSOs (78%) not participating in the consultations for the preparation of the new document. Among the main reasons expressed are lack of trust that their opinions will be considered, and lack of interest to engage in this process.

- No legal initiative has been made to amend the Law on the establishment and functioning of the NCCS to reflect the changes in the composition of the council of ministers (i.e. changes in the ministerial portfolios) and number of representatives from each ministry (i.e. reduction in number of ministerial portfolios) in order to meet the required balance of representation.

- The NCCS has failed to prove itself as a collegial consultative body for the institutional collaboration between the State and CSOs. The performance of the NCCS so far has been poor especially in discussions, addressing key priorities of the CSO sector with regard to enabling environment and participation in policy-making processes. No information on the decisions taken by the Council in 2019 has been published, in the frame of its work for the support of civil society.

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

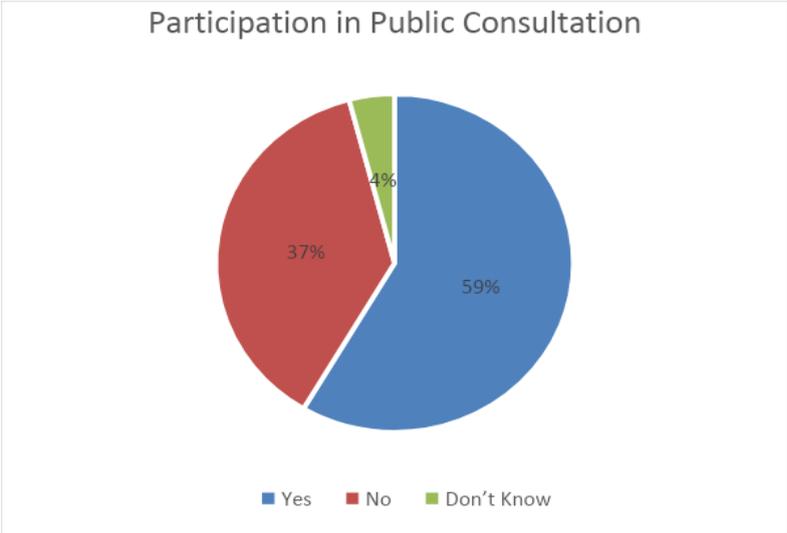
3.2.1. Standards for CSOs Involvement

The legal framework affecting CSOs involvement in policy and decision-making did not change in 2019. The Law 146/2014 on Notification and Public Consultation put forward requirements for consultation on draft laws and policies. The Law provides reasonable time to be able to get acquainted with the documents and form an opinion. Also, it obliges public authorities to send written feedback on the received proposals with explanations why certain of them have not been accepted.

Based on the Decision No. 61/2018, dated 05.04.2018 “On the approval of the Code of Conduct for the Members of Parliament of the Parliament of Albania”, an electronic lobbyist register is created⁶⁰. According to article 22, MPs record every meeting with outside parties as a measure to control any conflict of interest over lobbying efforts from interest groups. With these regards, every CSO that wants to exercise the right to participate and voice their opinions can submit their application to the Parliament and become a member of the lobbyist lists. According to the available information, 54 members from CSOs are enlisted in this register⁶¹. The regulation in place lacks a clear definition on lobbyist and how this activity is regulated.

About half of the surveyed CSOs (59%) have been involved in consultations for the preparation of draft laws and policies, while 37% of the surveyed CSOs stated that they did not participate at any process, as shown in the Graph. 10. From the responses from the surveyed CSOs it is noticed that most of them have participated in consultations conducted at local level by the Local Self – Government Units, including participation of CSOs in consultations processes on fiscal packages and annual local budgeting, consultations on social services at local level, strategy of youths at local level, etc.

Figure 20: Participation in Public Consultation



Asked on the reasons for not participating in public consultations, the surveyed CSOs mention that it is due to: lack of trust that the consultations and inputs provided by CSOs will be seriously taken into consideration by public institutions; lack of notification and information on the public

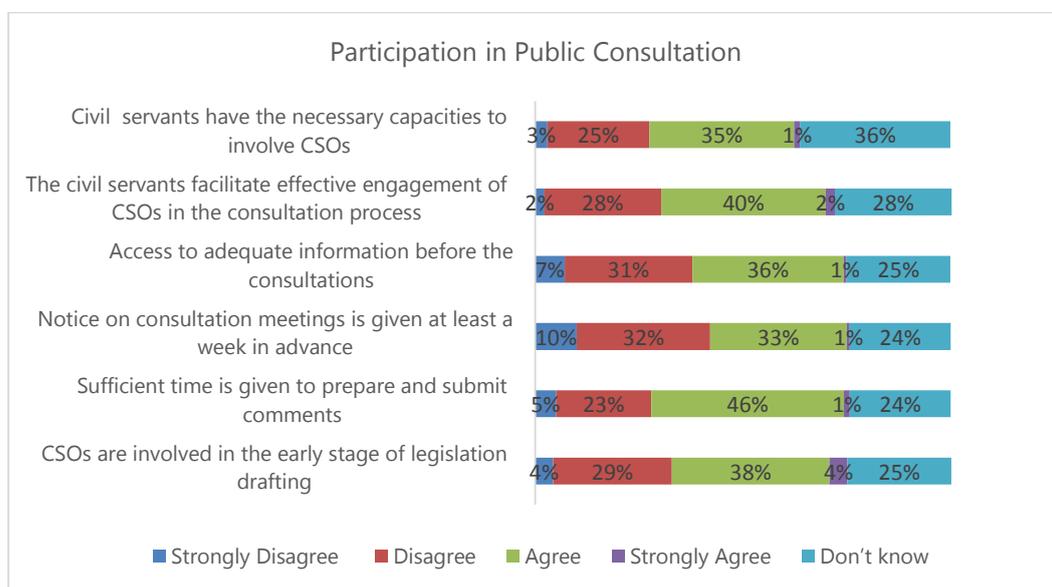
⁶⁰ Decision No. 61/2018, dated 05.04.2018 “On the approval of the Code of Conduct for the Members of Parliament of the Parliament of Albania”, a lobbyist register is created <https://www.parlament.al/Files/RaporteStatistika/Kodi%20i%20Sjelljes.pdf>

⁶¹ The information is retrieved from the Albanian Parliament [Online] <https://www.parlament.al/Files/Informacione/lobistet.xlsx>

consultations; limited time to give feedback; the consultations areas are not related with the CSO areas of operation; etc.

Asked to assess some aspects to CSOs participation in consultation processes, it is noticed a positive evaluation by CSOs on the capacities of civil servants to involve CSOs in consultations, and their abilities to facilitate their engagement in consultation processes. Respectively, 35% of the surveyed CSOs agree that civil servants have the necessary capacities to involve CSOs in the consultation process, and 40% of CSOS agree that the civil servants facilitate effective engagement of CSOs in consultation processes. Also, positively is evaluated the time given to prepare and submit comments, with 46% of surveyed CSOs agreeing that CSOs do have sufficient time. On the other hand, there is an almost equal division among CSOs agreeing that CSOs do have access to adequate information before the consultation process (36% of surveyed CSOs), with those that disagree or strongly disagree with this statement (31% disagree and 7% strongly disagree).

Figure 3: Participation in Public Consultation



Regarding the output of the consultation processes, almost half of the surveyed CSOs (45%) expressed that some of their suggestions and recommendations provided have been considered by public authorities organizing the consultation process.

3.2.2. Public Access to Draft Policies and Laws

The Law on Notification and Public Consultation obliges public institutions to make all draft and adopted laws and policies public, while exceptions are clearly defined and in line with international norms and best practices. The law guarantees sufficient time up to 20 days for citizens and interest groups to provide their opinion and comments on the draft laws and policies. Also, based on the Decision of the Council of Ministers no. 828, date 07.10.2015 on “Approval of Rules on Creation and Administration of Electronic Register for Notification and Public Consultation”, an electronic register for notification and public consultation is created: <http://www.konsultimipublik.gov.al>.

Another important law that enables access to information is the Law no. 114/2014 for the Right to Information. According to this Law, public authorities are obliged to publish information in their website without the necessity to send requests for information to public authorities. They should publish a Transparency Program and appoint a coordinator for the right to information.

To document the application for the right to information from state institutions, Partners Albania sent requests for information to all ministries and public institutions. Only three ministries, (Ministry of Interior Affairs, Ministry of Defence, and Ministry of Infrastructure and Energy) responded to the request. This year even the Parliament failed to provide information on their consultative processes.

When it comes to surveyed CSOs, 46% of them have sent requests for information to the public institutions. The responsiveness from public institutions towards their request was assessed positively, since 86% of the surveyed CSOs expressed that their request was answered. The answer received was provided in a clear format (70% of CSOs) and received within 10 days as stipulated in the Law 14/2014 For the Right to Information (69% of CSOs). Improvements are still needed with regards to provision of explanations when a request for information is denied 72% of CSOs declare that their request was denied without any explanation.

From the annual report of the Information and Data Protection Commissioner⁶², in 2019, the Commissioner's Office received 786 complaints. A positive trend was the increase of complaints number from CSOs in relation to other stakeholders, as an indicator of their awareness-raising on exercising the right to information. On the other hand, according to a report on the right to information, prepared by ResPublika⁶³, in 2019 it is noticed a regress in the work of the Commissioner based on the decreased number of its decisions, the very low number of administrative measures taken, considering the low level of transparency of institutions, etc.

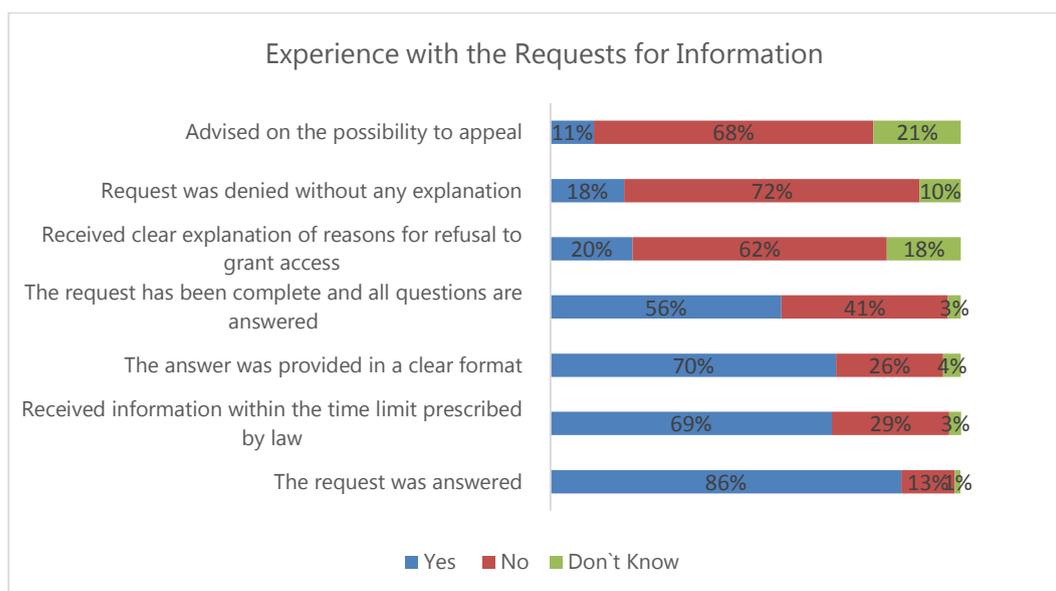
At local level, referring to a monitoring report on the transparency of local government in Albania⁶⁴ prepared by BIRN, there is a slight regress in the proactive transparency in the webpages and physical premises of the municipalities compared the same monitoring in 2017. A new transparency program prepared by all municipalities would enable the publication of all documents that should be made public without payment, and the publication of all notifications for public consultations in the portal <http://www.konsultimipublik.gov.al/>, are among the recommendations provided in the report to increase transparency and public consultations at local level.

⁶² "Annual Report 2019", Information and Data Protection Commissioner, 2019 [Online] https://www.idp.al/wp-content/uploads/2020/03/Annual_Report_2019.pdf

⁶³ <https://portavendore.al/wp-content/uploads/2020/02/E-drejta-e-informimit-2019-Res-Publica-web-min-compressed.pdf>

⁶⁴ "Local government in the lenses of right to information", BIRN 2019 [Online] <https://birn.eu.com/wp-content/uploads/2019/05/Pushteti-vendor-single-page-web-1.pdf>

Figure 4: Experience with the Requests for Information



3.2.3. CSOs' Representation in Cross-Sector Bodies

Another measurement indicator of the effective involvement of CSOs in policy and decision-making processes is their participation in cross-sector bodies, for which there is not a specific legal framework that regulates CSOs involvement in these structures. One important instrument to this regard is The National Plan for European Integration (NPEI) 2018-2020, approved by the Government of Albania in May 2018, with the Decision of Council of Ministers No 246 of 9.05.2018⁶⁵. It serves as a short and medium term planning tool for measures to meet the obligations arising from the Stabilisation and Association Agreement and the accession process in order to reach full legal approximation of the national legislation with the EU *acquis*. The civil society is recognized as an important actor to meet these obligations.

In support of the decision of Council of Ministers on the approval of the NPEI, an order of the Prime Minister for the forms of participation, functioning and institutional structure of the partnership platform of European integration was issued⁶⁶. According to this order, civil society organisations are an integral part of the two levels of representations on which the platform is organized: the Governing Board with 15 members out of which two from CSOs, and 33 Discussions and Consultations Tables analogous to the "*acquis*" chapters of the European Union. Membership is opened to all, and based on the procedure interested parties should submit an interest letter and a personal CV or a CV of the represented entity. The assessment of the applications is done by the members of the Working Groups.

With regards to implementation of NPEI and the establishment of its institutional structure, little has been done in 2019. There are 14 public institutions responsible for leading the consultation process, and during 2019, only the Ministry of Justice has achieved to organize discussion and consultations tables with CSOs participation, while others has launched public calls for invitation to participate in the tables. The application and selection process of the members in the discussion

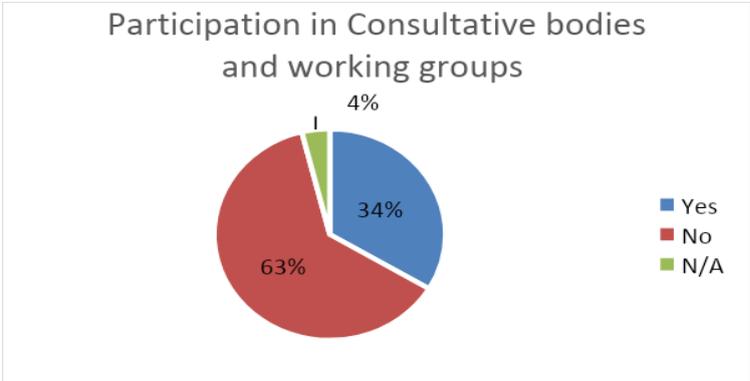
⁶⁵ Decision of Council of Ministers No 246 of 9.05.2018 "For the Approval of the National Plan for European Integration (NPEI) 2018 – 2020" [Online] <https://puneteshashtme.gov.al/wp-content/uploads/2018/10/vkm-nr-246-date-9-5-2018-2-plani-kombetar-per-integrimin-evropian-2018-2020.pdf>

⁶⁶ <https://drejtesia.gov.al/wp-content/uploads/2019/10/Urdhri-i-Kryeministrit-nr.113-dat%C3%AB-30.08.2019.pdf>

and consultation tables is envisioned in the order of the Prime Minister, but in practice the application and selection criteria are unclear and not transparent.

From the surveyed CSOs, 34% of them have participated in the work of advisory, consultative or working group bodies and committees, as reflected in the Figure 13.

Figure 53: Participation in Consultative bodies and working groups



Mostly these are consultative and advisory bodies, as the National Council for People with Disabilities, National Council on Gender Equality, Working Groups for the Education Reform and for the Law of Youth, etc.

From this poll of surveyed CSOs, 63% of them that have participated declared that the selection procedures for CSOs in these advisory groups and working committees was public and transparent. Asked if they can freely express critical stances at advisory, consultative, working group bodies and committees, 80% of the surveyed CSOs participating in these bodies expressed that they feel free to express their opinion.

Box 5: EU Guidelines assessment

Result 3.1.a. Percentage of laws/bylaws, strategies and policy reforms effectively consulted with CSOs in terms of: - adequate access to information; - sufficient time to comment; - selection and representativeness / diversity of working groups; - acknowledgement of input; - degree to which input is taken into account; - feedback / publication of consultation results

- There is no available information to measure the percentage of laws/bylaws, strategies and policy reforms effectively consulted with CSOs.
- Based on the survey with CSOs, it is noticed an increased responsiveness from state institutions to the requests for information from CSOs (86% of surveyed CSOs declaring that their request for information was answered). Still, there are no explanations provided when a request for information is not answered, as declared by 72% of the surveyed CSOs.
- One of the main concerns of CSOs with their participation in public consultations remains lack of trust that their comments / inputs will be taken into account by public institutions.

Sub-area 3.3. Collaboration in social provision

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

CSOs are the main stakeholders delivering social services for a wide range of beneficiaries. In 2019, no legal initiatives were taken or discussed on the law on public procurement. The current legal framework presents many challenges and issues to be addressed in order to create a supportive environment for CSOs involvement in the provision of social services with public funds. The tendering rules are unified and applied equally to CSOs and other private entities bidders. The main criterion for public procurement awards is the lower price offer, disregarding the quality of services. In addition, the associated bidding costs and contracts' financial conditions (i.e. guarantee fund, expenses reimbursement versus up-front payment, no regular and clear payment schedules) represent a serious impediment to participation of CSO in any tendering procedure⁶⁷.

With regards to social enterprises, no legal initiative was pushed forward and, as expressed in the previous MM Reports, the package is found very problematic because it treats social enterprises as state enterprises, limits to extreme opportunities of SEs to access non-governmental funding and minimize the space for their productivity, and the fiscal regime is very restraining.

CSO are increasing their role in social services provision and according to data from the State Social Service there are 165 non-public service providers (66%), and 86 public service providers (34%). Most of the non-public service providers are civil society organizations.

3.3.2. State Funding for CSO-Provided Services

The Decision No. 789/2018 "For the establishment of the fund for the support of social enterprises and support forms by subsidiaries for social enterprises" stipulates the establishment of a fund with a total budget of 249,760,000 ALL (approx. 2,000,000 EUR). This fund will be distributed for the period 2019-2021 and CSOs that have received the status of social enterprise by the Ministry of Health and Social Protection.

Although the Fund is not launched yet, it foresees three forms of subsidies:

1. The activity of social enterprises – The fund covers up to 70% of the eligible costs, but not more than 1,500,000 ALL (approx. 12,000 EUR).
2. New jobs created for individuals from the marginalized groups – For each new job created, the social enterprises can benefit up to 100,000 ALL (approx. 800 EUR), which should be used for work tools, raw materials, and consumables. The subsidy is conditioned by the employment of individuals from marginalized groups with contract duration not less than two years.
3. Social and Health Insurance of social enterprise' employees belonging to disadvantaged groups – Social enterprises can receive annual funding up to 100% of the social and health insurance, provided that the duration of the employment contract is not less than two years.

The Decision No. 111, dated 23.02.2018 "For the Creation and Functioning of the Social Fund"⁶⁸ stipulates creation of a financial mechanism that will provide financial support to Local Self

⁶⁷ [Law no. 9643, dated 20.11.2006, as amended by Law no. 9800, dated 10.09.2007, Law no. 9855, dated 26.12.2007, Law no. 10170, dated 22.10.2009, Law No. 10 309, dated 22.07.2010, Law no. 22/2012, Law no. 131/2012 and Law no. 182/2014 "ON PUBLIC PROCUREMENT"](#)

⁶⁸ The Decision of Council of Ministers No. 111, dated 23.02.2018 "For the Creation and Functioning of the Social Fund", Official Gazette 27/2018 [Online] <https://qbz.gov.al/eli/fz/2018/27/adbe8f12-3962-4c64-a24d-2385c14d917f>

Government Units in order to improve the standards and administrative capacities of the existing social care services, as well as planning and creation of new services. The Ministry of Health and Social Protection will manage this fund and will finance at the amount of 90% of projects presented at first year, 60% at second year and 30% in the third year. In 2019, the Ministry financed 14 social services in 14 LGUs.⁶⁹ No information is provided on the amount distributed.

At local level, the Municipality of Tirana through its Social Care and Solidarity Programme aims to improve the standards of provision of existing social care services, planning innovative new social services, as well as developing social policies at local level. This programme includes also the Social Fund which will support implementation of projects that have in focus children, youth, people with disabilities, the elderly in need, social empowerment and economic stability of women heads of households and women in need through the expansion of the social services network provided by the General Directorate of Social Services, Tirana Municipality. Under this programme, in October 2019 the Municipality launched a call for proposals for targeting CSOs that provides social services⁷⁰. The overall aim of the call was improvement of quality of services for categories and groups in need. The total budget available was 24,000,000 ALL (approx. 190,000 EUR) for a period of 12 months. No information is available with regards to selection of the winners.

There are three (3) CSOs from the survey declaring that have benefited from institutional support grants through the subsidy scheme budgeted by the Ministry of Health and Social Protection and distributed from the Qark (Districts). The scheme targets CSOs that provide social services for marginalized groups, women and girls victims of trafficking and domestic violence, etc. It covers the wages of employees at 100% level.

3.3.3. Procedures for Contracting Services

The Law on public procurement does not discriminate against any private legal entity to apply. The awards are based on lowest price and economic offers. Entities have the opportunity to appeal the decision within 7 days after receiving the notification for refusal. CSOs are legal entities eligible to participate in public tenders.

Procedures for contracting services are done through competitive grant scheme and not through public procurement procedure. None of the surveyed CSOs had participated in any tender procedure.

3.3.4. Accountability, Monitoring and Evaluation of Service Provision

The public authorities which contract out services through CSOs, are entitled to exercise control and monitor both the quality of the services and funding. They have the right to inspect the premises in which services are provided, based on prior notification. After the inspection, a report is prepared by the inspecting authority and shared with the service provider, including recommendation for improvements if evidenced from the inspection.

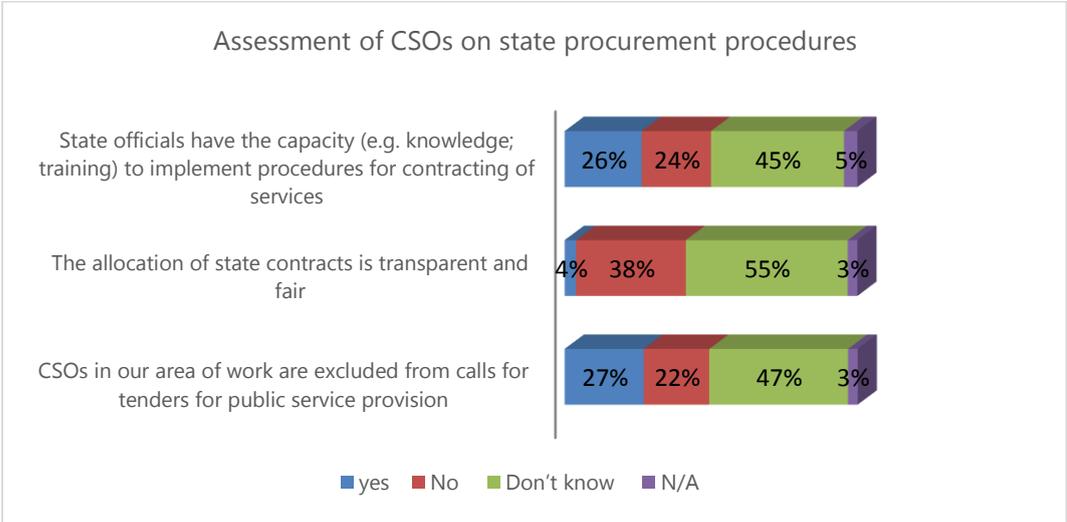
In practice, no reports from implemented inspections is available. As evidenced from the graphic

⁶⁹ The information is retrieved from the Albanian Telegraphy Agency website [Online] <https://ata.gov.al/2019/11/22/fondi-social-financohen-14-sherbime-te-reja-ne-14-bashki/>

⁷⁰ The information is retrieved from Tirana Municipality Website [Online] <https://tirana.al/artikull/thirrje-publike-per-organizatat-e-shoqerise-civile-per-dorezimin-e-projekt-propozimeve-ne-programin-kujdesi-social-dhe-solidariteti>

below, almost half of surveyed CSOs do not provide any assessment on the procurement procedures reaffirming the conclusion that they are not informed and not involved in these processes.

Figure 64: Assessment of CSOs on state procurement procedures



Conclusions and recommendations

With regards to Basic Legal Guarantees of Freedom, it is observed a tendency to increase state control over CSOs operations and to infringe in their independence, through the preparation and approval of several laws and regulations. To be mentioned are: - The new Law on Accounting and Financial Statements which introduces new reporting requirements for CSOs with a total assets or income over 30 million ALL (approx. 235,000 EUR). According to the law, this group of CSOs should prepare and publish a performance monitoring report. Although not officially regulated, the format of this report increases the reporting requirements from the state and is expected to include requests for information that is already provided by CSOs through other reports already submitted to state authorities. Also, it would allow for an assessment of the work of these CSOs by the state. While this is a normal requirement for CSOs that benefit from state funds or other forms of state support, in this case it is not justified and creates space for state intrusion in the work of CSOs. - The anti-money laundry and anti-terrorism legal package and its sub-legal acts, which introduce a number of risk indicators to measure the activity of CSOs. Completion of the legal package with a framework which determines the risk criteria is not accompanied by an awareness campaign and education of CSOs on these risks and the preventive measures they should take. As a result, there is no comprehensive understanding of how the government's anti-money laundry and counter financing of terrorism actions (AML/CFT) may impact different types of CSOs and the challenges that the sector is facing as a result of AML/CFT efforts. - The Law on Youth foresees the establishment of a National Youth Representation Organization, and the criteria that it should fulfill to be recognized as such from the institution responsible for youth, are approved through a decision of the Council of Ministers. This is considered a severe violation of the independence of CSOs from the state, and is in contradiction not only with the non-profit law, but also with the Civil Code and the organisation right as a Constitutional right (article 13). The Law foresees also a grant fund from the state budget dedicated to youth that will be used to finance projects of youth organisations and projects for youth. The criteria and the selection procedures are determined by a decision of the Council of Ministers. This is another concerning issue which further strengthen the independence of the national youth representation organisation from the government, turning it into a GONGO (a government-organised non-governmental organisation).

On the other hand, nothing has been done to address the long-term concern and recommendation of CSOs for the decentralization of the registration process, and the preparation and publication of an electronic register of CSOs, which are also included as priority issues in the Roadmap (the old and the new one).

Another negative development in this area regarding freedom of expression was the approval of the anti-defamation legal package, which was widely criticized by

media community and the international organisations as being in contradiction with the international standards and violated the freedom of expression. After the veto of the President to draft amendments of Law no. 97/2013 and Law no. 9918/08, the vote on these draft amendments by Parliament was postponed until the Venice Commission opinion, which is expected to be issued in 2020.

With regards to CSOs financial viability and sustainability, it continues to be a challenge for CSOs, with most of them depending on project-based funds from donors (mostly international). State support, either financial or non-financial one, remains weak, sporadic and allocated in a closed and non-transparent way. In the last years, there is an increased tendency on the establishment of social enterprises by CSOs as a mean to ensure sustainability and continuation of their activities, which is also supported by donors' strategies. These developments are not supported through an enabling legal framework for the establishment and functioning of social enterprises. The Law on Social Enterprises approved in 2016 and its legal sub acts presents real barriers for the normal functioning of social enterprises, such as: the lack of a clear definition of the concepts of "social enterprise" in the law, determination of a set of economic and social criteria accompanied with a range of penalties and ambiguities, considering of social enterprises as entities dependent on public funds, failure to take into consideration forms of support from local government and public procurement, and the condition to use profit entirely for the development and expansion of social enterprise' activity.

Although included as a policy area in the Roadmap, philanthropic activity is still not legally regulated, and not fully used as an opportunity neither by CSOs nor the individual and corporate donors.

Referring to financial treatment and benefits for CSOs, the main development in 2019 is the issuing of an instruction from the Ministry of Finance and Economy on VAT reimbursement for foreign donors' funds to CSOs, as part of all bilateral and multilateral agreements ratified by the Albanian Parliament or grant agreements approved by the Council of Ministers. The instruction was prepared based on the requests and suggestions of CSOs presented through a successful advocacy initiative led by Partners Albania. Its implementation is to be assessed in the following years.

With regards to state – SCOs cooperation, a new Road Map for the Government Policy towards a More Enabling Environment for Civil Society Development 2019-2023 was approved in 2019. A low number of CSOs participated in the consultation process, because of lack of information on the process, lack of trust that their opinions will be taken into consideration, or lack of interest to be engaged considering the failure with the implementation of the first document (Roadmap 2015-2018) at the end of which implementation period no assessment report was prepared and published. The new document is improved including concrete evaluation indicators and a foreseen budget for the implementation of its measures. It also foresees the participation of CSOs in the monitoring of its implementation. To ensure this, it is recommended to design a monitoring process and mechanisms that would enable a broader participation of CSOs in the monitoring.

Regarding mechanisms of cooperation, the National Council for Civil Society failed to prove itself as an effective advisory body. Even this year it was characterized by lack of interaction between members from civil society and their constituencies, with no discussions nor concrete actions to address concerning issues of CSOs and to

influence government decisions toward the creation of an enabling environment for civil society in the country.

Another important advisory structure where civil society is represented is the National Council for European Integration, whose membership selection procedures, as well as operation are unknown to CSOs. Moreover, even among its members, there is confusion and lack of information on these issues. CSOs are expected to play an important role in the implementation of the National Plan for European Integration, through their participation in the governing body and consultation tables to be established to this regards. The effectiveness of these bodies as well as the role and contribution of CSOs remain to be assessed in the following years when they will be operational.

In overall, the consultation processes should be improved and organized in compliance with the requirements and criteria set in the law. They should be considered as a mean to improve the documents taking into consideration the input of CSOs and other interest groups, and not just as a law requirement.

Annexes

1. Monitoring Matrix methodology

Operationalization and data collection

The Monitoring Matrix on Enabling Environment for Civil Society Development is a detailed theoretical framework based on international human rights and freedoms and regulatory practices of European countries and the EU. The framework is built around three core areas: Basic Legal Guarantees of Freedoms; Framework for CSOs' Financial Viability and Sustainability; Government – CSO Relationship, each divided in sub-areas. The areas are elaborated by standards, which are further specified through legal and practice indicators.

The **legal indicators** are measured by coding the presence or absence of rules, costs, procedures and obligations enshrined in legal regulation (primary and secondary) and policy frameworks enacted in the respective countries. To assure standardization and comparability of the data gathering process regarding the **practice indicators**, country researchers follow a methodology plan in which each of the 80 indicators are further operationalized in concrete mandatory and additional data types (i.e. operationalized dimensions of a practice indicator) to be reported across the countries. The **mandatory data** types tap into the core building blocks of a practice indicator as described in the Monitoring Matrix Toolkit. They mandate the reporting of optimal information without which one could not be able to evaluate the respective indicator. The additional data (operationalized dimensions) specified for each practice indicator are reported if country researchers want to deepen and further illustrate specific practice indicators (e.g. via case study; see next section on country-specific notes on methodology).

The data gathering strategy for the practice indicators is tailored to match the mandatory data types specified in the methodology plan. For each indicator there is a clear guidance on the data gathering strategy (instruments and sources) which should be utilized by country researchers. The specified data gathering instruments and sources follow an implicit hierarchy, in which publicly available factual data (e.g. official statistics) are the most important source of data for assessing practice indicators, followed by survey data from civil society organizations, which in turn is followed by relevant secondary sources (e.g. from CSOs reports, Ombudsman and media). Finally, at the end of the hierarchy are interview data, being subjective type of data, which covers smaller groups of respondents.

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

The **survey questionnaire** collects information on civil society organizations' experiences and perceptions on the key aspects of the enabling environment for civil society for the year 2019. The organizational survey includes 50 questions matching the mandatory data types (operationalized dimensions) on basic rights and freedoms, organizational and financial sustainability and civil society's cooperation with the state. The questionnaire dominantly consists of closed questions, and fewer follow-up open questions which require the respondents to elaborate on their experience. The same questionnaire is implemented across all countries, and only the formulation of few items is slightly adapted to the concrete country context to assure questions are understood by respondents. The survey is sent to lists of formal CSOs compiled and updated by country researchers on the basis of available registers or other alternative lists of active CSOs in the country (for more information see section on country-specific notes on methodology). The data collected from the survey is confidential and used strictly on anonymous basis. Individual responses are not connected to the organizations which answered the survey and reported only in an aggregate form.

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

Data analysis and interpretation

To analyse and interpret the data, country researchers use a unified data collection template which provides the indicators description (including the mandatory and additional data types for the practice indicators) and five category descriptions ranging from fully enabling to fully disabling environment provided under each indicator. The five category descriptions are specified for each legal and practice indicator in the Monitoring Matrix Toolkit, to enable researchers – based on the reported data – to choose one code (score) which most accurately summarizes the state of enabling environment concerning the respective indicator. In a first step,

the researcher reports the required data types collected through different sources in the template box. For example, they report factual data from primary sources complemented with descriptive statistics or cross tabulations based on survey data. In a second step, they choose one of five category descriptions specified for the respective indicator which best illustrates the reported data. The categories enable unified comparison of findings on the level of indicators across all country reports.

2. Notes on methodology and country challenges

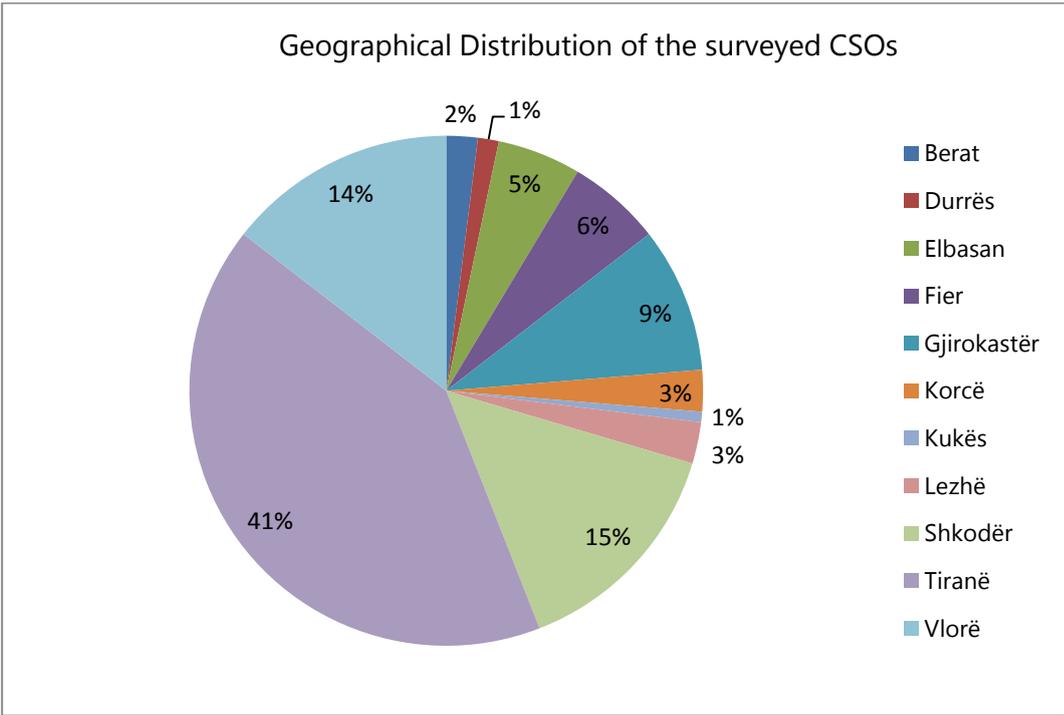
From the launch of the monitoring cycle in 2013, Partners Albania aimed at a participatory and inclusive process while carrying out the research for the preparation of the MM Report, presenting and discussing the Matrix with large number of CSOs representatives all over the country. This year, the survey for the preparation of the Monitoring Report was conducted in 14 cities and 250 CSOs have been contacted to give their input on the MM Report, out of which 152 CSOs responded to the survey. The questionnaire was administered through face to face, telephone and Skype interviews with executive directors and high level managers of CSOs.

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

Considering the challenge with the availability of official data on the sector (number of CSOs, form of registration, geographical distribution, proportion according to their field of activities, etc.) and based on the Law on the Right to Information, Partners Albania sent official requests to Tirana First Court of Instance and the General Directory of Taxation on the number of CSOs registered within these authorities in 2015. Official requests were also sent to all ministries on the amount of public funding distributed to CSOs during the year, and to the Albanian Parliament on the consultation of draft-laws with CSOs during 2019.

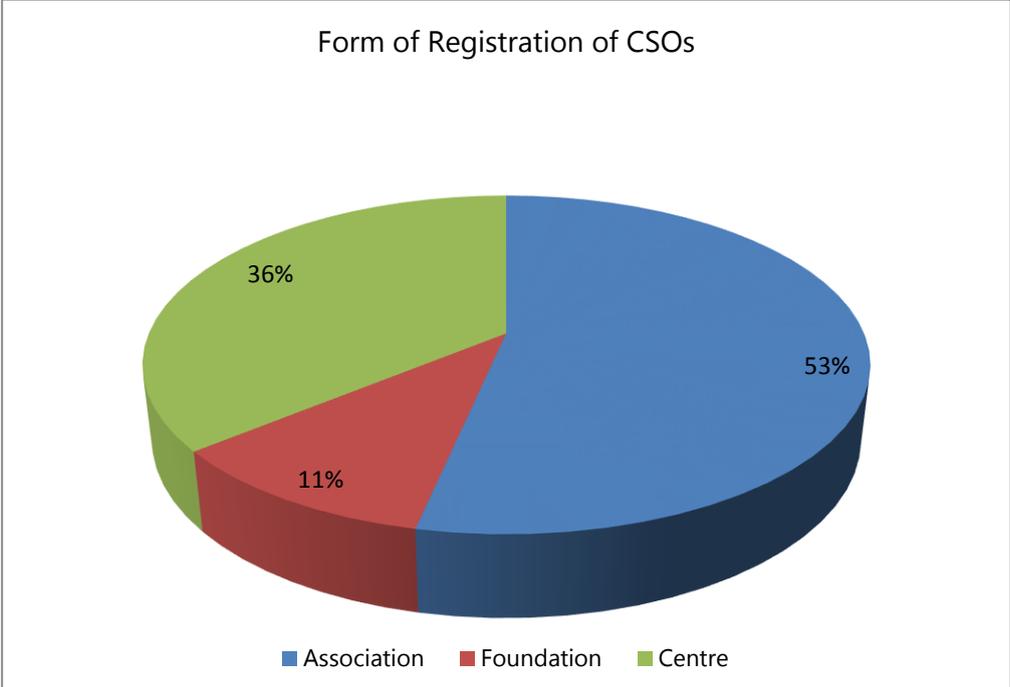
The survey was conducted in 11 Qarks. The selection of the sample was done in accordance with the number of CSOs located in each city, and on the willingness of the organizations to participate in the survey. Graphic 1 presents the geographical distribution of the organizations which participated in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

Graphic 1: Geographical distribution of the surveyed CSOs



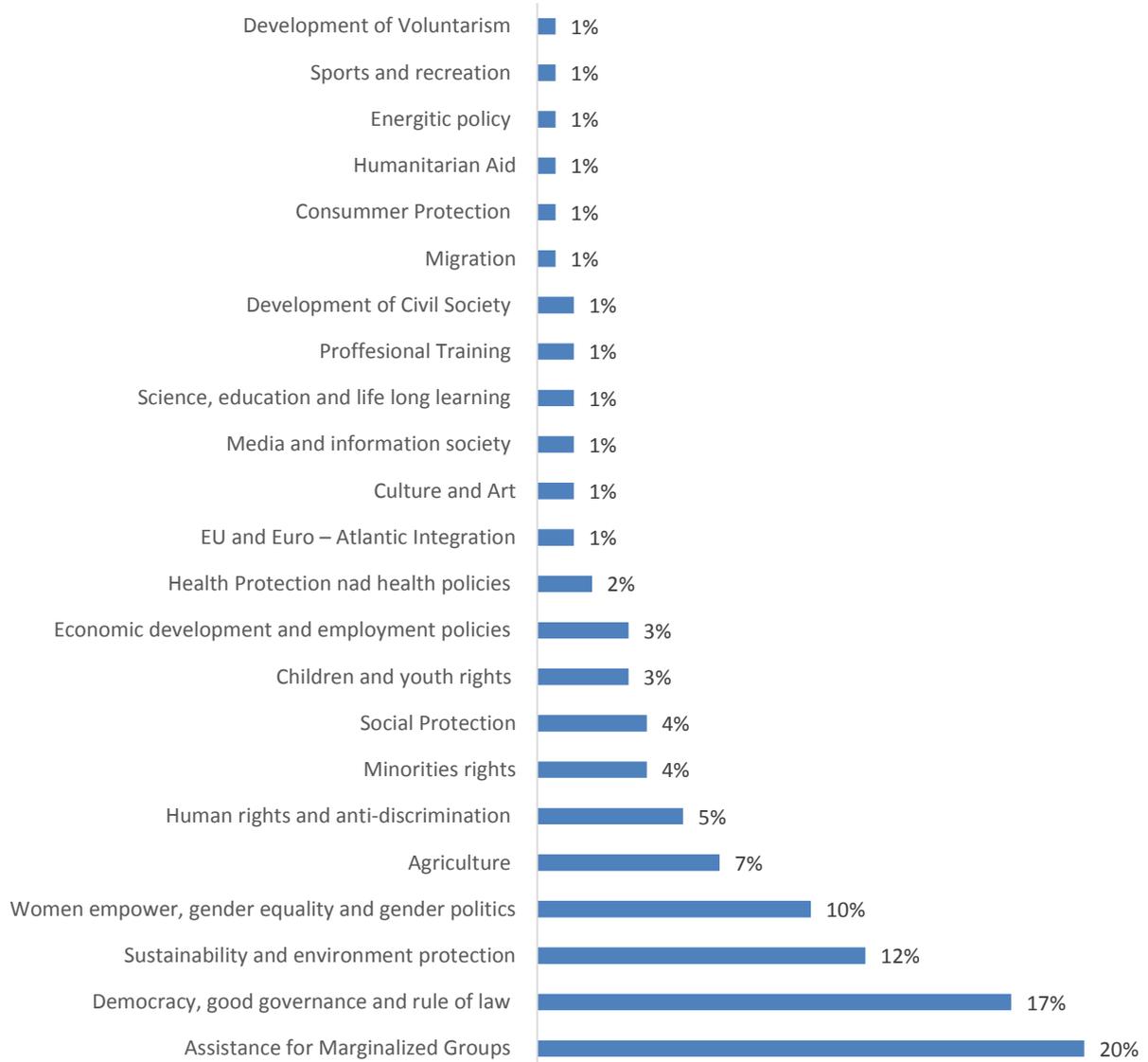
With regards to the legal form of registration, the sample is composed of 53% associations, 36% centres, and 11% foundations, reflecting the proportions of registered CSOs, as shown in Graphic 2.

Graphic 2: Form of Registration of the surveyed CSOs



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

The main areas of operation of CSOs



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