



Balkan Civic Practices # 9



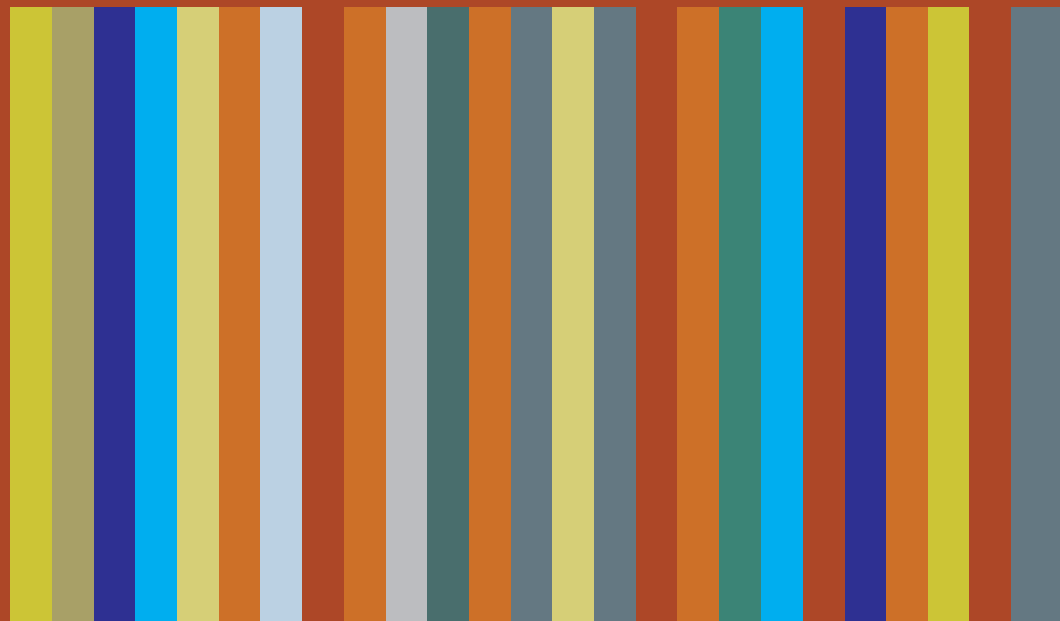
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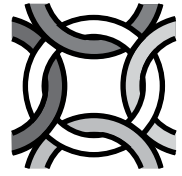
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MONITORING MATRIX ON ENABLING ENVIRONMENT FOR CIVIL SOCIETY DEVELOPMENT

THE TOOL-KIT





BALKAN
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Monitoring Matrix on Enabling Environment for Civil Society Development

The Tool-Kit



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Acronyms

BCSDN	Balkan Civil Society Development Network
CSO	civil society organization
CSDev	civil society development
CD	civil dialogue
CoE	Council of Europe
COM	Communication
EU	European Union
EC	European Commission
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECNL	European Center for Not-for-Profit Law
ICCPR	International Covenant of Civil and Political Rights
ICNL	International Center for Not-for-Profit Law
ICT	Internet and Communication Technologies
IPA	Instrument for Pre-accession Assistance
LGBT	Lesbian, gay, bisexual, and transgender community
NED	National Endowment for Democracy
NGO	Non-governmental organization
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Cooperation in Europe
Rec	Recommendations
UN	United Nations

Acknowledgment

Developing the Matrix has been the most exciting, but at the same time the most challenging endeavour BCSDN has taken on since it was founded in 2001. We are as proud of the joint work done by BCSDN members' and partners' experts as we are motivated to subject the Matrix to scrutiny by CSOs colleagues and stakeholders. Through this scrutiny and the forthcoming review after a 1 year "test" period, our hope is that we can truly respond to and embrace the need of CSOs in driving positive change and the development of the environment in which they operate. Such change and development will allow them to fully contribute to their communities in creating positive societal changes.

The development of the Monitoring Matrix on enabling environment for CSDev was made possible as part of a collective effort of CSO experts and practitioners from the BCSDN network of members and partners. The 11-member expert team spanned a variety of non-profit and CSO specific knowledge and experience, both legal and practical, and included experts from 10 Balkan countries. This enabled the Matrix to take into account and span over country-specific differences. Five expert working meetings were held in a period of 8 months during 2012, combined with regular e-mail and Skype exchanges to enable the complex issue of CSDev and enabling environment development to be for the first time defined in a coherent and unified manner. The experts involved in the development of the Matrix are (in alphabetical order): Julijana Hoxha (Partners Albania, Albania), Slavisa Prorok (CPCD, BiH), Luben Panov (BCNL, Bulgaria), Vanja Skoric and Nives Miosic Lisjak (GONG, Croatia), Taulant Hoxha (KCSF, Kosovo), Emina Nuredinoska (MCIC, Macedonia), Ana Novakovic (CRNVO, Montenegro), Miljenko Dereta and Maja Stojanovic (Civic Initiatives, Serbia), Tina Divjak (CNVOS, Slovenia) and Bařak Ersen

(TUSEV, Turkey). The Tool-kit was developed with the support of Luben Panov (BCNL, Bulgaria) and Katerina Hadzi-Miceva Evans (ECNL).

The Matrix has already been subjected to scrutiny by several target groups. In its initial version, the Matrix was presented and discussed at a Brussels policy event on 30th May, 2012 with European-level stakeholders, including the European Commission, DG Enlargement, European Parliament and European Economic and Social Committee (EESC). On 26th September, 2012, a special focus group meeting was held with representatives of Government agencies responsible for civil society cooperation and development from IPA countries. This group was tasked with testing the Matrix against expectations and capacities of responsible institutions before being put to the real monitoring scrutiny. Finally, the Matrix in its final version was subjected to public consultation in November 2012.

Special appreciation goes to the DG Enlargement IPA Civil Society Team, who provided invaluable input into the Matrix, and have shown interest in using it to monitor and benchmark country progress in civil society support under the IPA mechanism. The Croatian Government Office for Cooperation with NGOs, headed by Igor Vidacak, and the Serbian Government Office for Cooperation with NGOs, headed by Ivana Cirkovic, are credited for supporting the initial idea, and for providing feedback and comments against the realities faced by Governments so that the Matrix could have a true, concrete, but also realistic impact on the work of such government interlocutors for civil society. We would like to thank Lorenzo Fioramonti, Associate Professor of Political Science at the University of Pretoria (South Africa) and Senior Fellow at the Centre for Social Investment of the University of Heidelberg and at the Hertie School of Governance (Germany), for his help in raising and addressing methodology issues in developing the Matrix. We would like to thank Ben Evans (Greenacre Associates, England) for

providing his expertise in reviewing the Matrix and Toolkit.

The biggest appreciation and thanks goes to the team at the International Center for Non-profit Law (ICNL) and the European Center for Non-profit Law (ECNL) for their strategic cooperation, support and expertise, which helped guide the expert team through the methodological and thematic issues, as well as providing a wider international and legal perspective so that the Matrix and the Tool-kit can potentially serve civil society communities outside of the Balkans. Katerina Hadzi-Miceva Evans and Nilda Bullain take the biggest credit in providing concrete expertise in developing and revising the Matrix and the Toolkit.

Finally, we would like to thank the USAID, Pact. Inc, and ICNL for their support of the overall process of expertise, workshop and publication of this Tool-kit, which was provided under the Legal Enabling Environment Program (LEEP)/ Legal Innovation Grant. We also thank the Balkan Trust for Democracy (BTD) which financially supported part of the work of the experts.

Tanja Hafner Ademi
Executive Director
BCSDN

The Monitoring Matrix on Enabling Environment for Civil Society Development

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

This Matrix does not aim to embrace all enabling environment issues, rather those that the experts have found to be most important for the countries which they operate in. Therefore, the standards and indicators have been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They have been drawn from the experiences of the CSOs in the countries in terms of the legal environment as well as the practice and challenges with its implementation. Thus, it is recognized that other issue areas may need to be revised and added to reflect on emerging issues or areas of importance for other regions and countries in future reviews of the Matrix.

The development of the principles, standards and indicators have been done with consideration of the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries.

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

1. Basic Legal Guarantees of Freedoms;
2. Framework for CSOs' Financial Viability and Sustainability;

3. Government – CSO Relationship.

The areas are defined by key principles which are further elaborated by specific standards. In order to enable local CSOs, donors or other interested parties to review and monitor the legal environment and practices of its application, the standards are further explained through indicators.

The first area is 'Basic Legal Guarantees of Freedoms'. This addresses issues which are core to the existence of civil society – the fundamental freedom of everybody to join together, to improve their lives, and to pursue common goals and dreams: the freedom of association. The freedom of association, however, does not stand alone. It is guaranteed and should be exercised in conjunction with the freedom to assemble and the freedom of individuals or groups to express their opinions. The Matrix highlights the key principle that the three fundamental freedoms of association, assembly and expression should be guaranteed and exercised freely by everybody.

Once CSOs are formed, they require access to resources in order to sustain their activities. The Matrix details the types of resources that are typically used by CSOs, in the form of financial benefits (tax benefits, income generation, philanthropy and state support) and human resources (reliance on employees and volunteers). The main principles in this section highlight that CSOs and donors should enjoy favourable tax treatment to support CSO's ability to generate their own income and mobilize local resources. In case of state support, the key principle is that it should be provided in a transparent way and used in an accountable manner. The third principle emphasises the need for state policies and the legal environment to stimulate and facilitate development of sustainable human resources for the sector via employment, volunteering and other engagement with CSOs.

The third and last area is focused on the relationship between CSOs and the government, although the principles could also apply to the relationship with parliament and local authorities. This is perhaps the most

challenging area, because the application of the principles and standards varies greatly between countries depending on a variety of challenges, the most significant being the attitude of public authorities towards civil society and the ability of civil society to be a credible and strong partner. When defining the standards and indicators, the experts considered the significant diversity in practice, but were also mindful of the minimum which would be necessary to ensure that there is meaningful relationship building for the good of the citizens.

This third area is divided in three sub areas. The first sub-area deals with the framework and practices for cooperation, and the main principle requires an established strategic approach to furthering state-CSO cooperation and CSO development as a foundation for the relationship. The second sub-area addresses the increasing demand to ensure that policies and laws are made with high participation by citizens and CSOs. The third area incorporates the new area of increased collaboration and inclusion of CSOs in provision of various services which are contracted out or delegated to CSOs (e.g., health, social services, research, etc).

The indicators of the matrix do not aim to create points or ranks among countries. Rather, they are descriptive indicators. They aim to guide the interested parties (CSOs, governments and donors) in understanding better the legal and policy environments and its practical implementation against the international standards and practices. The goal is to help them to draw lessons as to what are the areas that require further reform, how to address the challenges and to help them prioritize the issues for reform.

Finally, as a background approach to development of the Matrix is based on ECNL's framework to assess and measure enabling environment in various countries; the full description of each level and component is available from ECNL.¹

.....
1 www.ecnl.org

Level 1 – Minimum standards. In countries with repressive regimes or conflict/post-conflict situations the aim should be to establish the minimum standards in law and in practice that are required by international law (most often conventions that the partner governments have signed, such as the ICCPR, ECHR). The Defending Civil Society Report spells out those minimum standards clearly, including (i) freedom of association; (ii) freedom of expression; (iii) right to operate free of unwarranted state interference; (iv) right to access resources; (v) right to communication and cooperation, including internationally; (vi) state's duty to protect.

Level 2 – CSO sector development. In countries where minimum standards are guaranteed but the CSO sector is still evolving and needs support for its development, it is important to recognize that it is also the responsibility of the government to invest in this process. Usually in such countries CSO sector development (e.g., capacity building so they can run more effective organizations and projects) is financed by international donors which leads to a general dependence on foreign funding. If the aim is that there be meaningful partnership between government and civil society, this trend has to be countered by strategic enabling environment investments and interventions at this stage by the governments as well as donors.

Level 3 – Partnership. In countries where there is a broad based CSO sector that has a certain level of its own resources, and where there has been sufficient diversification (i.e. emergence of segments of CSOs, such as advocacy and service oriented, community organizations, foundations, think tanks etc.), the focus can be on making the public-private partnership more effective so that the citizens can be the ultimate, true beneficiaries in this relationship. It is at this stage where it makes most sense to propose such things as institutionalized mechanisms for cooperation, or contracting CSOs for social service delivery.²

2 This is an excerpt from ECNL submission to the EC "Consultation Paper Preparing the European Commission Communication on Civil Society Organisations in Development", 2012. For more information, contact ECNL.

Area 1:

**Basic Legal
Guarantees
of Freedoms**

Sub-area 1.1: Freedom of association

Principle: Freedom of association is guaranteed and exercised freely by everybody

STANDARD 1	INDICATORS
<p>All individuals and legal entities can freely establish, join and participate in informal and/or registered organizations offline and online</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① There is a legal framework according to which any person can establish associations, foundations and other types of non-profit, non-governmental entities (e.g., non-profit company) for any purpose. ② The legal framework allows both individual and legal persons to exercise this right without discrimination (age, nationality, legal capacity, gender etc). ③ Registration is not mandatory, and in cases when organizations decide to register, the registration rules are clearly prescribed and allow for easy, timely and inexpensive registration and appeal process. ④ The law allows for networking among organizations in the countries and abroad without prior notification. <p>Practice:</p> <ul style="list-style-type: none"> ① Every individual or legal entity in practice can form associations, foundations or other non-profit, non-governmental organizations offline or online. ② Individuals and legal entities are not sanctioned for not-registering their organizations. ③ Registration is truly accessible within the legally prescribed deadlines; authorities decide on cases in a non-subjective and apolitical manner. ④ Individuals and CSOs can form and participate in networks and coalitions, within and outside their home countries.

EXPLANATION

Legislation

① The guarantees of freedom of association should be contained in the Constitution of a country, and also further developed and made functional through a law which governs the whole lifecycle of organizations from establishment, operation, governance, activities through to termination or dissolution.

According to international human rights law, freedom of association extends to any person, whether it is a citizen, foreigner, refugee, women, child, and person with disabilities or other. The freedom of association does not only mean that one can establish an association or other legal non-profit form (organization/

CSO) but that one can join (or not) an existing organization/CSO as a member taking part in its everyday activities or governance. There should not be a legal obligation to become a member of an association in order to participate in the work of an association. At the same time, organizations/CSOs should not be prevented from limiting membership to certain categories or groups. Related to this, there should not be a legal limitation on the number of organizations that can exist which have similar purposes, where people can join to achieve a certain result or goal in the field, or to express their views (in other words, the existence of one organization dealing with women's rights should not mean that other organizations for women's rights cannot exist).

This freedom does not extend only to one legal form – association. It also embraces the right to form or join foundations, political parties, religious organizations, trade unions, employer associations, non-profit companies, and various other forms of association.³

The objectives of registered CSOs should be diverse and the only limitations are the ones recognized by international law. CSOs should be allowed to operate in different areas and pursue all legitimate aims including the protection of human rights, prevention of discrimination, etc. A CSO can even promote a change in the constitutional order but only: “a) if this is done in a legal manner by democratic means; and b) if the wanted change is in itself compatible with basic democratic principles.”⁴

The freedom of association extends also to association through the Internet or different social groups such as Facebook. Based on this, blocking Internet or certain applications (Skype, Facebook) through which groups can form or undertake activities would be considered a violation of this freedom.⁵

2 Freedom of association does not only extend to individuals but also to legal entities (e.g. corporations). Therefore, laws in the country should allow for businesses or other types of legal entities to establish or join associations, foundations, federations or other types of non-profit, non-governmental entities. Further, as noted above, any person, regardless

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3 As noted in the Introduction, the Matrix discusses predominantly issues surrounding freedoms to form associations, foundations and non-profit companies as the most common forms in which the right is expressed. The experts recognize the existence of other forms (e.g., business associations, trade unions) and that some issues in this Matrix also extend to those other types of entities (e.g., participation in policy-making).

4 Mataga, Zvonimir, *The Right to Freedom of Association under the European Convention on the Protection of Human Rights and Fundamental Freedoms*, October 2006, p.10.

5 Statement by Maina Kiai, Special Rapporteur on the rights to freedom of peaceful assembly and of association, at 20th session of the Human Rights Council.

of gender, nationality and age has the right to join (or not to join) an organization. While there may be some requirements with regard to the legal capacity and the legal age of the persons that can become founders of an organization, those requirements should not prevent them from freely deciding to become members, join or govern their CSOs.

.....
According to the UN Convention on the Rights of Persons with Disabilities, people with disabilities, including those with intellectual disabilities and psycho-social (mental health) disabilities, have the right to participate in political and public life. The right is unqualified, meaning that it applies to everyone, regardless of irrelevant factors such as gender, type of disability, severity of disability, and disability related legal status such as guardianship⁶.
.....

3 There should be no legal requirement for registering CSOs and the decision to do so should rest solely with the founders/members. An example of a violation of this principle is the case where people who associate are fined or persecuted should they start with implementation of activities before their registration as a legal entity is confirmed.

Where founders decide to register the organization, the procedure for acquiring legal status is clearly described in a law. Organizations that complete all the legal requirements are granted legal personality.

There are no burdensome requirements, such as the need to have a large number of founders (good practice is between 2 and 5 founders). The fees collected by the registering agency (court, ministry, central registry, etc.) are not considered high compared to the living standard in the respective country. They do not discourage application and everybody should be able to afford to pay them.

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6 Comments developed by the Mental Disability Advocacy Center (2013).

Registration decisions are made quickly (between 5 and 30 days) and applicants are informed about the decision in writing. Negative decisions for registration are subject to an appeal in a court or another independent body. In cases where there is no decision within the prescribed deadline, there should be an assumption that organization can start operating and this is accepted by other state bodies (if there is a need for a following registration e.g. with the social security agency, it accepts that the organization is registered and does not require a written registration decision).

4 Freedom of association extends to networks of organizations, their coalitions, federations or other types of unions. Communication with groups outside of the country should be possible and there should be no limitations. It also extends to online association. Blocking social network initiatives with the attempt to hinder communication between people/organizations has to follow the allowed limitations which apply to freedom of association. An example of limitation on the right to join networks or associate outside of the country are requirements for CSOs to inform or gain permission from state authorities to do so, and face fines if they fail to do it.

Practice:

1 There are various types of CSOs in practice; there are examples of organizations set up by women, and people with limited legal capacity or other disadvantaged groups. Companies and individuals or other groups can form associations, foundations and non-profit entities – there are examples of such or in case there are not, there are no complaints that companies cannot be founders or co-founders of CSOs. In addition, by being a founder or president who does not receive remuneration, the individual is not considered an employee per se, and does not lose unemployment benefits or status. Moreover, the state does not consider working for a CSO to mean that the person is undertak-

ing a public function and is therefore subject to the same scrutiny as a public official.

There are no restrictions to Internet applications, Facebook groups are not banned, web sites of organizations or accounts blocked or hacked, their passwords are not stolen, or entries changed, and Skype or other similar chat tools are not monitored. Groups or individuals use ICT tools to perform joint activities and there are no complaints of restrictions by the government or harassment of moderators (informal leaders of the groups) or members of groups.

2 The government in practice does not require founders to register organizations in order to undertake activities or impose fines for not registering legal entities. There are no cases or complaints of unreasonable or unjustified denials of registration. There are unregistered organizations in society. As a good practice, unregistered organizations are present in public life, and cooperate with other CSOs or state bodies.

3 There are no reported cases of political influence over the registration process. Decisions are based on the law and not based on subjective interpretation of the legal requirements. No additional documents, other than the ones described in the law, are required for registration.

4 The practice is enabling, and there are examples of free networking among organizations both within and outside of the country. Organizations can join international umbrella groups or federations, join networks online by using various ICT tools, can undertake activities (by going to or inviting network members in the country, organizing them at national, regional or international level) and promote their goals. Registration of networks is easy. Organizations don't face burdensome bureaucratic requirements designed to make networking difficult, such as requiring organizations to notify certain state body if they plan to join a network.

STANDARD 2	INDICATORS
<p>CSOs operate freely without unwarranted state interference in their internal governance and activities</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① The legal framework provides guarantees against state interference in internal matters of associations, foundations and other types of non-profit entities. ② The state provides protection from interference by third parties. ③ Financial reporting (including money laundering regulations) and accounting rules take into account the specific nature of the CSOs and are proportionate to the size of the organization and its type/scope of activities. ④ Sanctions for breaching legal requirements should be based on applicable legislation and follow the principle of proportionality. ⑤ Restrictions and the rules for dissolution and termination meet the standards of international law and are based on objective criteria which restrict arbitrary decision-making. <p>Practice:</p> <ul style="list-style-type: none"> ① There are no cases of state interference in internal matters of associations, foundations and other types of non-profit entities. ② There are no practices of invasive oversight which impose burdensome reporting requirements. ③ Sanctions are applied in rare/extreme cases; they are proportional and are subject to a judicial review.

EXPLANATION

Legislation:

① There are very limited grounds for state interference with freedom of association and those are prescribed in international law. Most relevant for European countries is the ECHR and the case law of the European Court for Human rights which prescribes the grounds for limitations and provides further interpretations through case law. According to the ECHR, the limitations to the freedom of association are allowed if: (1) they are prescribed by law; (2) pursue a legitimate aim; and (3) are necessary in a democratic society.

Further to point 2, ECHR allows the following aims as legitimate: (1) in the interest of national security or public safety; (2) for the prevention of disorder or crime; (3) for the protection of

health or morals; and (4) for the protection of the rights and freedoms of others.

CSOs are autonomous from the state and the law should guarantee their right to regulate their internal structure and operating procedures. For example, the law should not allow the state to interfere in the internal management of their affairs. Requirements such as the mandatory participation of a state representative in the meetings of an organizational body would violate this indicator. Similarly, the law should not allow states to interfere in the process of appointment of Board members.

The law should not require that CSOs receive advance approval from the state for carrying out their activities. The state may require those organizations to undergo certain registration/licensing for certain areas when organizations

want to work in or where interests of disadvantaged groups should be protected (e.g., services for children). However, those situations must be clearly prescribed by law and CSOs should not be discriminated against compared with other providers of such services (see Sub-area 3.3 for further discussion on this).

2 States have not only the negative obligation – not to violate the freedom of association and to allow the operation of CSOs, but also a positive obligation – to protect freedom of association, including preventing third parties from violating the freedom of association. This would mean that the state has set up measures to protect the right – e.g., police force to protect people against violations of their rights by state or non-state actors, and an independent judiciary able to provide remedies.⁷ Thus, if a certain group's operation is hindered by another (e.g., Roma associations or LGBT groups), the legal framework should have guarantees that the state can protect their operation.

3 The regulations on CSO reporting to the state should be based on the specific characteristics of the work CSOs do. The reports they submit should be adapted to the CSOs activities. A good regulatory practice is to have separate legislation on non-profit accounting and reporting forms for CSOs which are different from the reporting forms of businesses. In this way, the information collected by the authorities would give a better picture of what the CSO sector is actually doing without adding unnecessary burden on the sector. A good regulatory practice is to introduce lighter reporting requirements for small organizations that fall below a certain threshold.

CSOs should not be subject to stricter requirements with regard to money laundering regulation than other similar subjects e.g. businesses or other types of non-profit

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⁷ World Movement for Democracy at the National Endowment for Democracy and ICNL, *Defending Civil Society Report*, 2nd edition, 2012.

organizations. Regulations requiring specific financial reporting or specific measures regarding counter-terrorism requirements which are not proportionate to the size of the organizations and which treat CSOs differently from other providers would be in violation of this indicator.

4 All sanctions to which CSOs are subject should be prescribed by law and should be clear to avoid potential misinterpretation in practice. Sanctions for CSOs should be the same or lower as compared to the sanctions of companies for similar breaches. If there are material sanctions (fines, etc.) these should take into consideration the financial situation of the organization as well. All sanctions should be proportionate to the breaches made. Fines to responsible individuals should be exceptions; they should only be applied in case of intentional and serious breach of law. Laws should not impose higher fines on responsible individuals than on the organization.

5 The law should allow for CSO to choose to dissolve at any time by a resolution of the highest governing body. The law should prescribe precisely and narrowly the situations where organization have to dissolve and grounds for involuntary termination (e.g., in cases of violations of statute or law). Termination should occur only as a last resort and appeal should be allowed. As a good practice termination should be decided in a court case. It should be applied only after previous sanctions have been exhausted and there is no other way to remedy the situation. An example of a disproportionate termination is a case in which an organization is terminated for failing to submit its annual report on time. Even if this is considered a serious violation, the organization should be given the chance e.g. to submit its report or pay a fine. Only if failing to do so should the sanction of termination be considered.

Practice:

1 Practice shows that CSOs operate independently and there are no reports where CSOs have been subject to threats from the government in their work. There are no examples of government intrusion into the premises of private legal entities, or 'surprise' visits/inspections to the offices or board meetings. Requirements for CSOs to work only with specific government-controlled banks or use only government-provided services would not be in line with this indicator. There are no interferences especially against organizations which are critical of the government. There should be no examples of state attempts to harass such critical organizations.

2 State interference/harassment could take the form of excessive audits of an organization with the purpose of putting administrative burden and sanctioning the organization. Other examples include targeted inspections and excessive control of employment regulations or other administrative measures.

3 Sanctioning an organization should have the aim of remedying a breach and not hindering the operation of the organization. When imposing the sanction, attention should be paid to the specific character of the CSO and the type of the violation. The practice should show that when there are differences between minimum and maximum penalties the fines are applied with consideration of the size of the organization, the gravity of the breach and in general to show that there is a tendency to apply lower rather than higher fines. Decisions to restrict the rights or terminate organizations in practice take place in a judicial process in an apolitical manner, decisions are explained and organizations can appeal against them.

STANDARD 3	INDICATORS
<p>CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① Legislation allows CSOs to engage in economic activities. ② CSOs are allowed to receive foreign funding. ③ CSOs are allowed to receive funding from individuals, corporations and other sources. <p>Practice:</p> <ul style="list-style-type: none"> ① Legislation on CSOs engaging in economic activities is implemented and is not burdensome for CSOs. ② There are no restrictions (e.g. administrative or financial burden, preapprovals, or channeling such funds via specific bodies) on CSOs to receive foreign funding. ③ Receipt of funding from individuals, corporations and other sources is easy, effective and without any unnecessary cost or administrative burden.

EXPLANATION

Legislation:

① “Economic activities” means the active sale of goods or services, referred to as “trade or business” activities; it entails sale of goods and services that are pursued with frequency or continuity.⁸ This can include: fees for services, sales, rents, investments and business ventures. Legislation should allow CSOs to engage both directly (as a CSO) and indirectly (by registering or owning shares of a commercial company) in economic activity. Internationally this is considered an important right as it allows CSOs to generate income through developing their own services, to improve reach to their communities, to adjust services to meet real needs, and to have a stable income source which is independent from the state.

There could be some limitation to engaging in a direct economic activity. For example: the economic activity may have to be related to the mission of the organization (e.g. an organization for people with disabilities could

provide transportation services to such people, or association for blind people can sell walking canes); the economic activity may have to be additional to the non-profit activity; or rules may require that all income should be used for the purposes of the organization. There should be a restriction on distributing net revenues to private parties who may be in a position to control the organization for personal gain, such as founders, members, officers, directors, agents, or employees (prohibition on the distribution of income). State authorities should provide guidance on engagement in economic activities to facilitate the process.

② Legislation should not limit the possibility for CSOs to receive funding from foreign public or private sources. The treatment of such funding should be similar to the treatment of funding received from local sources. Any legal requirements for registration of foreign grants (except funding from bilateral donors which falls under the EU regulations), their preliminary approval from the government, requirement to channel foreign funding through state-controlled body or bank, are inconsistent with this indicator.

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⁸ Survey of the Treatment of Economic Activities of Non-Profit Organizations in Europe, ICNL, ECNL, MCIC, 2007

3 There is no legal limitation that would prohibit the receipt of funds from any private or commercial person, the state, local authorities, foundations or other legal entities, agencies, etc. In other words, CSOs should be able to raise funds from individuals and corporations, and take part in public procurement or grant or service tenders by the state or donors.

Practice:

1 CSOs engage in economic activities. They can set up companies for that purpose or directly engage. The state authorities do not impose implementing regulations that will limit this right. When engaging in economic activity, CSOs are only subject to any licensing/registration or other specialized regime if it is required for everybody that engages in the respective field of work.

2 CSOs receive foreign funds and can use them for any purpose for which the grant is given. In the case of receipt of foreign funding, there are no specific administrative procedures that obstruct organizations from receiving foreign funds. There are no special taxes for foreign funds received. If VAT exemption is provided, the procedure for obtaining it is simple, easy-to-implement and not too burdensome.

3 CSOs can freely receive funding from different private sources, and do not face complicated procedures to access the funding.

Sub-area 1.2: Related Freedoms

Principle: Freedoms of assembly and expression are guaranteed to everybody

STANDARD 1	INDICATORS
<p>CSO representatives, individually or through their organizations, enjoy freedom of peaceful assembly</p>	<p>Legislation:</p> <ol style="list-style-type: none"> ① The legal framework is based on international standards and provides the right for freedom of assembly for all without any discrimination. ② The laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies. ③ The exercise of the right is not subject to prior authorization by the authorities, but at the most to a prior notification procedure, which is not burdensome. ④ Any restriction of the right based on law and prescribed by regulatory authority can be appealed by organizers. <p>Practice:</p> <ol style="list-style-type: none"> ① There are no cases of encroachment of the freedom of assembly, and any group of people can assemble at desired place and time, in line with the legal provisions. ② Restrictions are justified with explanations of the reason for each restriction, which is promptly communicated in writing to the organizer to guarantee the possibility of appeal. ③ Simultaneous, spontaneous and counter-assemblies can take place, and the state facilitates and protects groups to exercise their right against people who aim to prevent or disrupt the assembly. ④ There are cases of freedom of assembly practiced by CSOs (individually or through their organizations) without prior authorization; when notification is required it is submitted in a short period of time and does not limit the possibility to organize the assembly. ⑤ No excessive use of force is exercised by law enforcement bodies, including preemptive detentions of organizers and participants. ⑥ Media should have as much access to the assembly as possible.

EXPLANATION

Legislation

① Freedom of peaceful assembly is a fundamental human right, enshrined in the International Covenant on Civil and Political Rights, the ECHR, the Charter of Fundamental Rights of the European Union and other international and regional treaties, and

is inextricably intertwined with the freedom of association. The State has a positive obligation to facilitate and protect peaceful assembly – freedom of assembly insofar as possible should be enjoyed without restrictions, guaranteed by law and should not be preempted by administrative procedures or undue regulation.⁹

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⁹ OSCE/OIDHR-Venice Commission Guidelines on Freedom of Peaceful Assembly, 2nd edition, 2010

The law should guarantee freedom of assembly to all, individuals and legal entities, stateless persons, refugees, foreign nationals, asylum seekers, migrants and others.

2 The law should allow for peaceful assemblies to be held at the same time and in the same place (simultaneously) or for counter-assemblies (those of opposing groups) to take place. In case several groups plan to hold assemblies in the same place and the same time, they should be entitled to do so if physical circumstances permit. In case of counter-assemblies, the law has to recognize the state's responsibility to undertake measures to protect the participants in the peaceful assembly from individuals or groups of individuals, including *agents provocateurs* and counter demonstrators, who aim at disrupting or dispersing such assemblies.

3 The law should contain a presumption in favor of holding assemblies. Those seeking to assemble should not be required to obtain permission to do so. If such requirement exists it should be reduced to notification (information that it will happen), rather than authorization (asking for permission to do it). There should be no limitations on advertisement of the event before such permission is acquired. Requirements for notification may be justified by the state's duty to protect public order, public safety, and the rights and freedoms of others.

4 The law should guarantee the right to appeal against decisions to limit the assembly.

Practice:

1 There are cases of freedom of assembly practiced by CSOs (individually or through their organizations) without prior authorization. When notification is required it is submitted in a short period of time and does not limit the possibility to organize the assembly. There are no complaints about the restriction on assembly, groups are not required to ask for authorization, nor does the police require one when assemblies take place. Any restriction follows the legally prescribed cases for the limitation. Assemblies are organized in any area the groups want. A violation of this right will be situations where the state deliberately books a place in order to prevent assemblies to be organized. As a general rule assemblies should take place within "sight and sound" of their target audience.

2 Regulatory authorities provide prompt, detailed and objective written explanation for any limitation to assembly. Where there is arbitrary denial or a failure of the regulatory authorities to respond promptly, then this is considered as an excessive restriction on freedom of assembly. *"Where there is a failure to respond promptly, then the law should presume that the organizers of the assembly may proceed according to terms of notice."*¹⁰ Where the authorities restrict this right, there is a possibility for appeal.

3 The state does not interfere in spontaneous assemblies by raising the argument for a need to notify the authorities. Simultaneous and counter-assemblies can take place and the law-enforcement authorities exercise necessary control to protect peaceful protestors, accepting that the assembly should take place within sound and sight of the target group. Assemblies are not prohibited at large because there is possibility for counter-

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 10 World Movement for Democracy at the National Endowment for Democracy and ICNL, *Defending Civil Society Report*, 2nd edition, 2012

assembly, rather protective methods are used to separate the groups, and minimize potential violence and disruption of public order.

4 CSOs or individuals organize assemblies and these are not dispersed because there are no prior authorizations issued by the state authorities. In case of spontaneous assemblies prior notification is not used as reason to disperse peaceful assemblies.

5 The participants of peaceful assemblies are not subject to detention. There are no cases where organizers of assemblies or known protestors are detained in order to prevent assembly from happening. Law enforcement officials do not use force against participants nor use such methods to disperse peaceful protests. There are no complaints of disproportionate use of force to the threat imposed.

6 As the main purpose of any assembly is to convey a message to the target group, media should be guaranteed access to the assembly.

STANDARD 2	INDICATORS
<p>CSO representatives, individually or through their organizations enjoy freedom of expression</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① The legal framework provides freedom of expression for all. ② Restrictions, such as limitation of hate speech, imposed by legislation are clearly prescribed and in line with international law and standards. ③ Libel is a misdemeanor rather than part of the penal code. <p>Practice:</p> <ul style="list-style-type: none"> ① CSO representatives, especially those from human rights and watchdog organizations, enjoy the right to freedom of expression on matters they support and they are critical of. ② There are no cases of encroachment of the right to freedom of expression for all. ③ There are no cases where individuals, including CSO representatives, would be persecuted for critical speech in public or private. ④ There is no sanction for critical speech, in public or private, under the penal code.

EXPLANATION

Legislation:

① Freedom of expression is a fundamental freedom which is regulated in several international documents including the ECHR and the EU Charter on Fundamental Rights. This is an important freedom for individuals and CSOs. It is particularly relevant for CSOs which are engaged in human rights and democracy promotion as it allows them not only to speak freely but also to engage in advocacy. The legal framework should guarantee this right to all. There are no legislative initiatives to limit the right to receive information and the freedom of expression, including on the internet.

② Any limitation to the freedom of expression should be prescribed by law, legitimate and necessary. An indication can be the comments to the existing laws by various experts, which recognize that the laws are in line with the international standards. Some violations that should be avoided include: the law should not require permission to speak publicly or deliver presentation/lecture;

and there should not be a requirement that publications of organizations must be pre-approved. The law should not contain broad, confusing statements that may give rise to subjective interpretation. The courts protect the right to freedom of expression when it is violated by undertaking cases and deciding in a timely manner.

③ The penal code does not regulate libel. For purpose of the Matrix, this indicator should be considered as much as it affects CSOs and its members in exercising their freedom of expression.

Practice:

1 There are continuous cases in practice where human rights and watchdog organizations can exercise their right to speak, criticize and undertake action to achieve their mission, which may target state policies. The tools for their communication (web site, emails, Facebook pages) are not blocked nor hacked.

2 There are no unjustified complaints from the groups, organizations, media or individuals that they are in any way prevented from expressing their opinions or views, within legal limitations.

3 There are no unjustified complaints, media reports or reports by national or international organizations that groups, organizations or individuals are threatened or persecuted, or that they fear for their safety.

4 Court cases regarding libel are dealt with at the misdemeanor courts. There is no prison sentence for critical speech. Compensation adjudicated in such cases is reasonable.

STANDARD 3	INDICATORS
<p>Civil society representatives, individually and through their organizations, have the rights to safely receive and impart information through any media</p>	<p>Legislation:</p> <ol style="list-style-type: none"> ① The legal framework provides the possibility to communicate via and access any source of information, including the Internet and ICT; if there are legal restrictions they are exceptional, limited and based on international human rights law. ② The legal framework prohibits unjustified monitoring of communication channels, including Internet and ICT, or collecting users' information by the authorities. <p>Practice:</p> <ol style="list-style-type: none"> ① There are no cases in practice where restrictions are imposed on accessing any source of information, including the Internet or ICT. ② The internet is widely accessible and affordable. ③ There is no practice or cases of unjustified monitoring by the authorities of communication channels, including the Internet or ICT, or of collecting users' information. ④ There are no cases of police harassment of members of social networking groups.

EXPLANATION

Legislation:

① The law should not contain any prohibition about the way the internet or ICT is used in the country or beyond that is not justified under wider international standards. Internationally, the following legal provisions are used to limit the right: criminal laws applied to Internet expression; laws that impose liability on intermediaries for the failure to filter or block content deemed illegal, requirements for internet cafes to take information/photo of users of the internet; prohibitions on the use of Facebook, Skype, YouTube, Twitter or other ICT.

② The legal framework (specific provisions in the relevant laws, criminal law, or acts adopted to regulate communication and ICT) should contain specific guarantees against any illegal monitoring of communication channels and collecting users' information.

Practice:

① Restrictions on the right can include: technical measures such as blocking and filtering certain sites, whether the web site

of the organization or social media. Practice should show that there are no complaints or cases.

② Internet access is cheap and technically available for all. The government encourages and supports the setting up of public and other spaces with free internet/Wi-Fi access for all citizens to use. There are no requirements for users' identification and data log keeping at the public points of access to Internet. While this indicator might be broad and general, it is important to testify to the overall situation in which CSOs work and have access to the internet/ITC.

③ There are no complaints, media reports or court cases, about cases of unjustified monitoring and collecting users' and traffic information, especially not without court warrant based on law which complies with international standards.

④ There are examples of forming groups online via social networks (e.g., Facebook). Individuals are not persecuted or detailed for belonging to a social network group, and there are no cases of blocking emails of social network group members.

Area 2:

Framework for CSO Financial Viability and Sustainability

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

Principle: CSOs and donors enjoy favourable tax treatment

STANDARD 1	INDICATORS
<p>Tax benefits are available on various income sources of CSOs</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs. ② The law provides tax benefits for economic activities of CSOs. ③ The law provides tax benefits for passive investments of CSOs. ④ The law allows the establishment of and provides tax benefits for endowments. <p>Practice:</p> <ul style="list-style-type: none"> ① There is no direct or indirect (hidden) tax on grants reported. ② Tax benefits for economic activities of CSOs are effective and support the operation of CSOs. ③ Passive investments are utilized by CSOs and no sanctions are applied in doing so. ④ Endowments are established without major procedural difficulties and operated freely, without administrative burden or high financial cost.

EXPLANATION

Legislation:

① Income from traditional non-profit sources of CSOs such as private or corporate donations, grants and membership fees are not subject to income or corporate tax. The tax laws should contain clear exemptions from taxation of income from these types of sources.

② As a good regulatory practice, income from economic activities should be exempt from tax. The law could provide for full exemption for all CSOs, or full exemption for organizations involved in public benefit activities (or those that have acquired a special public benefit/charitable status). In case there is no full exemption, the law can tax economic activities but with a lower tax rate, or can provide exemption below a certain threshold.

The income from rent of the CSO's own property could also qualify as income from economic activity.

③ Investing an organization's assets to increase them is considered a passive investment. It is passive because that is not the primary purpose of the organization (as compared to investment companies) but once the organization has some assets it is best if it manages them with good care. It usually aims to help an organization develop long-term sustainability and stability of its operations. Passive investment would include income from bank deposits, currency exchange surplus, dividends, sale of own shares, etc.

The most basic exemptions include the exemption from tax on the interest from bank deposits and the dividends from owning a company (or shares in it).

4 An endowment is the capital/assets of an organization which are invested, with only the income from the investment used for running the organization and its programs. Some of the main issues related to endowments are: who can establish such an endowment?; who manages the endowment?; what are the requirements for investing it?; and what are the requirements for spending the endowment and its income?

There should be a possibility for CSOs, under certain conditions, to invest their assets. In the classical endowment, there may be restrictions where the assets can be invested (to guarantee the stability of the organization). There may be limitations on spending the endowment – a requirement that the annual expenditure of an organization is a percentage of the endowment, or that the income from the endowment does not cover only administrative expenses. A very important issue is whether and what limits are legislatively put on spending the endowment itself to assess whether the law stimulates endowment building.

The incentives for endowments are most often two types – incentives for the revenue of the invested endowment (similar to the incentives for passive investments) and incentives for donors providing large gifts for endowment building. An example of a benefit for a donor of an endowment is the case of where donations above 1 mil. EUR could be accounted and deducted from the income for a period of 10 years.

Practice:

1 Indirect tax on grants may include any type of a hidden fee that has to be paid e.g. to the authorities where the seat of the organization is, or to the bank for operating with the grant. A normal bank charge would not fall under this category unless, for example, it is a percentage of the grant received.

2 Tax benefits for economic activity should be simple and straightforward. If there are too many conditions to be fulfilled in order to use them, this would create a practical problem for the CSO. Using tax benefits can be hard for CSOs when too many documents are required, considering the complex administrative procedures. If only a small number of organizations utilize the tax benefits, this may be an indicator that the tax benefits may be more discouraging than enabling.

3 Passive investment is understood and accepted as a concept by the tax authorities, and they differentiate it from CSO economic activity in practice.

4 There are already examples of endowments which operate in the country. The income from the endowments is sufficient to cover a large part of the operation of the endowed organizations. In addition, there are no complaints or reported cases of difficult procedures to establish or operate endowments.

STANDARD 2	INDICATORS
<p>Incentives are provided for individual and corporate giving</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① The law provides tax deductions for individual and corporate donations to CSOs. ② There are clear requirements/conditions for receiving deductible donations and these include a wide range of publicly beneficial activities. ③ State policies regarding corporate social responsibility consider the needs of CSOs and include them in their programs. <p>Practice:</p> <ul style="list-style-type: none"> ① There is a functional procedure in place to claim tax deductions for individual and corporate donations. ② CSOs are partners to the state in promoting CSR. ③ CSOs working in the main areas of public interest, including human rights and watchdog organizations, effectively enjoy tax deductible donations.

EXPLANATION

Legislation:

① Both individual and corporate donors should receive certain tax exemptions for making donations. The exemptions are usually in the form of deductions – decreasing the amount of the tax base on which the corporate/income tax is levied. E.g. if your income is 1000 EUR and you have made a donation of 100 EUR, then the tax would be levied on the difference – 900 EUR.

A less popular form of tax benefits is the tax credit – tax credits allow the donor to subtract part of the donated amount from the tax to be paid, i.e., they reduce the amount of tax owed.

There may be a limit on the amount of donations that may be deducted, which could be based on the income or on the profit or turnover (in the case of a company).

It is important to also consider that there may be differences in terms of who uses the tax benefit – donors to all CSOs, or donors only to a smaller segment (e.g. public benefit organizations or only organizations working in specific areas).

Benefits exist not only for people working under labour contracts, but also for people having income from rent or from other independent activities (e.g. composers, writers, self-employed people).

② Tax benefits for donations are generally available either for activities which are generally considered for the public benefit (e.g. activities in the social, healthcare or education area, protection of human rights, etc.) or for organizations that have acquired a specific tax benefit status (e.g., public benefit status). In cases where the law lists the activities, it should embrace a large list of areas and include the fields of human rights and democracy (which often benefit most from donations). The laws should not prescribe burdensome procedures for claiming tax benefits, processes which require involvement and/or approval of several state bodies. All procedural requirements should be simple; donors should not be required to undergo burdensome procedures to justify the tax benefit. Tax benefits should be fully applicable in practice and the donor and recipient should have legal certainty on whether the donation is eligible for tax benefit prior to a

donation commitment being made. Donors are not held responsible for the actual use of the donation for public benefit (except in cases of corruption).

3 In all strategic or policy documents related to corporate social responsibility, CSOs are considered as a key partner and beneficiary and the needs of CSOs are addressed.

Practice:

1 The procedure for using tax benefits for donations is not complicated and the documents required are not burdensome to get. There is a possibility for people not submitting annual tax declaration to use the benefits through their employer or in another way. Where there is a possibility to deduct a donation over a period of several years, this is correctly applied. Data shows that people use their right to deduct donations (a negative sign would be if people prefer not to bother with “bureaucracy” and not submit documents for using the tax benefits because of complicated procedures).

2 All policy documents in the area of corporate social responsibility are prepared and implemented in partnership with CSOs. There are examples and initiatives in practice on partnership that promote CSR for the civil sector.

3 In case of specific limitations on the types of CSOs that can receive tax-deductible donations, the list includes the most typical public benefit organizations e.g. human rights organizations, organizations working in the areas of healthcare, social services and education, etc. Whilst there may be other categories of recipients of tax-deductible donations (e.g. hospitals, galleries, museums) which are not CSOs, the benefits that these can use are the same as the benefits for CSO donors.

Sub-area 2.2: State support

Principle 4: State support to CSOs is provided in a transparent way and spent in an accountable manner

STANDARD 1	INDICATORS
<p>Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① There is a law or national policy (document) that regulates state support for institutional development for CSOs, project support and co-financing of EU funded projects. ② There is a national-level mechanism for distribution of public funds to CSOs. ③ Public funds for CSOs are clearly planned within the state budget. ④ There are clear procedures for CSO participation in all phases of the public funding cycle. <p>Practice:</p> <ul style="list-style-type: none"> ① Available public funding responds to the needs of the CSO sector. ② There are government bodies with a clear mandate for distribution and/or monitoring of the distribution of state funding. ③ Funding is predictable, not cut drastically from one year to another; and the amount in the budget for CSOs is easy to identify. ④ CSO participation in the public funding cycle is transparent and meaningful.

EXPLANATION

Legislation:

① The government has adopted a law, a strategy, a compact or another document which contains the steps the government has to take with regards to supporting CSDev or supporting CSOs and their work, especially financial support. It is important that this document targets civil society as a whole and not some segment or sub-sector (e.g. organizations providing social services only). Examples of areas regulated in different countries include:

- the process of CSO and citizen participation in decision-making;
- support for volunteerism;
- support for philanthropy;

- measures to support the financial sustainability of CSOs;
- regulation of a specific mechanism for state funding to CSOs, etc.

② The mechanism for distribution of public funds should target CSOs specifically. The mechanism could be centralized (all funds for CSOs at the national level are distributed by one entity) or decentralized (there could be many agencies providing funds to CSOs in different areas and/or at local level). The mechanism could be managed by an especially set up fund (Estonia, Croatia), by a special agency (Albania), by line ministry/ies or could be contracted to a CSO (many of the NGO Funds under the EEA/Norway grants). In most cases, the mechanism would be used to distribute grants.

3 The annual state budget contains an allocation of funds that would be distributed only to CSOs. When the source of income for the funding mechanism comes from a specific source (e.g. lottery proceeds, environment licensing fees), the law precisely defines the amount or percentage to be allocated to CSO development/projects.

4 There is a requirement that government consults with CSOs over funding priorities and programs for CSOs. CSO representatives are required to participate in the project selection under clear conflict of interest rules. To secure CSO participation in the selection process there could be a quota set for CSOs in the project evaluation committee. There is a requirement that CSO representatives participate in monitoring and evaluation phases of project/program implementation.

Practice:

1 The amount distributed from the state to the CSO sector is not negligible. State funding is a recognizable source of income for CSOs and various CSOs can utilize it. While the amount of money that should be allocated to CSOs will vary between countries, it is important to consider several factors to decide if it meets their needs, such as: are other sources available to CSOs? To what extent do CSOs depend on state funding? What is the overall capacity of the sector? Which activities are unfunded? And what is the total allocation in the overall budget? The sector is consulted over funding priorities, and funding priorities include CSDev. There is funding for institutional support, as well as for specific projects in different areas. Public funding could be used for co-financing of EU- or other donor-funded projects.

2 There could be one or several bodies which can be specifically established for the distribution of state funding to CSOs, or there may be existing institutions that are

mandated with CSO funding as part of their obligations (e.g., Government liaison offices for cooperation with CSOs). The bodies responsible for grant-making also have the obligation to monitor the implementation of the funded projects.

3 It is clear that state support of CSOs does not depend on changes in political power or of government. The amount is constant and without drastic decreases. In addition, the budget allocation for CSOs should be separate from allocations to other non-profit entities (e.g., in many countries sports clubs are registered as associations, or state bodies can form foundations. The state may claim support for civil society when it is in fact supporting sports or state-controlled institutions).

4 The mechanism through which CSOs are selected for participation in the different cycles of the public funding process is transparent. When CSO representatives are appointed for certain positions or in certain bodies, the announcement for that is public and the process is open. When joint bodies (with CSO and non-CSO members) are established, CSO representatives have equal powers (e.g. the right to vote) and a balance between the two quotas could exist (e.g. allowing equal numbers of CSO and other representatives).

STANDARD 2	INDICATORS
<p>Public funding is distributed in a prescribed and transparent manner</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① The procedure for distribution of public funds is transparent and legally binding. ② The criteria for selection are clear and published in advance. ③ There are clear procedures addressing issues of conflict of interest in decision-making. <p>Practice:</p> <ul style="list-style-type: none"> ① Information relating to the procedures for funding and information on funded projects is publicly available. ② State bodies follow the procedure and apply it in a harmonized way. ③ The application requirements are not too burdensome for CSOs. ④ Decisions on tenders are considered fair and conflict of interest situations are declared in advance.

EXPLANATION

Legislation:

① There is a clear and legally binding mechanism 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 for sufficient time to prepare and submit project proposals and all required accompanying documents. Where there is a non-binding document, i.e., a Code, specific provisions should be included to ensure that the state authorities follow the procedure and remedies exist in case on non-implementation or breach.

② The criteria and methodology for evaluation of projects are publicly known and available in advance. It is clear which components make a proposal stronger and how they will be evaluated. Rejected proposals receive information on the reasons for not being selected.

③ Conflict of interest rules are part of the regulations or Codes and clearly prescribe the situations and how to avoid them. For example, the law can provide that individuals related to the applicant organizations cannot evaluate their proposals. The law should require

that individuals should disclose the possible conflict in advance and they should be replaced with another qualified evaluator.

Practice:

① The government or the state institutions involved in the process of funding CSOs are required to publish online information on the funded projects – the name and contacts of the recipient organization, the amounts provided and the goals and activities of the supported projects.

② The required documents to be submitted with the application for a grant are not difficult to acquire and do not cost too much. They are limited in number and most of them are required at the stage of signing the contract. The application forms are clear and the whole application package is easy to prepare. There are no discriminatory requirements which limit the participation of a large number of organizations in advance.

③ There are no signals that the recipients of grants are somehow related to the institution or members of the commission that has taken decisions on the grant allocation. There are no cases where awarded organizations are created especially for the purpose of applying for particular funding.

STANDARD 3	INDICATORS
<p>There is a clear system of accountability, monitoring and evaluation of public funding</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① The procedure for distribution of public funds prescribes clear measures for accountability, monitoring and evaluation. ② There are prescribed sanctions for CSOs that misuse funds which are proportional to the violation of procedure. <p>Practice:</p> <ul style="list-style-type: none"> ① Monitoring is carried out continuously and in accordance with predetermined and objective indicators. ② Regular evaluation on effects/impact of public funds is carried out by state bodies and is publicly available.

EXPLANATION

Legislation:

① The documents regulating the procedure contain 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. Both desk-based monitoring of documents and quality assessments through visits of activities is undertaken.

② The prescribed sanctions for violations are proportionate to the level of the breach and consider the size of the grant and the organization. The law should provide for procedures whereby CSOs are given an opportunity to remedy the situation before the sanction is applied. When sanctions are applied, the respective authorities take into consideration the seriousness and the intent of the violation. The purpose of sanctions for small/first-time violations is to discipline the respective CSO.

Practice:

① There are monitoring experts that pay visits to the implementing organization or the events/activities it organizes with public funding to evaluate the quality of implementation. Such visits are conducted with prior notification given to the organization. In addition, organizations' expenditures are monitored against the proposed budget. There are no cases of administrative harassment on the side of the monitoring experts. There is a mechanism to amend project activities or budget based on reasonable requests.

② The state administration carries out regular (every 3-5 years) evaluation of the public funding it provides to CSOs and determines how to improve the program. Such evaluation could be carried out by an independent entity. The reports from the evaluations are posted on the web site of the respective public institutions in an easily accessible manner.

STANDARD 4	INDICATORS
<p>Non-financial support is available from the state</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① Legislation allows state authorities to allocate non-financial support, such as state property, renting space without financial compensation (time-bound), free training, consultations and other resources, to CSOs. ② The non-financial support is provided under clearly prescribed processes, based on objective criteria and does not privilege any group. <p>Practice:</p> <ul style="list-style-type: none"> ① CSOs use non-financial state support. ② CSOs are treated in an equal or more supportive manner compared to other actors when providing state non-financial resources. ③ There are no cases of state authorities granting non-financial support only to CSOs which do not criticize its work; or of cases of depriving critical CSOs of support or otherwise discriminating based on loyalty, political affiliation or other unlawful terms.

EXPLANATION

Legislation:

- ① There is a law or regulation which contains provision that authorize state authorities to provide non-financial support to CSOs. Other possible forms of non-financial support include the creation of consultative/resource centres for CSOs that are supported by the state, and organization of specialized trainings for increasing the capacity of CSOs (free of charge), etc.
- ② The procedure for providing non-financial support to CSOs is clear and could be used by different CSOs. Some of the support could be available for longer term periods. Termination of the agreement for renting the property or other type of longer term support could only happen for limited and objectively measurable conditions after sufficient advance notice is provided.

Practice:

- ① There are examples and reports of CSOs receiving property or other types of non-financial support. CSOs recognize the possibility and apply for such support.
- ② CSOs, especially the ones carrying out public benefit activities, receive support free of charge or at a lower than market rate. CSOs do not report cases of burdensome requirements (high rent fee or criteria which only a small group of CSOs can meet), preferential treatment of certain groups or different procedures each time.
- ③ The process of granting non-financial support to CSOs is not politically biased and different organizations, including organizations which are critical to the government, may benefit from it. There are no examples of organizations that have received property or other type of support under a previous government being expelled before the end of their contract because the new government associates them with a different political power.

Sub-area 2.3: Human resources

Principle: State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs

STANDARD 1	INDICATORS
<p>CSOs are treated in an equal manner to other employers</p>	<p>Legislation:</p> <p>① CSOs are treated in an equal manner to other employers by law and policies.</p> <p>Practice:</p> <p>① If there are state incentive programs for employment, CSOs are treated like all other sectors.</p> <p>② There are regular statistics on the number of employees in the non-profit sector.</p>

EXPLANATION

Legislation:

① When CSOs employ people, there are no additional requirements or registrations for them as compared to commercial companies.

Practice:

① CSOs are not excluded from different incentive programs for employment and they can receive support from the state on an equal basis to other sectors of the economy. Examples of incentive programs include supported employment of representatives of vulnerable groups, tax incentives for employers of representatives of vulnerable groups, supported practice in CSOs of newly graduated students, support for employment of graduates, subsidies for employing long-term/first-time employees, non-financial support, etc.

② The national statistics collects information on the employed people in the civil society sector, as well as other information relevant to CSOs. The information could include full-time employees, part-time employees, consultants or people with short-term contracts and volunteers.

STANDARD 2	INDICATORS
<p>There are enabling volunteering policies and laws</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① Legislation stimulates volunteering and incorporates best regulatory practices, while at the same time allowing for spontaneous volunteering practices. ② There are incentives and state supported programs for the development and promotion of volunteering. ③ There are clearly defined contractual relationships and protections covering organized volunteering. <p>Practice:</p> <ul style="list-style-type: none"> ① Incentives and programs are transparent and easily available to CSOs and the policy, strategic document or law is being fully implemented, monitored and evaluated periodically in a participatory manner. ② Administrative procedures for organizers of volunteer activities or volunteers are not complicated and are without any unnecessary costs. ③ Volunteering can take place in any form; there are no cases of complaints of restrictions on volunteering.

EXPLANATION

Legislation:

① The law contains minimum provisions necessary to protect volunteers and their organizations (definitions, rights and obligations, contractual provisions, tax and other types of benefits, liability rules) and leaves the rest to be defined by the parties. The law does not prevent spontaneous volunteering (for example by requiring a contract for every type of volunteering). Where a group of friends decide to clean their neighbourhood, the law should not impose any burden on them such as preliminary registration, the need to have a contract with a hosting organization or the need to report to anybody. As a good regulatory practice, provisions which require registering volunteers with state authorities should not exist; it is enough if organizations keep records of volunteers and the time that they have spent volunteering.

② The government can adopt policies and programs through which they promote

volunteerism or provide special support and training for volunteers. It can also provide different incentives which are usually of two types – for the volunteers and for the organizations hosting or supporting volunteers.

The incentives for volunteers include the possibility to use benefits (e.g. health insurance or social security), the right to receive reimbursement for covering expenses made in relation to volunteering (travel, accommodation, per diems, etc.) and exemption from income taxes on this reimbursement. The incentives for organizations could include a grants programs supporting volunteering engagement, providing non-financial support to volunteering organizations, etc. The law can prescribe that volunteers will receive a volunteering booklet or other type of record for the hours they have performed and types of services engaged in, which could be used as a reference for future engagements.

③ The law provides the basic regulation on what the responsibilities of volunteers and of organizations hosting volunteers are,

e.g. volunteers whose involvement exceeds a certain number of hours or is continuous over a certain period of time. It defines what types of organizations can host organized volunteers. It stipulates where there needs to be a contract between the volunteer and the organization, but it leaves it to the organizer and the volunteer to agree on the specific conditions of the volunteering engagement. For example, contracts should be required only for volunteering above certain hours a month (e.g., 20 hours) and not in cases where volunteering is spontaneous. However, the law should guarantee that volunteers are informed about the conditions, rights, obligations and benefits before the start volunteering so that they are aware of all the circumstances and particulars of the engagement. Mandatory insurance may be required for volunteering in places where certain injuries are more likely to occur, e.g., construction areas.

Practice:

1 Volunteers can use the existing incentives without the need to go through a complicated procedure. There are real incentives for supporting volunteerism which work in practice e.g. grants programs. The incentives for volunteering and for organizations hosting volunteers are provided in a transparent way and the selection of the recipients of support is based on objective criteria. There is a state agency/ministry board which has a mandate to monitor and evaluate the implementation of the legislation and the different programs and incentives related to volunteering.

2 The process for attracting volunteers or becoming a volunteer is not complicated and burdensome. Organizations can rely on volunteers without the need to register them. There is no requirement to register volunteers.

3 Spontaneous volunteering can take place and there are no examples of state authorities prohibiting it because of a lack of registration or approval. There are no examples of state labour authorities requiring volunteers to have labour agreements or sanctioning organizations for the illegal use of a labour force.

STANDARD 3	INDICATORS
<p>The educational system promotes civic engagement</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① Non-formal education is promoted through policy/strategy/laws. ② Civil society-related subjects are included in the official curriculum at all levels of the educational system. <p>Practice:</p> <ul style="list-style-type: none"> ① The educational system includes possibilities for civic engagement in CSOs. ② Provision of non-formal education by CSOs is recognized.

EXPLANATION

Legislation:

① Sustainability of human capital and general support and trust in civil society can be ensured through long term measures such as the promotion of civic engagement. There is a possibility for CSOs to take part of the informal education system. CSO-related topics are integrated in to informal education strategies and policies.

② Both in schools and universities there are subjects which introduce pupils/students to civic engagement, philanthropy, civil society and other similar concepts.

Practice:

① There are integrated programs for internships, fellowships or volunteerism with CSOs as part of the curriculum. Pupils/ students are engaged in different social activities organized in partnership with CSOs.

② CSOs have the possibility to be recognized as training providers. Where there are specific requirements in order to become a trainer, CSOs can apply for such status or license.

Area 3:

**Government –
CSO Relationship**

Sub-area 3.1.: Framework and practices for cooperation

Principle: There is a strategic approach to furthering state-CSO cooperation and CSO development

STANDARD 1	INDICATORS
<p>The State recognizes, through policies and strategies, the importance of the development of and cooperation with the sector</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① There are strategic documents dealing with the state-CSO relationship and CSDev. ② The strategic document includes goals and measures as well as funding available and clear allocation of responsibilities (action plans including indicators). ③ The strategic document embraces measures that have been developed in consultation with and/or recommended by CSOs. <p>Practice:</p> <ul style="list-style-type: none"> ① CSOs from different areas of interest regularly participate in all phases of the strategic document development, implementation and evaluation. ② There are examples demonstrating that cooperation between state and CSOs and CSDev is improved and implemented according to or beyond the measures envisaged in the strategic document. ③ The implementation of the strategic document is monitored, evaluated and revised periodically. ④ State policies for cooperation between state and CSOs and CSDev are based on reliable data collected by the national statistics taking into consideration the diversity of the sector.

EXPLANATION

Legislation:

① Civil society development and partnership with CSOs can be included in more general strategic documents e.g. the country development plans. Many countries, though, adopt specific documents related to civil society. These include unilateral documents (government strategies for CSDev which stipulate undertakings only for the government) or bilateral agreements (compacts, programs) which detail undertakings for both parties. All these documents should be developed together and formally approved by the government or parliament. These documents

can also be adopted by line ministries for the specific cooperation with CSOs in their field of competence, in addition to or instead of one general document adopted by government or parliament. The existence of such documents provides the framework for overall cooperation, and details the priorities for support over a period of a year. In general, it is considered that the existence of such documents support the promotion of policies and laws for an enabling environment.

② The strategic documents are usually accompanied by implementation/action plans which prescribe specific measures and actions to be taken, the responsible authorities, and provide the timeframe in which

that should happen. It is very important that the implementation of activities under the strategies is supported financially from the state budget through specific budget allocations for the plan.

3 A true document on CSDev and/or partnership between CSOs and the state body cannot be developed without the participation of CSOs. Good policy-making requires that CSOs are included in the planning and drafting process from the very beginning. It is important that the process of inclusion of CSOs is public and transparent and it reflects the needs of most CSOs.

Practice:

1 In addition to being developed with CSOs, the strategic document should involve CSOs in its implementation and monitoring. There should be attempts for this process to be as inclusive as possible and to involve CSOs from the main areas of the CSO sector. Joint reports on the implementation of the document would be one more concrete indicator that CSOs have been considered and consulted in implementation and assessment.

2 Cooperation by the state with CSOs should become rooted in the operations of state institutions. It should be an integral part in the development of policies and legislation. There should be no examples of cooperation limitation e.g. by setting up consultative councils which are not used in the policy-making or involving CSOs in consultation processes just so that they can report that there is cooperation. There are reports and examples which show that the government and CSOs have undertaken activities together, or that the government has implemented obligations in adopted strategic documents.

3 There is a need to regularly monitor the implementation of the actions/measures envisioned in the strategic document. This should happen annually, while a more general

evaluation could be undertaken after a longer implementation period (e.g. 3 to 5 years). Based on such monitoring and evaluation, the strategic document should be revised to reflect the changes in the environment and make sure the document is up-to-date. The responsible body for implementation of the document should have developed guidance for monitoring and reporting on the results for other actors. CSOs should be part of the process.

4 In order for the state policy for civil society to respond to the needs of the sector, it should be based on reliable data. This data should be collected by the national statistics or reports on the development of the sector by different organizations and donors. The information collected should be able to give answer to questions including (but not limited to): How many CSOs are active? In what sectors do they operate? How many people are employed by the sector full-time and part-time? How many volunteers are engaged with CSOs? What are the income sources of CSOs? What is their income? What is the product prepared by the sector? What are the main obstacles to the functioning of different sub-sectors?

STANDARD 2	INDICATORS
<p>The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector</p>	<p>Legislation:</p> <p>① There is a national level institution or mechanism with a mandate to facilitate cooperation with CSOs (e.g., Unit/Office for cooperation; contact points in ministries; council).</p> <p>② There are binding provisions on the involvement of CSOs in the decisions taken by the competent institution or mechanism(s).</p> <p>Practice:</p> <p>① The national level institution or mechanism(s) has sufficient resources and mandate for facilitating CSO-government dialogue, discussing the challenges and proposing the main policies for the development of civil society.</p> <p>② CSOs are regularly consulted and involved in processes and decision-making by the competent institution or mechanism(s).</p>

EXPLANATION

Legislation:

① In addition to being rooted in every administration and part of the government, the policy towards CSOs should be part of the mandate of a government ministry or agency. In addition, such policy could be supported by different mechanisms in order for its practical implementation and facilitation. Examples of such mechanisms include:

- Parliamentary committee dealing with civil society issues;
- Separate government agency/office dealing specifically with civil society issues;
- Consultative body/council consisting of representatives of both government and CSOs focusing especially on CSDev;
- Separate departments/contact points in different government agencies assisting CSOs.

When consultative bodies are formed in general, a secretariat or administrative officer will be appointed to facilitate the work of such bodies and to make sure that they can achieve practical results.

② Regardless of the type of mechanism chosen by the respective country, as a good practice CSOs should be consulted in decisions undertaken by the body which have an affect their work. E.g., CSOs should be able to take part in the acts it prepares which will define the engagement of the body with the sector (e.g., annual program, projects, etc). To foster this, regulations governing the work of these institutions should contain rules about CSO engagement and consultation. Where they are participating in a cross-sector body (e.g. a joint council, committee etc), they should be at least equal in number to the government representatives or be able to veto decisions which they do not support.

Practice:

1 The institution in charge of CSO policies has sufficient leverage within the government and its decisions are respected and followed by the ministries to which they are addressed. The institution can communicate with the CSOs without obstacles, it can invite them to meetings or attend their events without a need to obtain prior authorisation from another government agency. For councils or commissions in which multiple government agencies participate, the level of the participating administration should be high enough to guarantee that the state representatives have decision-making power and what they decide will be followed by the institutions they represent. The body should also receive sufficient funding (e.g., state budget should allocate resources on an annual basis which respond to the functions of the body) to make sure its decisions and activities can be implemented in practice. In addition, it should possess qualified staff members that understand the problems CSOs face and have expertise in the needs of the sector. Ideally, some of these officials should have a CSO background.

2 There are examples of CSOs taking part in working groups, and all relevant decisions of the body are taken with CSO participation. Most of the decisions come out of CSO recommendations or are supported by CSOs.

Sub-area 3.2: Involvement in policy-and decision-making processes

Principle: CSOs are effectively included in the policy and decision-making process

STANDARD 1	INDICATORS
<p>There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① There are clearly defined standards on the involvement of CSOs in the policy and decision making processes in line with best regulatory practices prescribing minimum requirements which every policy-making process needs to fulfill. ② State policies provide for educational programs/training for civil servants on CSO involvement in the work of public institutions. ③ Internal regulations require specified units or officers in government, line ministries or other government agencies to coordinate, monitor and report CSO involvement in their work. <p>Practice:</p> <ul style="list-style-type: none"> ① Public institutions routinely invite all interested CSOs to comment on policy/legal initiatives at an early stage. ② CSOs are provided with adequate information on the content of the draft documents and details of the consultation with sufficient time to respond. ③ Written feedback on the results of consultations is made publicly available by public institutions including reasons why some recommendations were not included. ④ The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/training. ⑤ Most of the units/officers coordinating and monitoring public consultations are functional and have sufficient capacity.

EXPLANATION

Legislation:

① The legal framework should put forward a requirement for consultation on draft laws and policies with the public. CSOs should be involved from the very beginning of the legislative/policy process. Each policy-making process, in addition to other forms of consultation, should be subject to written consultation in which the text of the act is made publicly available and people are allowed to provide written comments to it. CSOs and the

general public should be given a reasonable time to be able to acquaint themselves with the proposal and form an opinion. The legal framework should require written feedback on the received proposals with explanations why certain of them have not been accepted. CSOs should also have access to the discussions of the drafts developed and be given a chance to defend their positions. The legal framework should provide options for redress if the provisions for consultations are not respected.

The above principles should be part of the basic legal provisions for consultation on draft

laws and policies. In addition, the government/Parliament could adopt a stand-alone law, guidelines or code on public consultations. In the case of non-binding documents, particular measures should be taken to ensure that it is followed (e.g. more investment in raising awareness about the provisions, monitoring and training).

Finally, such rules should also apply to participation in monitoring and evaluation of policy/law implementation and its effects.

2 Organizing public consultations requires specific knowledge and skills. Public servants engaged in the process of policy-making should undergo targeted trainings to acquire those as part of their on-the-job training. Such events could contain training on how to invite CSOs, how to draft questions for comments, what forms to use for consultation etc.

3 Such officers/units organize the consultative processes of their respective agencies. They also monitor the level of involvement and report on the consultation processes organized. The existence of such a unit or officer also makes it easier for the public and CSOs to get in contact with the responsible state body to inquire further about the plans for consultation and engagement, and adoption of the document.

Practice:

1 There are numerous examples of policy initiatives to which CSOs are invited for consultation. Such consultation happens in the early stages in order for the CSO input to be considered when deciding the general direction of important initiatives. CSOs are given sufficient time to prepare an opinion (at least a weak advance notice for meetings) and are also given a chance to express it (e.g. they are given the floor). An ideal scenario would include at least 15-20 working days during which CSOs can present their opinion. There are no complaints

about the lack of consultation on drafts or intensive law drafting in expedited procedures.

2 The draft documents on which CSOs are required to present an opinion is made public. In addition, the administration can prepare a short summary that is not written in a technical language that explains the basic points of the documents. It could also contain the key issues which are under consideration and on which they would like to hear CSOs' opinions. All related documents, such as analyses, opinions of other institutions, etc. should also be available publicly in order for the public to make an informed decision.

3 A list of the people/CSOs/entities that have provided opinions, together with their opinions or a summary of collected opinions is made public and is part of the submission of the document for adoption. In addition to that, feedback to the opinions is also made public, including clear explanation why some opinions have not been taken into consideration. The feedback is provided within a reasonable time after the end of the consultative process. There are no major and frequent complaints that the CSOs' opinions were not considered.

4 There are records of training for civil servants on these topics. Civil servants apply the knowledge in practice, as can be seen through their initiative and openness to more effectively engage civil society.

5 Most institutions dealing with public policy have designated officers who are practically organizing public consultations. They show understanding of the issues and openness to engage CSOs, and they provide advice to CSOs on how to respond more meaningfully to the consultation process.

STANDARD 2	INDICATORS
<p>All draft policies and laws are easily accessible to the public in a timely manner</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① Existing legislation obliges public institutions to make all draft and adopted laws and policies public, and exceptions are clearly defined and in line with international norms and best practices. ② Clear mechanisms and procedures for access to public information/ documents exist. ③ There are clearly prescribed sanctions for civil servants/units for breaching the legal requirements on access to public information. <p>Practice:</p> <ul style="list-style-type: none"> ① Public institutions actively publish draft and adopted laws and policies, unless they are subject to legally prescribed exceptions. ② Public institutions answer the majority of requests for access to public information within the deadline prescribed by law, in a clear format, provide written explanations on the reasons for refusal, and highlight the right to appeal and the procedure for appealing. ③ Cases of violations of the law are sanctioned.

EXPLANATION

Legislation:

① There should be a requirement for the government to publish draft legislation or policy documents. If citizens and CSOs do not know what is on the government agenda, they cannot be expected to take active part in the policy-making process. As a first step, government institutions should publish their legislative/policy agenda – a list of the topics/ acts it wants to work on annually and for a period of several months. This will help interested CSOs to prepare and get in contact with the respective institutions. A second step is to publish the concept of the draft, and then the text of the draft documents. This should apply to both government and parliament. The publication of documents should not be based on requests for information but should be an obligation of the respective institutions.

② The legislation should provide clear rules on the obligation of the state authorities to provide information based on requests. There

should be limited exceptions to the general requirement for provision of information, (usually related to national security) subject to a public interest test. The requests should be dealt with promptly and the timeline for answering such requests should not be too long (usually 14 days).

③ If the legal rules are not followed and the requested information is not provided, the court can sanction the wrongful party. This is true also for excessive delays in answering requests.

Practice:

- 1** Institutions publish concepts, draft and adopted laws in a proactive manner. The easiest way is to use the Internet – each institution can have a section on its website where it publishes draft documents for consultation. Some countries have also created unified portals where all laws subject to consultation are published. These are specialized websites where citizens can post their opinions also online. Adopted laws should also be made available to the public free of charge.
- 2** There are no complaints of violations of this principle or laws. Reports confirm that institutions are complying with the laws, are willing to collaborate and are generally open.
- 3** The courts apply the law on access to information impartially, and any state institutions that hinder citizens' right to information are sanctioned according to the law.

STANDARD 3	INDICATORS
<p>CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① Existing legislation requires public institutions to invite CSO representatives on to different decision-making and/or advisory bodies created by public institutions. ② There are clear guidelines on how to ensure appropriate representation from civil society, based on transparent and predetermined criteria. <p>Practice:</p> <ul style="list-style-type: none"> ① Decision-making and advisory bodies on issues and policies relevant for civil society generally include CSO representatives. ② CSO representatives in these bodies are enabled to freely present and defend their positions, without being sanctioned. ③ CSO representatives are selected through selection processes which are considered fair and transparent. ④ Participation in these bodies does not prevent CSOs from using alternative ways of advocacy or promoting alternative stand-points which are not in line with the position of the respective body.

EXPLANATION

Legislation:

① When the administration creates advisory bodies, there is a requirement to include in it representatives of civil society from the respective area in which the body is created. CSO representatives are subject to the same requirements as other members of the consultative body and have the same rights (they can vote, and are not limited to observer status).

② When CSOs are invited to consultative bodies, this should happen through a public procedure (the announcement for nominations is publicized) and there are clear criteria for the members. The process through which CSOs are selected is also transparent. Another option is to allow CSOs to nominate their own representatives. In the latter case, more time should be given for CSOs to be able to organize their internal selection process.

Practice:

① Practice shows that CSO representatives take part in advisory/consultative/working group bodies and committees. It is important that in such bodies representatives from associations, foundations and non-profit companies participate, in addition to associations of municipalities or of businesses which in their legal form are also CSOs. The CSOs are informed about the meetings in timely manner to be able to organize themselves to attend and prepare for the meeting.

② There should be no examples of CSO representatives that speak critically of the government and its policies during meetings of bodies being subjected to excessive state control or harassment. CSOs are given time during the discussions of the respective bodies to speak and express their positions and to debate on issues.

③ It is not enough to have CSO representatives in cross-sector bodies, but representatives should also be selected

through a public and transparent procedure. There should be no examples of a non-transparent selection process. Sometimes state bodies may decide to invite CSOs with whom they cooperate, but such decision should be made in a transparent and timely manner, with other CSOs also having the right to request to attend. State authorities do not invite only those CSOs which are close to their opinions or tendencies.

The work of such advisory bodies should be transparent. Information about their members, meetings and decisions should be public. In addition, there should be the possibility for non-members of the advisory councils to participate in the council meetings when issues of concern to such organizations are discussed.

4 Participation in cross-sector bodies is only one way for CSOs to achieve their mission. It does not preclude CSOs from organizing advocacy measures, demonstrations, petitions or any other advocacy measures to promote their opinions if they feel that they have not be considered or adopted,. CSO representatives in the body should be able to communicate and consult with their counterparts in the sector, especially those that they have been selected to represent.

Sub-area 3.3: Collaboration in service provision

Principle: The environment is supportive for CSO involvement in service provision

STANDARD 1	INDICATORS
<p>CSOs are engaged in different services and compete for state contracts on an equal basis to other providers</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① Existing legislation allows CSOs to provide services in various areas, such as education, healthcare, social services. ② CSOs have no barriers to providing services that are not defined by law ("additional" services). ③ Existing legislation does not add additional burdensome requirements on CSOs that do not exist for other service providers. <p>Practice:</p> <ul style="list-style-type: none"> ① CSOs are able to obtain contracts in competition with other providers and are engaged in various services (e.g., education, health, research, and training). ② CSOs are included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation). ③ When prior registration/licensing is required, the procedure for obtaining it is not overly burdensome.

EXPLANATION

Legislation:

① The law should allow governments to contract out or outsource certain services to CSOs. There are no legal obstacles to CSOs to provide services in the areas of education, social assistance and healthcare. Limitations could exist for CSOs only in areas which are traditionally not considered non-profit (e.g. banking, gambling) although CSOs should be allowed to set up commercial companies which can work in these areas. There is no automatic exclusion for CSOs from competition for the provision of services if there are no specific and objective reasons for that.

② The law should not prohibit CSOs from developing or providing new services even though such services are not defined by law. In this way, CSOs are able to bring innovative

services and pilot new practices which could later be adopted by the government, if successful. If the services are in areas for which a preliminary registration or licensing is required, that should apply to CSOs as well (e.g. services for children).

③ CSOs should not be subject to stricter requirements in the areas in which they provide services compared to other service providers. The service quality standards to which providers should be subject are the same for commercial companies, CSOs and other types of providers.

Practice:

1 There are examples of CSOs being awarded contracts for services in various areas of service provision and this is not an exception. CSOs are one of the main providers of services in its traditional areas – social assistance, healthcare and education. CSOs are increasingly engaged in social entrepreneurship not only by providing services in social areas but also by engaging in other economic activities which support their mission, including providing employment to their beneficiaries.

2 CSOs are partners to the state not only in service provision. Very often CSOs are closer to people's needs and could bring added value in determining the service needs and how it is best to address them. In addition, CSOs have expertise and could provide a different perspective on the process of evaluation of services provided by the state.

3 The requirements for prior registration/licensing of service providers in certain areas should not push away potential CSO service providers because of burdensome procedures. Such procedures should be relatively quick and cheap.

STANDARD 2	INDICATORS
<p>The state has committed to funding services and the funding is predictable and available over a longer-term period</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① The budget provides funding for various types of services which could be provided by CSOs including multi-year funding. ② There are no legal barriers to CSOs receiving public funding for the provision of different services (either through procurement or through another contracting or grants mechanism). ③ CSOs can sign long-term contracts for provision of services. <p>Practice:</p> <ul style="list-style-type: none"> ① CSOs are recipients of funding for services. ② CSOs receive sufficient funding to cover the basic costs of the services they are contracted to provide, including proportionate institutional (overhead) costs. ③ There are no delays in payments and the funding is flexible with the aim of providing the best quality of services.

EXPLANATION

Legislation:

① The state budget should provide enough resources to allow for the financing of basic services in the key areas in which CSOs traditionally operate (education, social area and healthcare). In the social area, social services are an important tool for improving the lives of vulnerable groups and cannot be replaced only by social assistance (provision of food, money or other types of material assistance to the most underprivileged). The legal framework should also allow for multi-year funding to promote further effectiveness in delivering the service and achieving results.

② CSOs are allowed to participate in all of the mechanism through which the state delegates the provision of services to outside providers (public procurement, grants, social contracting, and other mechanisms).

③ Even though in most countries the budget is adopted on an annual basis, competitions for service providers (including CSOs) cover longer periods of time and the contracts signed could be long-term. Once a

contract is signed, the respective state agencies are obliged to provide the funding necessary for the provision of the contracted services for the whole duration of the contract and possibly to consider including advance payments.

Practice:

1 When the state contracts services, it needs to provide sufficient funding to cover the basic costs of the services they wish to receive (even though the providers may be non-profit organizations). In the service costs it should also calculate all the administrative and institutional costs associated with maintaining the service. Even though CSOs may use volunteers it should not be presupposed that CSOs rely only on volunteers, but that they will use employees or consultants.

2 The CSO income for provision of services coming from the state is increasing. There are no complaints that CSOs are excluded from service tenders.

3 Once funding is provided to CSOs, it should be allowed to use the money in such a way as to maximize the impact and fulfil the respective quality standards. Where funding is provided under a budget, CSOs should be allowed to move money between different budget items, as long as they follow certain procedures. If funding is provided in tranches, there should be no delays and any losses suffered because of delays should be compensated.

STANDARD 3	INDICATORS
<p>The state has clearly defined procedures for contracting services which allow for transparent selection of service providers, including CSOs</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① There is a clear and transparent procedure through which the funding for services is distributed among providers. ② Price is not the lead criterion for selection of service providers and best value is determined by both service quality and a financial assessment of contenders. ③ There are clear guidelines on how to ensure transparency and avoid conflicts of interests. ④ There is a right to appeal against competition results. <p>Practice:</p> <ul style="list-style-type: none"> ① Many services are contracted to CSOs. ② Competitions are considered fair and conflicts of interest are avoided. ③ State officials have sufficient capacity to organize the procedures.

EXPLANATION

Legislation:

- ① The selection of service providers is carried out under an open competition whereby all eligible providers are allowed to participate. The evaluation criteria are publicly announced in advance.
- ② In certain areas of service provision e.g. social areas, the lead criteria for evaluation of bids should be the experience of the provider and the staff that will deliver the service. In this area, it is important to provide the best possible quality or to serve the biggest number of people for the budget that the state has, rather than make savings from the existing budget. In such areas, the financial bid should not be the most important evaluation criteria.
- ③ The evaluators of bids have to declare any conflict of interests in advance of the process. All procedures for selection of service providers are public, in line with the good regulatory practice on distribution of funding as outlined above.
- ④ The legal framework should allow for an appeal before an independent entity and eventually to the court.

Practice:

- ① There are sufficient examples in different areas of CSOs receiving contracts for service provision from the state. In the traditional CSO areas such contracts are a usual practice, and CSOs (associations, foundations and non-profit companies) are recognized as important contractors of the state.
- ② The calls for service providers are not only formalistic and are not tailored only for a specific organization. There are no cases in which the procedure seems at first transparent, but organizations linked to the competition organizers receive the contracts. Explanations about conflicts of interest statements are available on request.
- ③ The respective state officials are familiar with the procedures through which CSOs can be contracted to provide services and have no technical problems in organizing competitions. There are no cases of authorities deciding not to outsource the provision of services because they are not certain what procedure to use and are concerned that controlling institutions might sanction them. As a good practice, civil state officials are trained to undertake such processes.

STANDARD 4	INDICATORS
<p>There is a clear system of accountability, monitoring and evaluation of service provision</p>	<p>Legislation:</p> <ul style="list-style-type: none"> ① There is legal possibility for monitoring both spending and the quality of service providers. ② There are clear quality standards and monitoring procedures for services. <p>Practice:</p> <ul style="list-style-type: none"> ① CSOs are not subject to excessive control. ② Monitoring is performed on a regular basis according to pre-announced procedures and criteria. ③ Regular evaluation of quality and effects/impact of services provided is carried out and publicly available.

EXPLANATION

Legislation:

- ① Service providers have to be monitored for both the quality of the services they provide and for the spending related to the provision of these services. Monitors should have the right to inspect the premises in which services are provided, based on prior notification.
- ② Monitoring is based on clear standards and criteria. For the main types of services, there are minimum quality standards which providers should follow. Information on awarded contracts, activities carried out and the number of people served is public.

Practice:

- ① CSOs are not subject to excessive control, as compared to other providers. Where onsite controls are performed they follow a prior notification which clearly indicates the purpose and timing of the visit.
- ② CSOs are clear as to what and to whom they should report. They are regularly monitored.
- ③ State institutions make regular evaluation of the services provided and their impact. The results of such evaluations are public and used to shape the policy of the government in the respective area.

How to Use it

The monitoring Matrix contains standards which have been agreed as common standards necessary to ensure that there is an optimum enabling environment for CSDev. The Matrix has been designed by CSO practitioners and experts from BCSDN members and partners primarily as a CSO monitoring tool for CSDev. However, with the adaptation of appropriate methodologies, the Matrix may also inspire and promote development of self-assessment tools for government officials and monitoring tools by various donors. Notwithstanding this, the following section will outline only ways that this Matrix can be used by CSOs.

The matrix is a new, fresh tool that is designed for **CSOs already following the enabling environment for CSDev** or its sub-areas and who are interested in a more comprehensive approach to monitoring and advocacy on the enabling environment in their country. By building on already existing international, regional or national standards (in (sub-) areas where they exist) and regulatory best practices, the Matrix is an easy-to-use tool for any CSO interested in an already-made monitoring tool for the all or part of the enabling environment for CSDev. During its development, consideration was given to designing indicators that can be monitored via secondary data and information, thus requiring the minimum of primary research, and reducing the need for financial commitments or specific data-collection expertise. Finally, since this is the first ever attempt to build a monitoring mechanism for a comprehensive and complex area such as CSDev, the tool-kit in its initial state offers only basic guidelines on how the Matrix should be used and the monitoring conducted. The aim is to review both the Matrix and the monitoring methodology after a one- year “test” period.

Broadly, four steps have been envisaged in order to apply and use the Matrix:

STEP 1 Adapting the matrix to the country situation

In order to be ready for monitoring, the sub-areas, including principles, standards and given indicators (legislation and implementation) need to be **reviewed** and **adapted** against the given country legislative background and factual situation. It might be that an area is not regulated, not relevant or for various reasons CSOs decide not to cover it with their monitoring. It might also be the case that in some countries secondary data will not be available to check the indicators and thus apply the sub-area.

The given country situation should define whether an expert approach by an organization or group of CSO experts is enough to adapt and validate the Matrix for the given country, or the situation requires a consultative approach whereby the Matrix is adapted and validated via a (series) of consultation meetings with CSOs and/or stakeholders.

STEP 2 Initial baseline monitoring

Once the Matrix is adapted and validated, the **initial, first monitoring** can start. As the Matrix is designed to provide for a longer-term/continuous monitoring mechanism, the monitoring intervals are best set at an annual basis. This is also a way to ensure that the monitoring data can feed into (and use) the already existing global and regional monitoring indexes in the specific thematic area of CSDev and vice-versa. However, in the initial year, year 0, it is useful if a preliminary baseline monitoring is developed a few months (e.g. 6 months) after the adaptation and start of monitoring. The second step will be to test the

adapted monitoring against available data, the available expertise of CSOs leading the monitoring, as well expertise available in the wider sector. This **initial base line monitoring** can best be presented and checked against a CSO and/or stakeholder focus group to adjust if necessary the indicators as per available data and expertise.

STEP 3



Implementation (consultation/ expert approach)

Similar as per the adaptation itself, the specific country circumstances and background should dictate whether the monitoring is conducted via consultation (thematic per sub-area, regional etc.) or via a CSO expert team/panel. What is extremely important to consider in choosing the approach is the **validity** and **legitimacy** of the findings to be developed at the end. This is the only way to assure that the Matrix does not simply become one more piece of research about the civil society sector, but rather a tool that devises common agendas, priorities and inspires actions and improvement in the advancement of the enabling environment for CSDev in a particular country.

STEP 4



Advocacy

Finally, the **annual/periodic monitoring results**, best presented in the form of a policy paper or brief, should be compiled and presented to the civil society community as well as to stakeholders. This can be at the national level, or through a sequence of sub-national/thematic events. The aim is to recapitulate the work done in the past period, identify gaps (both legislative and in practice) and propose possible action to improve the situation.

Annex

The Monitoring Matrix on Enabling Environment for Civil Society Development

PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
Area 1: Basic Legal Guarantees of Freedoms			
Sub-area 1.1.: Freedom of association			
Freedom of association is guaranteed and exercised freely by everybody	1. All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a legal framework according to which any person can establish associations, foundations and other types of non-profit, non-governmental entities (e.g., non-profit company) for any purpose. 2) The legal framework allows both individual and legal persons to exercise this right without discrimination (age, nationality, legal capacity, gender etc). 3) Registration is not mandatory, and in cases when organizations decide to register, the registration rules are clearly prescribed and allow for easy, timely and inexpensive registration and appeal process. 4) The law allows for networking among organizations in the countries and abroad without prior notification. <p>Practice:</p> <ol style="list-style-type: none"> 1) Every individual or legal entity in practice can form associations, foundations or other non-profit, non-governmental organizations offline or online. 2) Individuals and legal entities are not sanctioned for not-registering their organizations. 3) Registration is truly accessible within the legally prescribed deadlines; authorities decide on cases in non-subjective and apolitical manner. 4) Individuals and CSOs can form and participate in networks and coalitions, within and outside their home countries. 	<p>NGO Sustainability Index for Central and Eastern Europe and Euroasia , USAID (http://transition.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/)</p> <p>ICNL NGO Law Monitor (http://www.icnl.org/research/monitor/index.html)</p> <p>United States International Grantmaking (USIG) (http://www.usig.org/countryinfo.asp)</p> <p>EU Progress Report (http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm)</p> <p>Freedom House (www.freedomhouse.org)</p> <p>Democracy Index (https://www.eiu.com)</p> <p>Freedom Meta Index (http://www.freeexistence.org)</p> <p>Human Development Index (http://hdr.undp.org/en/humandev/hdi/)</p> <p>Social Development Index (http://www.indsocdev.org/)</p> <p>Civic Engagement Index (http://www.oecdbetterlifeindex.org/topics/civic-engagement/)</p> <p>Charity Commission NGO Sector&Regulation Review Tool (http://www.ngoregnet.org/whats_new/NGO_Sector_and_Regulation_Review_Tool.asp)</p>
	2. CSOs operate freely without unwarranted state interference in their internal governance and activities	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework provides guarantees against state interference in internal matters of associations, foundations and other types of non-profit entities. 2) The state provides protection from interference by third parties. 3) Financial reporting (including money laundering regulations) and accounting rules take into account the specific nature of the CSOs and are proportionate to the size of the organization and its type/scope of activities. 4) Sanctions for breaching legal requirements should be based on applicable legislation and follow the principle of proportionality. 5) The restrictions and the rules for dissolution and termination meet the standards of international law and are based on objective criteria which restrict arbitrary decision making. <p>Practice:</p> <ol style="list-style-type: none"> 1) There are no cases of state interference in internal matters of associations, foundations and other types of non-profit entities. 2) There are no practices of invasive oversight which impose burdensome reporting requirements. 3) Sanctions are applied in rare/extreme cases, they are proportional and are subject to a judicial review. 	<p>Nations in Transit (www.freedomhouse.org/report-types/nations-transit)</p> <p>Polity IV Project (http://www.systemicpeace.org)</p> <p>Civil Society Index (https://www.civicus.org/csi/)</p> <p>Global Corruption Barometer (www.transparency.org/research/gcb/overview)</p> <p>Index of Economic Freedom (http://www.heritage.org)</p> <p>Doing Business In Index (http://www.doingbusiness.org)</p>

PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
<p>Freedom of association is guaranteed and exercised freely by everybody</p>	<p>3. CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Legislation allows CSOs to engage in economic activities. 2) CSOs are allowed to receive foreign funding. 3) CSO are allowed to receive funding from individuals, corporations and other sources. <p>Practice:</p> <ol style="list-style-type: none"> 1) Legislation on CSOs engaging in economic activities is implemented and is not burdensome for CSOs. 2) There are no restrictions (e.g. administrative or financial burden, preapprovals, or channelling such funds via specific bodies) on CSOs to receive foreign funding. 3) Receipt of funding from individuals, corporations and other sources is easy, effective and without any unnecessary cost or administrative burden. 	
Sub-area 1.2.: Related freedoms			
<p>Freedoms of assembly and expression are guaranteed to everybody</p>	<p>1. CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework is based on international standards and provides the right for freedom of assembly for all without any discrimination. 2) The laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies. 3) The exercise of the right is not subject to prior authorization by the authorities, but at the most to a prior notification procedure, which is not burdensome. 4) Any restriction of the right based on law and prescribed by regulatory authority can be appealed by organizers. <p>Practice:</p> <ol style="list-style-type: none"> 1) There are no cases of encroachment of the freedom of assembly, and any group of people can assemble at desired place and time, in line with the legal provisions. 2) Restrictions are justified with explanation of the reason for each restriction, which is promptly communicated in writing to the organizer to guarantee the possibility of appeal. 3) Simultaneous, spontaneous and counter-assemblies can take place, and the state facilitates and protects groups to exercise their right against people who aim to prevent or disrupt the assembly. 4) There are cases of freedom of assembly practiced by CSOs (individually or through their organizations) without prior authorization; when notification is required it is submitted in a short period of time and does not limit the possibility to organize the assembly. 5) No excessive use of force is exercised by law enforcement bodies, including pre-emptive detentions of organizers and participants. 6) Media should have as much access to the assembly as possible. 	<p>NGO Sustainability Index for Central and Eastern Europe and Euroasia, USAID (http://transition.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/)</p> <p>ICNL NGO Law Monitor (http://www.icnl.org/research/monitor/index.html)</p> <p>World Press Freedom Index (http://en.rsf.org)</p> <p>Media Sustainability Index (www.irex.org/msi)</p>

PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
Freedoms of assembly and expression are guaranteed to everybody	2. CSO representatives, individually or through their organizations enjoy freedom of expression	Legislation: <ol style="list-style-type: none"> 1) The legal framework provides freedom of expression for all. 2) Restrictions, such as limitation of hate speech, imposed by legislation are clearly prescribed and in line with international law and standards. 3) Libel is a misdemeanour rather than part of the penal code. Practice: <ol style="list-style-type: none"> 1) CSO representatives, especially those from human rights and watch dog organizations enjoy the right to freedom of expression on matters they support and they are critical of. 2) There are no cases of encroachment of the right to freedom of expression for all. 3) There are no cases where individuals, including CSO representatives would be persecuted for critical speech, in public or private. 4) There is no sanction for critical speech, in public or private, under the penal code. 	
	3. Civil society representatives, individually and through their organizations, have the rights to safely receive and impart information through any media	Legislation: <ol style="list-style-type: none"> 1) The legal framework provides the possibility to communicate via and access any source of information, including the Internet and ICT; if there are legal restrictions, these are exceptional, limited and based on international human rights law. 2) The legal framework prohibits unjustified monitoring of communication channels, including Internet and ICT, or collecting users' information by the authorities. Practice: <ol style="list-style-type: none"> 1) There are no cases in practice where restrictions are imposed on accessing any source of information, including the Internet or ICT. 2) The Internet is widely accessible and affordable. 3) There is no practice or cases of unjustified monitoring by the authorities of communication channels, including the Internet or ICT, or of collecting users' information. 4) There are no cases of police harassment of members of social network groups. 	
Area 2: Framework for CSOs' Financial Viability and Sustainability			
Sub-area 2.1: Tax/fiscal treatment for CSOs and their donors			
CSOs and donors enjoy favourable tax treatment	1. Tax benefits are available on various income sources of CSOs	Legislation: <ol style="list-style-type: none"> 1) The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs. 2) The law provides tax benefits for economic activities of CSOs. 3) The law provides tax benefits for passive investments of CSOs. 4) The law allows the establishment of and provides tax benefits for endowments. Practice: <ol style="list-style-type: none"> 1) There is no direct or indirect (hidden) tax on grants reported. 2) Tax benefits for economic activities of CSOs are effective and support the operation of CSOs. 3) Passive investments are utilized by CSOs and no sanctions are applied in doing so. 4) Endowments are established without major procedural difficulties and operate freely, without administrative burden nor high financial cost. 	NGO Sustainability Index for Central and Eastern Europe and Euroasia, USAID (http://transition.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/) ICNL NGO Law Monitor (http://www.icnl.org/research/monitor/index.html) United States International Grant making (USIG) (http://www.usig.org/countryinfo.asp) Index of Economic Freedom (http://www.heritage.org/index/about) Economic Freedom of the World Index (http://www.freetheworld.com/index.html) Global Giving Index (https://www.cafonline.org/publications/2011-publications/world-giving-index-2011.aspx)

PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
CSOs and donors enjoy favourable tax treatment	2. Incentives are provided for individual and corporate giving	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The law provides tax deductions for individual and corporate donations to CSOs. 2) There are clear requirements/conditions for receiving deductible donations and these include a wide range of publicly beneficial activities. 3) State policies regarding corporate social responsibility consider the needs of CSOs and include them in their programs. <p>Practice:</p> <ol style="list-style-type: none"> 1) There is a functional procedure in place to claim tax deductions for individual and corporate donations. 2) CSOs are partners to the state in promoting CSR. 3) CSOs working in the main areas of public interest, including human rights and watchdog organizations, effectively enjoy tax deductible donations. 	
Sub-area 2.2.: State support			
State support to CSOs is provided in a transparent way and spent in an accountable manner	1. Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a law or national policy (document) that regulates state support for institutional development for CSOs, project support and co-financing of EU funded projects. 2) There is a national level mechanism for distribution of public funds to CSOs. 3) Public funds for CSOs are clearly planned within the state budget. 4) There are clear procedures for CSO participation in all phases of the public funding cycle. <p>Practice:</p> <ol style="list-style-type: none"> 1) Available public funding responds to the needs of the CSO sector. 2) There are government bodies with a clear mandate for distribution and/or monitoring of the distribution of state funding. 3) Funding is predictable, not cut drastically from one year to another; and the amount in the budget for CSOs is easy to identify. 4) CSO participation in the public funding cycle is transparent and meaningful. 	<p>NGO Sustainability Index for Central and Eastern Europe and Euroasia, USAID http://transition.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex</p> <p>Transparency International (http://www.transparency.org)</p> <p>Corruption Perception Index (http://cpi.transparency.org/cpi2011/results/)</p> <p>Global Giving Index (https://www.cafonline.org/publications/2011-publications/world-giving-index-2011.aspx)</p> <p>Global Integrity Report (http://www.globalintegrity.org/report)</p>
	2. Public funding is distributed in a prescribed and transparent manner	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The procedure for distribution of public funds is transparent and legally binding. 2) The criteria for selection are clear and published in advance. 3) There are clear procedures addressing issues of conflict of interest in decision-making. <p>Practice:</p> <ol style="list-style-type: none"> 1) Information relating to the procedures for funding and information on funded projects is publicly available. 2) State bodies follow the procedure and apply it in a harmonized way. 3) The application requirements are not too burdensome for CSOs. 4) Decisions on tenders are considered fair and conflict of interest situations are declared in advance. 	

PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
<p>State support to CSOs is provided in a transparent way and spent in an accountable manner</p>	<p>3. There is a clear system of accountability, monitoring and evaluation of public funding</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The procedure for distribution of public funds prescribes clear measures for accountability, monitoring and evaluation. 2) There are prescribed sanctions for CSOs that misuse funds which are proportional to the violation of procedure. <p>Practice:</p> <ol style="list-style-type: none"> 1) Monitoring is carried out continuously and in accordance with predetermined and objective indicators. 2) Regular evaluation of effects/impact of public funds is carried out by state bodies and is publicly available. 	
	<p>4. Non-financial support is available from the state</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Legislation allows state authorities to allocate non-financial support, such as state property, renting space without financial compensation (time-bound), free training, consultations and other resources, to CSOs. 2) The non-financial support is provided under clearly prescribed processes, based on objective criteria and does not privilege any group. <p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs use non-financial state support. 2) CSOs are treated in an equal or more supportive manner as compared to other actors when providing state non-financial resources. 3) There are no cases of state authorities granting non-financial support only to CSOs which do not criticize its work; or of cases of depriving critical CSOs of support; or otherwise discriminating based on loyalty, political affiliation or other unlawful terms. 	
Sub-area 2.3: Human resources			
<p>State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs</p>	<p>1. CSOs are treated in an equal manner to other employers</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) CSOs are treated in an equal manner to other employers by law and policies. <p>Practice:</p> <ol style="list-style-type: none"> 1) If there are state incentive programs for employment, CSOs are treated like all other sectors. 2) There are regular statistics on the number of employees in the non-profit sector. 	<p>World Economic Forum Global Competitiveness Report (http://www.weforum.org/issues/global-competitiveness)</p> <p>Global Employment Trends (http://www.ilo.org/global/research/global-reports/global-employment-trends/WCMS_171571/lang--en/index.htm)</p> <p>World Economic Forum Global Gender Gap (http://reports.weforum.org/global-gender-gap-2011/)</p> <p>Civic Engagement Index (http://www.oecdbetterlifeindex.org/topics/civic-engagement/)</p> <p>Global Giving Index (https://www.cafonline.org/publications/2011-publications/world-giving-index-2011.aspx)</p> <p>*Several other reports can be consulted, such as: World of Work Report, Youth Employment, Global Wage Report, World Social Security Report</p>

PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
<p>State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs</p>	<p>2. There are enabling volunteering policies and laws</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Legislation stimulates volunteering and incorporates best regulatory practices, while at the same time allowing for spontaneous volunteering practices. 2) There are incentives and state supported programs for the development and promotion of volunteering. 3) There are clearly defined contractual relationships and protections covering organized volunteering. <p>Practice</p> <ol style="list-style-type: none"> 1) Incentives and programs are transparent and easily available to CSOs and the policy/strategic document/ law is fully implemented, monitored and evaluated periodically in a participatory manner. 2) Administrative procedures for organizers of volunteer activities or volunteers are not complicated and are without any unnecessary costs. 3) Volunteering can take place in any form; there are no cases of complaints of restrictions on volunteering. 	
	<p>3. The educational system promotes civic engagement</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Non-formal education is promoted through policy/strategy/ laws. 2) Civil society-related subjects are included in the official curriculum at all levels of the educational system. <p>Practice:</p> <ol style="list-style-type: none"> 1) The educational system includes possibilities for civic engagement in CSOs. 2) Provision of non-formal education by CSOs is recognized. 	
<p>Area 3: Government – CSO Relationship</p>			
<p>Sub-area 3.1.: Framework and practices for cooperation</p>			
<p>There is a strategic approach to furthering state-CSO cooperation and CSO development</p>	<p>1. The State recognizes, through policies and strategies, the importance of the development of and cooperation with the sector</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There are strategic documents dealing with the state-CSO relationship and civil society development. 2) The strategic document includes goals and measures as well as funding available and clear allocation of responsibilities (action plans incl. indicators). 3) The strategic document embraces measures that have been developed in consultation with and/or recommended by CSOs. <p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs from different areas of interest regularly participate in all phases of the strategic document development, implementation and evaluation. 2) There are examples demonstrating that cooperation between state and CSOs and civil society development is improved and implemented according to or beyond the measures envisaged in the strategic document. 3) The implementation of the strategic document is monitored, evaluated and revised periodically. 4) State policies for cooperation between state and CSOs and civil society development are based on reliable data collected by the national statistics taking into consideration the diversity of the sector. 	<p>Bertelsmann Stiftung's Transformation Index (http://www.bti-project.org/country-reports/pse/blr/)</p> <p>EU Progress Report (http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm)</p> <p>Sustainable Governance Indicators (http://www.sgi-network.org/index.php)</p> <p>*Status Index and Management Index</p>

PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
<p>There is a strategic approach to furthering state-CSO cooperation and CSO development</p>	<p>2. The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a national level institution or mechanism with a mandate to facilitate cooperation with civil society organizations (e.g., Unit/Office for cooperation; contact points in ministries; council). 2) There are binding provisions on the involvement of CSOs in the decisions taken by the competent institution or mechanism(s). <p>Practice:</p> <ol style="list-style-type: none"> 1) The national level institution or mechanism(s) has sufficient resources and mandate for facilitating CSO-government dialogue, discussing the challenges and proposing the main policies for the development of Civil Society. 2) CSOs are regularly consulted and involved in processes and decisions by the competent institution or mechanism(s). 	
<p>Sub-area 3.2: Involvement in policy- and decision-making processes</p>			
<p>CSOs are effectively included in the policy and decision-making process</p>	<p>1. There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There are clearly defined standards on the involvement of CSOs in the policy and decision making processes in line with best regulatory practices prescribing minimum requirements which every policy-making process needs to fulfil. 2) State policies provide for educational programs/trainings for civil servants on CSO involvement in the work of public institutions. 3) Internal regulations require specified units or officers in government, line ministries or other government agencies to coordinate, monitor and report CSO involvement in their work. <p>Practice:</p> <ol style="list-style-type: none"> 1) Public institutions routinely invite all interested CSOs to comment on policy/legal initiatives at an early stage. 2) CSOs are provided with adequate information on the content of the draft documents and details of the consultation with sufficient time to respond. 3) Written feedback on the results of consultations is made publicly available by public institutions, including reasons why some recommendations were not included. 4) The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/training. 5) Most of the units/officers coordinating and monitoring public consultations are functional and have sufficient capacity. 	<p>NGO Sustainability Index for Central and Eastern Europe and Euroasia, USAID (http://transition.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/)</p> <p>ICNL's NGO Law Monitor (http://www.icnl.org/research/monitor/index.html)</p> <p>Worldwide Governance Indicators (http://info.worldbank.org/governance/wgi/index.asp)</p> <p>Civic Engagement Index (http://www.oecdbetterlifeindex.org/topics/civic-engagement/)</p> <p>Bertelsmann Stiftung's Transformation Index (http://www.bti-project.org/country-reports/pse/blr/)</p>

PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
<p>CSOs are effectively included in the policy and decision-making process</p>	<p>2. All draft policies and laws are easily accessible to the public in a timely manner</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Existing legislation obliges public institutions to make all draft and adopted laws and policies public, and exceptions are clearly defined and in line with international norms and best practices. 2) Clear mechanisms and procedures for access to public information/documents exist. 3) There are clearly prescribed sanctions for civil servants/ units for breaching the legal requirements on access to public information. <p>Practice:</p> <ol style="list-style-type: none"> 1) Public institutions actively publish draft and adopted laws and policies, unless they are subject to legally prescribed exceptions. 2) Public institutions answer the majority of requests for access to public information within the deadline prescribed by law, in a clear format, provide written explanations on the reasons for refusal, and highlight the right to appeal and the procedure for appealing. 3) Cases of violations of the law are sanctioned. 	
	<p>3. CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Existing legislation requires public institutions to invite CSO representatives on to different decision-making and/or advisory bodies created by public institutions. 2) There are clear guidelines on how to ensure appropriate representation from civil society, based on transparent and predetermined criteria. <p>Practice:</p> <ol style="list-style-type: none"> 1) Decision-making and advisory bodies on issues and policies relevant for civil society generally include CSO representatives. 2) CSO representatives in these bodies are enabled to freely present and defend their positions, without being sanctioned. 3) CSO representatives are selected through selection processes which are considered fair and transparent. 4) Participation in these bodies does not prevent CSOs from using alternative ways of advocacy or promoting alternative stand-points which are not in line with the position of the respective body. 	
<p>Sub-area 3.3: Collaboration in service provision</p>			
<p>There is a supportive environment for CSO involvement in service provision</p>	<p>1. CSOs are engaged in different services and compete for state contracts on an equal basis to other providers</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Existing legislation allows CSOs to provide services in various areas, such as education, healthcare, social services. 2) CSOs have no barriers to providing services that are not defined by law ("additional" services). 3) Existing legislation does not add additional burdensome requirements on CSOs that do not exist for other service providers. <p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs are able to obtain contracts in competition with other providers and are engaged in various services (e.g., education, health, research, and training). 2) CSOs are included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation). 3) When prior registration/licensing is required, the procedure for obtaining that is not overly burdensome. 	<p>NGO Sustainability Index for Central and Eastern Europe and Euroasia, USAID (http://transition.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/)</p> <p>Human Development Index (http://hdr.undp.org/en/statistics/hdi/)</p> <p>Global Giving Index (https://www.cafonline.org/publications/2011-publications/world-giving-index-2011.aspx)</p>

PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
<p>There is a supportive environment for CSO involvement in service provision</p>	<p>2. The state has committed to funding services and the funding is predictable and available over a longer-term period</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The budget provides funding for various types of services which could be provided by CSOs including multi-year funding. 2) There are no legal barriers to CSOs receiving public funding for the provision of different services (either through procurement or through another contracting or grants mechanism). 3) CSOs can sign long-term contracts for provision of services. <p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs are recipients of funding for services. 2) CSOs receive sufficient funding to cover the basic costs of the services they are contracted to provide including proportionate institutional (overhead) costs. 3) There are no delays in payments and the funding is flexible with the aim of providing the best quality of services. 	
	<p>3. The state has clearly defined procedures for contracting services which allow for transparent selection of service providers, including CSOs</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a clear and transparent procedure through which the funding for services is distributed among providers. 2) Price is not the lead criterion for selection of service providers and best value is determined by both service quality and a financial assessment of contenders. 3) There are clear guidelines on how to ensure transparency and avoid conflict of interests. 4) There is a right to appeal against competition results. <p>Practice:</p> <ol style="list-style-type: none"> 1) Many services are contracted to CSOs. 2) Competitions are considered fair and conflicts of interest are avoided. 3) State officials have sufficient capacity to organize the procedures. 	
	<p>4. There is a clear system of accountability, monitoring and evaluation of service provision</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is legal possibility for monitoring both spending and the quality of service providers. 2) There are clear quality standards and monitoring procedures for services. <p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs are not subject to excessive control. 2) Monitoring is performed on a regular basis according to pre-announced procedures and criteria. 3) Regular evaluation of quality and effects/impact of services provided is carried out and publicly available. 	

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