

Public Benefit Annex of the European Center for Not-for-Profit Law for FY 2016

1. Data of the organization

name:	ECNL Európai Nonprofit Jogi Központ Szolgáltató Nonprofit Korlátolt Felelősségű Társaság
seat:	1052 Budapest, Apáczai Csere János u. 17. I. em.
registration nr:	01-09-921425
name of representative:	Varga Judit company director Katerina-Hadzi-Miceva-Evans executive director

2. Description of the exact public benefit activities in 2016

The European Center for Not-for-Profit Law (ECNL) supports the creation of an environment conducive for the work of civil society in Europe and beyond. ECNL provides expertise in the development of policies and laws that guarantee the enjoyment of fundamental individual and collective rights, specifically the freedom of association, assembly, and participation in public affairs. ECNL supports the elaboration and implementation of international development cooperation policies in Hungary and Europe, with special regard to the enabling environment for civil society organizations (CSOs). ECNL is engaged in countries of the Western Balkans, East-Europe, Asia, Middle-East and Africa which are target regions of the Hungarian International Development Cooperation [Strategy](#). ECNL's activities contribute to the development and consolidation of democratic systems through emphasizing good governance and respect of human rights and fundamental freedoms.

Key results in 2016

a) A milestone towards CSO sustainability in Moldova

Financial sustainability is among the key challenges for the non-profit sector globally. In Moldova CSOs struggle to access sustainable domestic funding resources to ensure continuity of their work and services. The ability to receive and use resources is inherent to the right to freedom of association. Therefore, ECNL's under the Moldova Partnerships for Sustainable Civil Society Program (MPSCS) collaborated with the public authorities and local partners to explore ways in which CSOs can increase domestic resources and **support communities self-organized by the citizens**.

2016 saw a breakthrough, when a new mechanism was launched that allows taxpayers to designate 2% of their paid income tax to a CSO. Not only does the mechanism offer access for CSOs to an additional source of income, but importantly, it also has the potential to motivate CSOs to **connect to individuals** better and communicate what they do in a proactive way. This increases public trust as well as the visibility of CSOs.

ECNL has been supporting the development of the 2% mechanism in Moldova since 2009 using various means: by providing technical assistance in drafting the legal framework, organizing conferences and study visits for state officials and CSOs, developing comparative case studies on European good practices of promoting the mechanism, including examples from implementation of the 1% law Hungary. ECNL's role in launching the mechanism was recognized as highly valuable and indispensable by local partners, with whom we continue to collaborate on the promotion of this funding stream.

b) Better legal framework for CSOs

Framework laws provide the **basic guarantee for fundamental freedoms of association, assembly and expression to enable people to come together** to improve their everyday lives and have voice in their own affairs. They ensure that CSOs can be easily set up, operate freely and benefit from diversified sources of funding. ECNL in 2016 contributed to a more favourable legal framework for civil society in several countries, including **Mongolia, Moldova, Armenia, Cyprus, Kosovo and Ukraine**.

Specifically, ECNL submitted written comments to draft laws in Mongolia, Moldova, Cyprus and Ukraine, developed comprehensive legal assessments in Kosovo and Cyprus, participated in working groups and public discussions in Moldova, held in-person meetings with state officials in Moldova and Cyprus. In Armenia, ECNL provided expertise contributing to the development the new Law on Public Organizations which sets the framework for registration, operation, and full lifecycle of CSOs; prescribes their independence in defining objectives and internal structure; and includes **transparency and accountability** provisions. For the first time, it allows CSOs to carry out economic activities directly, without establishing a separate entity for this purpose. In the northern part of Cyprus ECNL brought in comparative expertise and shared relevant examples to support a more progressive Law on Associations. The new law, adopted in May, improves the previous situation by allowing both individuals and legal entities to establish associations, by aligning the cases of termination of associations with the ECHR standards and by streamlining the registration procedure.

We continue to remain engaged in increasing understanding of the laws that were adopted in 2016 to **promote the enforcement of fundamental rights** and ensure their effective and progressive implementation.

c) International standards on fundamental freedoms reassured

Under the Civic Space Initiative project, ECNL and its partners work with some UN Human Rights Council (UN HRC) members, OHCHR and CSOs to **strengthen standards regarding the freedoms of association and assembly and public participation in the conduct of public affairs** and to provide guidance for public authorities and CSOs. UN HRC resolutions and reports are one of the tools to achieve these objectives.

In his 2016 [report](#) on enabling environment for civil society the UN High Commissioner on Human Rights highlighted practical elements necessary for robust civil society space. ECNL contributed to the report by organizing regional consultations with CSOs in Europe to collect input from the field, which we then communicated directly to the drafters of the report. ECNL currently **supports implementation of the report's recommendations**, especially by supporting public authorities and CSOs in drafting **national legislation affecting freedom of association and public participation**.

In addition, in June 2016, the UN HRC passed a [resolution on civil society space](#), which **strengthens protection of the freedom of association** including ability to raise funding, register easily, and operate freely. The resolution integrates many of the recommendations of the above UN High Commissioner report. ECNL and its partners supported the drafting process by providing technical expertise and comparative perspectives, and working with members of the HRC to improve the text.

The resolution tasked the OHCHR with preparing a report on the participation of CSOs in regional and international organizations. To support this effort, ECNL and its partners in the Civic Space Initiative organized a side event at the 33rd session of the UN HRC. The participants prepared recommendations that were shared with the OHCHR for consideration in writing the new report.

d) Global counter-terrorism policies impacting civic space improved

The Financial Action Task Force (FATF) sets standards for states on combating money laundering and terrorist financing, including on CSOs. Until 2016, FATF's key policy documents singled out CSOs as "particularly vulnerable" to terrorist abuse, and this premise led to misapplication and overregulation of **civic space and fundamental rights**. In June 2016 FATF removed this problematic

language from its main documents. The revised FATF recommendation on CSOs now acknowledges that not all CSOs are at risk and calls on countries to adopt measures only towards those CSOs that are identified as being at risk. Therefore, public authorities who are members of the FATF and those who implement FATF standards (currently about 190 countries) are expected to apply proportionate, risk-based measures when regulating the CSO sector. With these changes FATF aims to improve implementation of its regime and to ensure effectiveness of the measures adopted by the countries in combating counter-terrorism financing.

Since 2013, ECNL has been working with FATF and a **Global Coalition of CSOs** to identify the challenges in the implementation of the standards and to improve the framework; as a result of this concerted effort FATF recognized the need to revise the standards. The FATF Executive Secretary stated that the work with the Global Coalition was constructive and should be model of how other sectors should engage. Last year our Coalition worked with over 130 organizations in 46 countries to **ensure wide participation in discussions concerning CSOs'** operational environment and FATF policies. It provided in-depth, evidence-based research, raised awareness, and undertook concerted effort to open dialogue with the FATF. After the FATF changed its standards, we continued to engage with both FATF and our partners in the countries in order to help them understand how the revised documents should be implemented in the domestic legislation to **respect fundamental rights** and also raise capacity of CSOs to engage in FATF processes in their countries.

Addressing new civil society trends

a) Shaping standards on public participation on global, European and country level

The international and European framework for **public participation in decision-making processes** continues to evolve. While the right of individuals, but also civil society as a whole, to participate is recognized among fundamental rights, its practical implementation oftentimes faces challenges. Documents that set standards and provide an overview of main principles, new forms and models of participation can be essential to address existing gaps and ensure this right in practice. ECNL experts contributed to the creation of standard documents on public participation on the UN, European and country level. These standards also strengthen the ability of communities to **enforce wide social participation in the local public affairs**.

ECNL supported the formulation of the UN HRC [resolution](#) on this issue by providing technical expertise on the draft resolution and by participating in an expert workshop on the right to participation organized by the OHCHR. The resolution adopted by HRC calls on the OHCHR to develop guidelines for countries on how to implement this right in practice. ECNL currently collaborates with the OHCHR in the development of the guidelines.

On the European level, ECNL served as an expert consultant to a working group of the Council of Europe (CoE) in charge of developing guidelines on civil participation in political decision-making. Once adopted, the guidelines will serve as a non-binding document for the region to encourage and promote civil participation on all levels of involvement. ECNL was also advisor to a CoE project on **promoting participatory decision-making** in the Eastern Partnership region that showcased effective mechanisms for interaction and consultation between the authorities and civil society.

We also worked with public officials and CSOs on the country-level in applying the existing standards in their own contexts to contribute to a broader **dialogue** between the state and non-state sectors. For example, ECNL experts provided assistance in the drafting of the law regarding public consultations in Ukraine.

b) Fundraising, as one of the pillars of sustainability: trends in regulation

Financial sustainability is a continuous challenge for CSOs world-wide, and there is an increasing need to diversify funding sources. One of the potential alternative sources of income is giving from individuals, which has been steadily growing in the past years. In parallel, we have seen a tendency

of revisiting the regulatory framework of fundraising in Europe to adapt to new trends in countries such as Poland, Slovakia, UK, Germany, France and Finland.

Several of our European partners launched a discussion about the effects of **fundraising regulations** throughout Europe and on how to regulate fundraising in a most supportive fashion. To bring in the needed comparative perspective, ECNL conducted a first ever mapping of the legal framework for fundraising of CSOs in 17 countries covering all European regions. Our research explores the regulation of a broad range of issues pertinent to fundraising, including the definition of fundraising; elements of statutory regulation; state incentives for fundraising; cross-border donations; and other related laws and **self-regulatory initiatives**.

c) Working on the European Union level to support implementation of international development cooperation agenda

ECNL continued to work with partners, and specifically **European networks**, such as **CONCORD**, the **European confederation of international development NGOs**, the European Foundation Center and the Civil Society Europe working in order to support the review of the EU policies and interventions regarding **enabling environment of CSOs**, counter-terrorism and anti-money laundering and **strengthening of fundamental freedoms**. For example, ECNL developed a report for EU DG responsible for **international development cooperation** (DG DEVCO) on good practices of how the EU delegations have engaged on national level on enabling environment issues to put forward examples that others can consider. In addition, in July ECNL was invited to speak to members of the EU Parliament on developments **regarding the freedom of association and assembly** in the world and reflect on what the Parliament could do. ECNL, in collaboration with the European networks engages with the DG Justice in their supranational assessment of CSO-related risks regarding anti-money laundering and counter terrorism. ECNL and partners are providing input to the risk and vulnerability assessment findings by DG Justice, coordinate input by the CSOs, and remain engaged in the formulation of proposals on potential new measures.

d) Supporting good governance of CSOs

Self-regulatory initiatives are driven by the shared will of CSOs to improve internal governance, to achieve better results in everyday operation and to improve the perception of the sector. To encourage initiatives and widen CSO knowledge on the topic, ECNL published a paper on self-regulation models introduced at the European and international level.

We applied this comparative experience in a number of countries. In Macedonia we developed an outline of a certification mechanism to enable Macedonian CSOs to assess their compliance with certain requirements related to their **transparency, accountability** and fundraising practices. When a CSO is compliant, it receives a „CSO Trust Mark“, demonstrating its trustworthiness in the utilization of donated funds. The certification mechanism aims to build a „bridge“ between CSOs and the private sector by strengthening trust and cooperation.

Further, to support local organizations in Armenia in their endeavours to improve internal governance, ECNL translated its Handbook of NGO Governance to the local language following numerous translations in other languages and relied on this knowledge to also provide expertise in the law drafting process. In Moldova ECNL trained lead CSO leaders on the topic of **CSO good governance and accountability**. We also updated and distributed widely the Financial Management Guide to help CSOs comply with relevant regulations. These efforts promote international good governance standards on the national level and aim to contribute to better-governed and more sustainable organisations.

e) Improving CSO capacity on freedom of assembly in the Western Balkans

Countries of the Western Balkans region have recently seen numerous and contested assemblies, with massive civic response. However, there have not been many organizations monitoring the **legal framework and practical implementation of the right to free assembly (FOA)**. In order to **increase understanding** of how this freedom is applied and how it can be protected in practice, ECNL designed a research methodology and coordinated the development of the first-ever comprehensive country papers on the topic.

ECNL brought together research organizations with a potential to work for necessary legal and policy changes in their countries: our partner in Montenegro submitted comments to the new draft law on FOA, which relied on the findings they collected in their research. The newly adopted law, which integrated some of our partner comments, is generally more enabling than the previous one. The greatest breakthrough is the transfer of responsibility for maintaining public peace and order from the organizers of public assemblies to the police. Another important change refers to the more effective legal remedy for organizers, ensuring quick court decision about submitted complaints.

With this pilot project, ECNL fostered **regional collaboration** around FOA and **raised awareness and knowledge about this fundamental right**. Moving from research to practice, we trained CSOs on practical skills of facilitating assemblies. ECNL exposed its partners to key international and Hungarian FOA experts who delivered a training to them, and invited practitioners also from other regions to **increase cross-border experience sharing**. ECNL's efforts built a loose **regional network of local practitioners** committed and prepared to improve the situation of FOA in the Western Balkans and beyond in a more coordinated way and with more capacity.

3. Introduction of the public benefit activity

Description of the public benefit activity

Protection of the fundamental individual and collective rights, with special regard to freedom of association and assembly, the support of the improvement of civil society and public participation in local and national level and in the level of international development cooperation.

Public tasks and legal provisions connected to the public benefit activity:

The legal references to the public benefit activities were brought in line with the current provisions and its incorporation to the statute is in process.

- 1) **International development cooperation** (international development cooperation activity, the development of legal regulations pertinent to international development cooperation, the development and implementation of the international development cooperation policy, the coordination and direction of international development cooperation activities): **subsection (1) and (2) of Section 8 of the Law XC of 2014 on international development cooperation and international humanitarian assistance; subsection (1) e) and (2) la) and lb) of Section 89 of the Government Decree No 152 of 2014 (07.01) on the tasks and competence of the members of the Government.**
- 2) **Promoting the enforcement and protection of fundamental rights, with special attention to the rights of children, interests of the future generations, rights of nationalities, rights of the members of mostly endangered groups of society** (Review and analysis of the status of the fundamental rights; opinioning draft legal regulations and proposal to develop or amend legal regulations; promoting the enforcement and protection of fundamental rights; awareness raising activity to shape the social attitude and cooperation with organizations and institutions that aim to further the protection of fundamental rights): **points a,b,c,d, of**

subsection 2 of Section 1, Section 2 of the Act No 111 of 2011 on the commissioner for fundamental rights

- 3) **Supporting the communities self-organized by the citizens, cooperation with these communities and supporting the wide social participation in the local public affairs: point a of Section 6 of the Act No 189 of 2011 on the local governments of Hungary**

Target group of the public benefit activity:

CSOs,

governments, parliaments, state authorities (fiscal and tax authorities), public institutions, local governments,

companies and financial institutions (banks),

Intergovernmental bodies: UN bodies (OHCHR, UN HRC), FATF, Council of Europe, OSCE ODIHR; EU institutions, Community of Democracies

donor community, citizens, academics, international experts, activists

Number of beneficiaries of the public benefit activity:

In 2016 ECNL worked in 21 countries and in 7 different regions, as set out in the Hungarian International Development Cooperation Strategy, towards a more enabling legal environment to strengthen civil society. More than 1,200 people have used its resources, and utilized the knowledge gained at 6 capacity building trainings. ECNL's work on a more enabling legal environment indirectly benefited thousands in the establishment, and operation of associations and foundations in an effective and financially sustainable manner. In 2016 ECNL contributed, among others through the organisation of 20 events, meetings, conferences, to raising awareness among a wider range of beneficiaries about safe and enabling operating and legal environment for civil society, the importance of public participation and international development cooperation. ECNL representation in social media through its Twitter account increased to 628 followers from 415 last year, has an average of 30,000 impressions a month, with a continuous Twitter presence of 2-3 tweets a day and 22,000 visitors searched for information on its webpage last year.

Main results of the public benefit activity:

ECNL contributed to widening the knowledge base and comparative know-how of fundamental rights with 5 regional researches and comparative papers and 7 guidelines and handbooks sharing international good practices and standards with CSOs and decision-makers. ECNL helped the professional development of two young experts through a personalized, intensive training course. ECNL supported the operational environment of CSOs by developing 3 policy papers and submitting its comments and opinions to 13 draft laws and 4 policy-level documents. ECNL delivered presentations at 26 regional or national events, thus contributing to increased understanding of how to further the protection of fundamental rights.

4. **Statement of non-reimbursable funding to perform public benefit activity (in thousand HUF)**

Description of donors	Supported objectives	Amount of support		Difference	
		Previous year	Current year	%	In thousand HUF
Funding received from founder	Protection of fundamental rights, supporting civil society development and public participation on the local and national level, and in international development cooperation	24 867	97 681	393%	72 814
Amount awarded by tenders	Protection of fundamental rights, supporting civil society development and public participation on the local and national level, and in international development cooperation	98 817	138 195	100%	39 378
Total:		123 684	235 876	191%	112 192

Statement of funding awarded by tenders

Data in thousand HUF

	Description of donors	Supported objective	Funding accounted for		Funding transferred in the current year	
			Previous year	Current year	Previous year	Current year
	Total		99 101	138 195	80 241	117 980
1.	Funding received from central governmental budget		0	0	-	-
2.	Funding received from local governmental budget		0	0	-	-
3.	International funding received		99 101	138 195	80 241	117 980
3.1	Project partners	Reimbursement of travel costs	284	511	284	511

3.2	United Nations Office for Project Services (UNOPS)	Preparation and adoption of policy documents regulating public participation and cooperation between Parliament, government and CSOs, supporting local-level participation in Iraq	28 787	-	28 786	-
3.3	Civil Society Institute	Strengthening and promoting the role of CSOs in reform processes and democratic transition through improved participation in the implementation of European Neighborhood priorities.	1 533	-	-	-
3.4	FHI Development 360, LLC	Strengthening Moldovan CSOs by improving advocacy capacities and promoting coopeartion between CSOs and the government.	27 932	47 474	18 868	57 238
3.5	BCNL	Assessment of intersectoral social contracting practices and optional models in Bulgaria to improve financial sustainability.	1 708	-	1 708	-
3.6	EU Belarus	Improving freedom of association and the overall legal framework for CSOs in Belarus to protect fundamental human rights.	4 968	-	2 478	-
3.7	OSF	Promoting and ensuring safeguards for freedom of association and assembly with regards to the implementation of counter-terrorism measures.	26 521	72 978	18 517	50 165
3.8	TIA Transparency	Improving enabling environment for CSOs in Armenia, creating mechanisms that improve transparency and	5 884	10 057	6 559	10 066

		accountability.				
3.9	CEE Bankwatch Network	Research on the contribution of international financial institutions to better human rights conditions	1 484	-	1 484	-
3.10	Balkan Civil Society Democracy Network BCSDN	Creation of a matrix and related toolkit for monitoring enabling environment for civil society development.	-	4 817	1 557	-
3.11	IPA Macedonia	Supporting the creation of strong and sustainable CSOs in Macedonia , that can successfully mobilize local resources and can enter in a dialogue with the private sector..	-	2 358	-	-
	4. Más gazdálkodótól kapott támogatás		-	-	-	-

5. Statement of designated funding

Description of designated funding	Previous year	Current year
Designated funding provided by the organization	14.806	50.606

6. Allowance for the executive officers

Type of allowance	Previous year	Current year
Salary	22.116	33.053

In years 2015 and 2016 the organization did not provide separate benefits to executive officers.

7. Indicators determining public benefit status

Calculation of indicators determining public benefit status

Demonstration of adequate resources

Data in thousand
HUF

1. Average annual revenue

Criterion met: yes

	FY 2015	FY 2016	Average annual revenue
Annual revenue	145 092	174 740	247 286

Ascertainment: the annual revenue of the organization exceeds 1 million HUF as specified in subsection (4)a) of Section 32. of the *Law on Freedom of Association, on Public Benefit Status and on the Activities of and Support for Civil Society Organizations* (hereinafter: Law on CSOs).

The organization complied with the conditions as set forth in the law both in financial years 2015 and 2016.

2. Two-year aggregate after tax result

Criterion met: yes

	FY 2015	FY 2016	Two-year aggregate
After tax financial result	0	0	0

Ascertainment: the organization's two-year aggregate after tax financial result is not a negative figure, as specified by Subsection (4)b) of Section 32. of the Law on CSOs.

The organization complied with the conditions as set forth in the law both in financial years 2015 and 2016.

3. Ratio of personnel expenses

Criterion met: in FY 2015: no in FY 2016: yes

	FY 2015	FY 2016
Personnel expenses	55 624	80 928
Allowances for executive officers -	22 116	33 053

Modified personnel expenses	33 508	47 875
Total expenses	145 092	174 740
Quarter of total expenses	36 273	43 685

Ascertainment: personnel expenses do not amount to one-fourth of total expenses in financial year 2015, but they amount to one-fourth of total expenses in financial year 2016. Subsection (4)b) of Section 32. of the Law on CSOs.

Conclusion: Organizations need to meet one out of the three criteria above in order to comply with public benefit requirements.

The corresponding indicators of adequate resources comply with public benefit conditions in two cases in financial year 2015 and in three cases in financial year 2016.

The organization has adequate resources both in financial years 2015 and 2016.

Demonstration of adequate public support

Data in thousand
HUF

1. Ratio of 1% of personal income tax designation received

Criterion met: no

	FY 2015	FY 2016
Total revenue	145 092	174 740
Amount disbursed from central governmental budget	-	-
Corrected income	145 092	174 740
2 % of corrected income	2 902	3 495
1% of personal income tax designation received	-	-

Ascertainment: 1% designation received does not amount to 2% of total revenue, the organization does not comply with conditions as set forth in Subsection (5)a) of Section 32. of the Law on CSOs.

2. Ratio of public benefit costs and expenses**Criterion met: yes**

	FY 2015	FY 2016	Two year average
Total expenditures	145 092	174 740	247 286
Half of total expenditures	72 546	87 370	123 643
Public benefit expenditures	145 092	174 740	247 286

Ascertainment: costs and expenses incurred for the public benefit activity in financial years 2015 and 2016 reach the half of total expenses in the average of two years; i.e., the organization complies with conditions specified in Subsection (5)b) of Section 32. of the Law on CSOs in both financial years. **Yes.**

3. Number of volunteers: 0**Criterion met: no**

Ascertainment: As per Subsection (5)c) of Section 32. of the Law on CSOs an organization can also meet the requirements of public benefit status if at least 10 volunteers contribute to its activities. The organization did not employ volunteers either in financial year 2015 or in 2016.

Conclusion:

Organizations need to meet one out of the three criteria above in order to comply with public benefit requirements. The corresponding indicators of public support comply with public benefit conditions in one case both in financial years 2015 and 2016. The organization has adequate public support both in financial years 2015 and 2016.

In conclusion, based on data and indicators from financial years 2015 and 2016 the organization complies with public benefit conditions specified in the Law on CSOs, as it has sufficient resources and enjoys adequate public support.

Budapest, 14 March 2017.

Head (Representative) of the organization