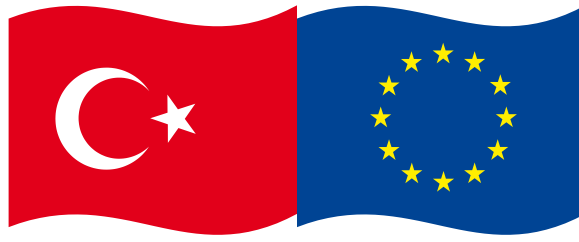


This project is funded by the European Union.

Monitoring and Enhancing Enabling Environment for Civil Society Project

# Monitoring Matrix on Enabling Environment for Civil Society 2018 Turkey Report





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This publication was produced with the financial support of the European Union. Its contents are the sole responsibility of TUSEV and do not necessarily reflect the views of the European Union and the Republic of Turkey.

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## **ABOUT TUSEV**

Third Sector Foundation of Turkey was established in 1993 by leading foundations and associations of Turkey with the objective of strengthening the legal, fiscal and operational infrastructure of civil society organizations. For 25 years, TUSEV has been working to create a more enabling environment for civil society.

With the vision of a stronger civil society in Turkey, TUSEV works under four main program areas and undertakes activities that aim to;

- Establish an enabling and supportive legal and fiscal framework for CSOs,
- Encourage strategic and effective philanthropy and giving,
- Facilitate dialogue and cooperation between the public sector and civil society,
- Promote the recognition of Turkish civil society abroad and encourage collaborations at the international level,
- Create resources and raise awareness through research on civil society.

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# PREFACE

Since 1993, Third Sector Foundation of Turkey (TUSEV), has been working to improve the legal, fiscal and operational infrastructure of civil society organizations (CSO). With our vision of a stronger civil society in Turkey, our foremost aim is to find solutions to the common problems of CSOs and develop a more enabling environment. In May 2018, under our Civil Society Law Reform programme, we started implementing the EU-funded Monitoring and Enhancing Enabling Environment for Civil Society Project, through the activities of which we strive to raise awareness about the legal and fiscal legislation concerning CSOs, to monitor the enabling environment for civil society development and to strengthen Public Sector-CSO relationship.

The Monitoring Matrix 2018 Turkey Report has been prepared by a number of organizations with expertise in the field, including TUSEV, in line with the Monitoring Matrix on Enabling Environment for Civil Society Development, in an effort to improve the enabling environment for civil society and to reinforce monitoring and advocacy capacity in civil society. The enabling environment for civil society development in Turkey in

2018 has been analysed in line with the standards and indicators set in the Monitoring Matrix methodology, namely **Basic Legal Guarantees of Freedoms, Framework for CSO Financial Viability and Sustainability and Public Sector-CSO Relationship**. While analysing the current state of affairs and practices vis-a-vis the existing legislation, the report also presents policy recommendations for CSOs, governments, international community and donors in an effort to provide guidance on the identification of reform priorities.

TUSEV will continue to work for a stronger civil society, share its knowledge and experience with its stakeholders through the common platforms and information resources we have created.

We would like to thank all the individuals, institutions and organizations, who were involved in the preparation of this report and provided their views and experiences, for their valuable contribution.

Sincerely,

**TUSEV**

# INTRODUCTION

## MONITORING AND ENHANCING ENABLING ENVIRONMENT FOR CIVIL SOCIETY PROJECT

Monitoring and Enhancing the Enabling Environment for Civil Society Project, financed by the European Union (EU), is implemented by the Third Sector Foundation of Turkey (TUSEV). The project, which started on May 2018 and will continue until March 2020, aims to contribute to the enhancement of an enabling legal and fiscal environment for civil society and to increase civil society organizations' (CSO) participation in policy and decision-making processes as well with strengthening capacities of CSOs and public institutions on international standards for enabling legal and financial environment and participation in policy and decision-making processes.

## MONITORING MATRIX

As part of the project, aiming to improve the enabling environment for civil society and to reinforce monitoring and advocacy in civil society, amongst other activities, in an effort to monitor the enabling environment for civil society, the Monitoring Matrix 2018 Turkey Report has been prepared by a number of organizations with expertise in the field, including TUSEV, in line with the methodology of the Monitoring Matrix on Enabling Environment for Civil Society Development.

First developed in 2012 and implemented since then by the Balkan Civil Society Development Network (BCSDN) members from the Western Balkans and Turkey, the "Monitoring Matrix on Enabling Environment for Civil Society Development" presents the main principles and standards identified as crucial for the legal environment to be considered supportive and enabling for the operations of CSOs. The Monitoring Matrix has been formulated as a monitoring tool based on the common standards required for civil society development, internationally guaranteed freedoms and rights as well as the criteria of the European Union, principles of the Council of Europe and the Organization for Security and Co-operation in

Europe (OSCE) and best regulatory practices in European countries. This Monitoring Matrix does not aim to embrace all enabling environment related issues, rather it highlights those that the experts and practitioners have found to be most important for the countries which they operate in.

The standards and indicators are defined to monitor the situation of civil society organizations in terms of the legal framework, its enforcement as well as the main challenges experienced in practice.

*The Monitoring Matrix presents the main principles and standards identified as crucial for the legal environment to be considered supportive and enabling for the operations of CSOs. The Matrix methodology is organized around three areas, each divided by sub-areas.*

- *Basic Legal Guarantees of Freedoms;*
- *Framework for CSO Financial Viability and Sustainability;*
- *Public Sector - CSO Relationship*

Under these three areas, main principles concerning each respective area are presented. Each of the main principles were further elaborated by standards and each standard is further explained through detailed indicators. Through its principles, standards and indicators, the Monitoring Matrix provides a fairly concrete definition of the enabling environment, thus enabling public institutions, CSOs, international organizations, grant making organizations, donors or other interested parties to review and monitor the legal environment and practices of its application. Furthermore, the methodology allows the assessment of legal and political environment in line with international standards and provides guidance to interested parties (CSOs, governments, international organizations, donors, etc.) on how to identify reform priorities.

## METHODOLOGY

During the preparation of the Monitoring Matrix 2018 Turkey Report, a comprehensive desk research has been conducted to take stock of the legal and financial framework regulating associations and foundations as well as their implementation. In addition to TUSEV publications, the desk research benefited from the EU Progress Reports, national reports, Turkey sections of the international reports and monitoring reports by CSOs. TUSEV's 2016-2018 case study reports<sup>1</sup> analysing the enabling environment for civil society under different chapters as well as the info notes published by TUSEV Atelier<sup>2</sup> are also used as a reference.

Findings and recommendations from numerous activities and meetings organized as well as consultation meetings attended, as part of TUSEV's Civil Society Law Reform programme, has also provided input for this report. Published in 2018 and opened to public debate in a launch event, TUSEV's report titled "Tax Legislation Related to Foundations and Associations in Turkey and Public Benefit Status: Current Situation and Recommendations"<sup>3</sup>, is the most recent study that has significantly contributed to the Framework for CSO Financial Viability and Sustainability section of the Monitoring Matrix 2018 Turkey Report. The consultation meeting held in October 2018, as part of the Philanthropy Infrastructure Development in Turkey Project carried out under TUSEV's Social Investment programme, concerning the Law on Collection of Aid and permission procedures has also facilitated the formulation of assessments and recommendations on this matter. The opinions exchanged during the meetings and consultations held in 2018 by the National Volunteering Committee, where TUSEV has been a member, has provided the opportunity to incorporate in this report the observations and recommendations about the volunteering policy. The priority issues of civil society as well as the suggested solutions discussed during the consultation meetings,

held in the preparation process of the 11th Development Plan and attended by TUSEV as a member of the Special Committee on Civil Society Organizations, has also provided guidance to the relevant sections of this report. The meetings and workshops, held as part of the Monitoring and Enhancing Enabling Environment for Civil Society Development Project, have facilitated the identification and formulation of tangible policy recommendations featured in this report, particularly about the areas and issues that require urgent solution including the freedom of association and Civil Society-Public Sector cooperation.

In an effort to include the observations and suggestions of representatives from more CSOs, TUSEV conducted a CSO survey between 24 December 2018-18 January 2019. The survey was conducted online with the participation of 125 CSO representatives and its findings is compiled in a separate report to complement the Monitoring Matrix 2018 Turkey Report.

1 "Monitoring Case Studies" as part of Civil Society Monitoring Project. TUSEV. Access date: 18 June 2019. <https://tusev.org.tr/tr/arastirma-ve-yayinlar/sivil-toplum-izleme-raporu-1>

2 TUSEV Atelier Info Notes. TUSEV. Access date: 18 June 2019. <https://tusev.org.tr/tr/arastirma-ve-yayinlar/TUSEV-atolye/bilgi-notlari>

3 Tax Legislation Related to Foundations and Associations in Turkey and Public Benefit Status: Current situation and recommendations. TUSEV. Access date: 18 June 2019. <https://tusev.org.tr/tr/arastirma-ve-yayinlar/online-yayinlar/vakif-ve-dernekleri-ilgilendiren-vergi-uygulamalari-ve-kamu-yarari-statusu-mevcut-durum-ve-oneriler-raporu>



# CIVIL SOCIETY DEVELOPMENT IN TURKEY

In parallel to global developments, the democratization process in Turkey, particularly after the 1980s, provided opportunities for the expansion of the civic space, thus CSOs have become important actors of political, social and economic change. Especially in the 1990s, as social groups and cultural identities gained relative autonomy in the public sphere, the significance attributed to CSOs and their roles has diversified and civil society in Turkey has started to function as similar to those in liberal democracies. In the same period, the adoption of privatization policy as well as the adjustment of public policies to the market economy, directly affected the role of civil society, and as was the case in many developing countries, the sustainable development agenda and democratization process have led the CSOs to get engaged in new fields of activity and adopt different methods. The adoption of the Copenhagen Criteria in 2001 as part of the Turkey's EU accession process has brought along significant reforms, thus improving the enabling environment for civil society, particularly in terms of rights and freedoms. To a great extent, these reforms lifted the restrictions on freedom of association and civil rights that had been in place since the 1980s and contributed to a more enabling environment for civil society activities. Between 2004 and 2008, as part of the European Union (EU) accession negotiations and the efforts to ensure harmonization with the EU Acquis, the legal framework concerning civil society was monitored and improvements were made to expand liberties. Although the Law on Associations enacted in 2004 and the Law on Foundations enacted in 2008 helped alleviate the problems arising from legislation that were faced by associations and foundations for many years and eased the bureaucratic procedures, for the past decade there has been no comprehensive reform in the civil society domain.

Currently, the problems arising from the legal framework still containing numerous incompatibilities with international standards together with further restrictive secondary legislation hamper the enabling environment of civil society. At the same time, there is still no explicit definition of notions such as "civil society" and "civil society organization" in the related legislation, and there has not been any policy document or strategy adopted as part of a holistic public policy that acknowledges and enhances the role and impact of CSOs in the fostering of democratic decision-making processes as well as the improvement of public services. The lack of a holistic public policy concerning CSOs leads to discrepancies in practice and hampers public awareness about civil society.

Between 2016-2018, the State of Emergency declared following the July 15, 2016 coup attempt and the transition to the Presidential Government System in 2018 were the two major breaking points that led to the regulations affecting the civic space. During the state of emergency that remained in force until July 18, 2018, 37 Statutory Decrees limiting the freedom of association were issued, out of which 7 related directly to CSOs. Following the constitutional amendments introduced with the April 16, 2017 referendum, on June 24, 2018 Presidential and Parliamentary Elections were held, and Turkey officially transitioned to a Presidential Government System. Along with the Presidential Government System that came into effect in June 2018, there have been significant changes with implications on public administration and policy making processes. The Presidential Decree No. 17, which was published on September 13, 2018, abolished the Department of Associations (DoA) and established a Directorate General for Relations with Civil Society (DGRCS) under the Ministry of Interior that would aim

to work towards the identification and development of strategies for relations with civil society, ensuring and strengthening of coordination and cooperation between the public sector and CSOs, the enhancement of the effectiveness of civil society organizations and the improvement of service quality. This Directorate defines within its organization chart a Civil Society Consultation Council as a new mechanism for encouraging participation; however, as of 2019, there has not been any concrete initiative in this direction.

Although Turkey has not adopted a holistic public policy concerning civil society in this period, Turkey's National Action Plan for the EU Accession including the required reform chapters (2016-2019); 10th Development Plan covering the period 2014-2018; and the Government Programs that were in place in previous years all featured the proposed amendments to the laws concerning civil society as well as the names of regulations that need to be enacted. In 2018, during the preparation of the 11th Development Plan, which aims to identify the areas in need of structural transformation in Turkey and set corresponding targets and strategies, a Special Committee on Civil Society Organizations was established for the first time for consultation purposes. The Special Committee discussed at large various issues including the introduction of legislative amendments to reinforce the legal and fiscal infrastructure of CSOs with a view to strengthen their role in the development process, adjustment of the legislation to encourage CSOs' participation in local and national decision-making mechanisms, formulation of public policies for strengthening the human resources and institutional capacity of CSOs. Based on these discussions, the Committee compiled its joint recommendations in a preliminary report.<sup>4</sup>

Since the legal and fiscal infrastructure needed for civil society development is not fully in line with international standards and since there is no holistic public policy concerning civil society; even though the civic space has expanded, CSOs have grown in size, membership to CSOs has almost increased by 100% over the past decade, civil society's contribution to and influence on the decision-

making processes remain rather limited. Over the last ten years, there has been a dramatic increase in the civil society membership. According to the data provided by DGRCS, in 2018, the number of association members is 11,124,628. As of the end of 2018, 13.7% of the total population has membership in associations. According to the data provided by DGRCS, the number of active associations increased from 72,077 in 2000 to 115,000 by the end of 2018. As was the case in previous years, the increase in the number of foundations is lower than that of associations. Based on the data from the General Directorate of Foundations (GDoF), while the number of new foundations in 2009 - established after the Republican Period (after 1923) - was 4,460; this number increased to 5,100 in 2016. According to the data provided by GDoF, as of July 2018 there are 5,158 new foundations. As of 2016, 1,219,614 real persons and 27,927 legal entities have membership in foundations. Besides, in 2016, 612 new foundations and 1,025,538 volunteers were notified to the relevant authorities. Given the number of foundations and associations, there is one CSO for every 675 citizens in Turkey.

Although there has been an expansion of the civic space and increase in membership in Turkey, there is still room for improvement in civil society participation and the impact of CSOs. The areas where further improvement is needed are listed as follows:

- **Gender equality in CSOs:** Only 20.3% of association members are women, which corresponds to 5.6% of the overall female population. As of the end of 2018, only 18.85% of members of the mandatory organs are female (1.851.763) and 81.1% are male (7.971.24).
- **Youth participation in CSOs:** According to the data available on the age groups of members that are elected to the legal organs of associations, out of 7,037,321 members only 3.9% (280,537) are in the age group 18-30. While 28% of overall members are aged between 30-45, 67% are above 45.
- **Geographical distribution of CSOs:** Although CSOs are active in all of Turkey's provinces, based on the data available for 2016, 52.96% of associations and 65.49% of foundations are located in Marmara (mostly in Istanbul) and Central Anatolian (mostly in Ankara) regions of Turkey.

<sup>4</sup> Preliminary Report on Civil Society Organizations in the Process of Development. Presidency of the Republic of Turkey, Presidency of Strategy and Budget. Eleventh Plan. Access date: 13 June 2019 <http://onbirinciplan.gov.tr/oiik-ve-calisma-grubu-listeleri/kalkinma-surecinde-sivil-toplum-kurulustari/on-rapor/>

- Fields of activity of CSOs:** In Turkey, while new foundations are predominantly working in the field of education and social assistance, associations are carrying out activities to enhance vocational training, social solidarity, sports and religious services. Despite the increase in their numbers and visibility, rights-based organizations constitute a very small segment of civil society organizations in Turkey. According to the data provided by DGRCS, as of December 2018, out of all the associations registered only 1.28% (1,482 associations) are active in the fields of human rights and advocacy. According to the data provided by GDoF, out of 14,982 activities organized by new foundations in 2017, only 287 are in the fields of law, human rights and democracy.
- Human resource capacity of CSOs:** Only 0.27% of total employment is provided by CSOs. According to the 2016 data, only one third of foundations provide employment, and the average number of employees is 9. According to the 2017 data, the total number of employees in associations is 59,895 and associations allocate 14.5% of their income for the personnel costs. Although the average number of employees in an association is 1.8, according to the data collected in previous years, it seems that there is one employee in approximately 10% of associations.

The legal and fiscal reforms necessary to provide an enabling environment for civil society development are not in place, and the socio-cultural context is not conducive to civil society development. The culture of giving is not cultivated and commonly practiced in Turkey. According to the World Giving Index 2018 Report, Turkey ranks 131st amongst 146 countries. According to the index, Turkey ranks 113th in helping a stranger with a score of 40%; 122nd in donating money to CSOs with a score of 12%; 126th in volunteering time with a score of 9%.

According to the findings of the research report “Individual Giving and Philanthropy in Turkey” published by TUSEV in 2016, in addition to the persistent lack of trust between individuals and towards organizations, the percentage of individuals who believe that CSOs can be influential in the solution of existing societal problems and in their areas of activity has decreased since 2006 when the report was published for the first time. The report suggests that instead of making donations through CSOs,

individuals prefer to make direct donations. Based on the research findings, while the percentage of respondents who believe that CSOs can be influential in solving existing problems was 54% in 2006, it decreased to 41% in 2015. While in 2006, only 9% of the individuals believed that CSOs could not have an influence, in 2015 this figure increased to 14%. The findings of the research suggest that the role of civil society is not clearly understood by the society at large and that CSOs are not considered influential. These results point to an important disconnect in the relationship between CSOs and the society.

# KEY FINDINGS

Laws that directly regulate CSOs in Turkey are as follows: Relevant articles in the Constitution (No 2789, 18/10/1982), the Civil Code (No 4721, 08/12/2001), the Law on Associations (No 5253, 4/11/2004), the Law on Foundations (No 5737, 20/2/2008), the Law on Collection of Aid (No 2860, 23/6/1983), the Law on Meetings and Demonstrations (No 2911, 5/10/1983), the Penal Code (No 5237, 26/09/2004), the Law on Misdemeanours (No 5326, 30/3/2005). Moreover, the legal framework also covers other laws and secondary legislation, which include various provisions regarding CSOs.

Despite the fact, some significant steps were taken to improve the legal framework between 2004 and 2008 during the accession negotiations with the European Union (EU), the primary and secondary legislation are still short of providing an enabling environment for civil society. Existing laws and policy documents do not make an explicit definition of “civil society” and “civil society organization”. Although there exist various forms of organizing – e.g. civic initiatives, groups, platforms, the legal framework only recognizes and defines associations and foundations as CSO legal entities. Foundations and associations are subject to separate legislation and are regulated by different public agencies. DGRCS and GDoF are the highest public authorities with the responsibility to inspect CSOs. Different practices are observed in the frequency, duration and scope of inspections. Furthermore, penalties constitute an important barrier for fully exercising the freedom of association. Penalties and other sanctions further complicate the process of ensuring compliance with the comprehensive bureaucratic procedures required by the legislation. Reductions in administrative fines, guidance, and warning mechanisms that would allow corrective actions are hardly available.

Although, Article 34 of the Constitution recognizes the right of citizens to organize an assembly and demonstration without having to obtain any prior authorization, freedom of assembly remains one of the most problematic areas for civil society in Turkey. Various provisions of the Law on Meetings and Demonstrations

(No 2911, 5/10/1983) as well as some of the restrictive measures that breach the corresponding article in the Constitution are not in compliance with the European Convention on Human Rights and/or the case-law of the European Court of Human Rights.

CSOs face serious fundraising difficulties, primarily due to the highly restrictive, bureaucratic, and limiting Law on Collection of Aid (No 1983, 23/6/1983). The Law requires CSOs to obtain prior permission for each fundraising activity. The procedure for obtaining prior permission requires filling in an application form that includes a set of rather comprehensive information. The decision to evaluate the application and grant approval or disapproval lies with the local public authority. Some discrepancies have been encountered in practice.

The most important means of benefiting from tax exemptions or exceptions for civil society organizations (CSOs) is to hold the status of Public Benefit Association or Tax-Exempt Foundation. The conditions for acquiring these statuses also differ. According to the data compiled in November 2018, there are 278 foundations with tax-exempt status out of 5,158 foundations in Turkey. The percentage of foundations that are tax-exempt has remained steady at 5% in recent years. According to the data compiled in the same period, the 388 associations with public benefit status constituted only 0.03% of the total number of 114,339 active associations in Turkey. Along with the transition to the Presidential Government System, in July 2018 necessary legislative amendments were made which authorized the President to grant public benefit status to associations and foundations. It is seen that the process is long, time consuming, and cumbersome not only for CSOs but also for government organisations. It is also thought that status' being granted by the President may both increase the President's workload and cause only a limited number of organizations being granted the status. In addition the privileges the public benefit statuses provide are very limited and far from helping CSOs raise the funds needed to ensure their financial sustainability.

Public institutions do not attach strategic importance to cooperation with civil society. There is no policy or strategy in place that acknowledges the importance of participation of CSOs in decision-making processes, and outlines or encourages participation processes. Within the Presidential Government System, there is no overarching policy, national strategy or legal framework that governs civil society and government relations and there is no institution or mechanism that is mandated to facilitate, monitor and report on civil society and government relations. Furthermore, with a few exceptions, there are no specially-designated units or subject-experts within the Ministries for governing relations with civil society. The Regulation on the Procedures and Principles of Drafting Legislation includes provisions about CSO participation in decision-making processes. However, while the regulation foresees that CSOs shall be consulted during legislative processes, it does not make it mandatory. In the new system, while the President as well as its affiliated organizations and Councils are the primary policy-makers, Ministries are now functioning as implementing agencies and supervising bodies at a lower level. As of 2019, the procedures and principles of drafting legislation do not include provisions that outline an institutional decision-making infrastructure and ensure a participatory policy-making process.

There is a general lack of strategy and coordination as regards the public funds available for CSOs. There is no institutional infrastructure in Turkey that can provide regular and continuous public funding to CSOs. There is no holistic approach or legislation with respect to regulation of the public funds granted to CSOs, with the exception of practices of the Central Finance and Contracts Unit (CFCU). The total amount, modality, and forms of funding for CSOs are determined separately by each Ministry, and the budget size for such funding is left to the discretion of Ministries. Although there is a budget line in the State Budget indicating the public funds to be allocated to CSOs, since this budget line makes a broad definition of not-for-profit organizations, it is not possible to trace the exact amount allocated to CSOs. The methods

used for the programming and publication of public funding schemes as well as the selection procedures may vary from year to year. The total amount of public funds earmarked for allocation to CSOs are not publicized in advance and the public funding schemes are not designed through a participatory process. The current budget allocated to CSOs remains insufficient. Moreover, public funds and benefits are not distributed in a transparent and accountable manner.

# AREA 1: BASIC LEGAL GUARANTEES OF FREEDOMS

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 gather, to improve their lives, and to pursue common goals and dreams: the freedom of association. The freedom of association, however, does not stand alone. The freedom

of association should be guaranteed and exercised in conjunction with the freedom to assembly 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.

## KEY FINDINGS

The definitions of civil society and civil society organizations are absent in the related legislation. The legal framework only recognizes associations and foundations as CSO legal entities and does not allow the establishment of other types of not-for-profit legal entities including not-for-profit companies.	Area	1
	Sub-Area	1.1
The legal framework regulating state inspection of CSOs is restrictive, bureaucratic and vague and is focused on limitations rather than freedoms, defining penalties and sanctions that do not meet the principle of proportionality.	Area	1
	Sub-Area	1.1
The collection of aid is regulated by law, subjecting CSOs to prior permission and numerous conditions, thus creating obstacles for financial viability of CSOs and their access to financial resources.	Area	1
	Sub-Area	1.1
The Law on Meetings and Demonstrations and its secondary legislation bring limitations to the place and time allowed for meetings and demonstrations, while providing administrative authorities and security forces with wide discretionary powers.	Bölüm	1
	Sub-Area	1.2

## RECOMMENDATIONS

There should be a definition of civil society that acknowledges as legal entities a variety of organizing models such as platforms, initiatives and social initiatives without limiting forms of organizing to associations and foundations and without excluding new social movements. This definition should be formulated through participatory methods and incorporated in the legislation and relevant policy documents.	Area	1
	Sub-Area	1.1
The deficiencies concerning the definitions in the legislation regulating inspection and penalties should be addressed in order to clearly define the limits of the state inspectors and to prevent sanctioning of CSOs with disproportionate penalties. The number of sanctions and penalties CSOs shall be subject to in case of a breach should be decreased and a warning mechanism should be introduced before resorting to penalties.	Area	1
	Sub-Area	1.1
The Law on Collection of Aid should be amended in a way to exempt civil society fundraising activities from permission requirement.	Area	1
	Sub-Area	1.1
The Law on Demonstrations and Meetings should be annulled completely, and a new law should be drafted which would allow peaceful assemblies and demonstrations to be held without any restrictions regarding the place and timing of assemblies.	Area	1
	Sub-Area	1.2

Area 1: Basic Legal Guarantees of Freedoms			
Sub-Area 1.1: Freedom of Association			
Principle 1: Freedom of association is guaranteed and exercised freely by everybody			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>All individuals and legal entities can freely establish, join and participate in informal and/or registered organizations offline and online.</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>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.</li> <li>The legal framework allows both individual and legal persons to exercise this right without discrimination (age, nationality, legal capacity, gender etc.).</li> <li>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.</li> <li>The law allows for networking among organizations in the countries and abroad without prior notification.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>The legal framework only recognizes associations and foundations as CSO legal entities and does not allow the establishment of other types of not-for-profit legal entities including not-for-profit companies. Other than associations and foundations, the only forms of organizing that are exceptionally recognized as legal entities are federations and confederations. Platforms are also recognized by law but not accepted as legal entities.</li> <li>Individuals and legal entities with legal capacity have the right to establish CSOs without prior authorization. However, there are certain restrictions in special laws applicable to the members of the Turkish Armed Forces, the Police force and public officials. For children under 18, the right to establish CSOs is defined in the law, yet subject to special provisions. There are restrictions in place for individuals who are not citizens of Turkey.</li> <li>Registration is required to operate as a CSO. The registration process for associations is without fees and can be completed in a short period of time. However, the requirements for associations to secure a minimum of seven founding members - real persons or legal entities - for registration, to reach at least 16 members to form their mandatory organs within six months following their registration are burdensome in terms of organizing. Foundations acquire their legal entity only when their application for registration is approved by a court. Foreign CSOs are required to obtain permission from the Ministry of Interior in order to operate in Turkey.</li> <li>The legal framework allows for cooperation of associations and foundations at national, regional and international levels. At national level, associations and foundations can establish federations or confederations without prior notification and authorization. However, the number of CSOs required to establish such umbrella organizations is quite high and the legal framework only allows for CSOs with the same purpose to come together to form such umbrella organizations. In order to pursue a common goal, CSOs can come together under the umbrella of informal organizations such as platforms, initiatives, and groups, yet these are not accepted as legal entities by law.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>There should be a definition of civil society that acknowledges as legal entities a variety of organizing models such as platforms, initiatives, social initiatives and grantmaking organizations without limiting forms of organizing to associations and foundations and without excluding new social movements. This definition should be formulated through participatory methods and incorporated in the legislation and relevant policy documents.</li> <li>Barriers to the freedom of association of certain social groups should be lifted and the legislation in this area should be brought in line with international standards.</li> <li>The minimum mandatory number of founding members, executive board and auditing committee members of associations should be lowered.</li> <li>The procedure for the registration of foreign CSOs should be easier and similar to the one required for national CSOs.</li> <li>Necessary legislative amendments should be introduced in order to lower the minimum number of CSOs required to set up federations and confederations, and to allow CSOs with similar purposes to also come together to form umbrella organizations rather than limiting it to CSOs with same purposes.</li> <li>Platforms should be enabled to carry out activities similar to that of associations.</li> </ol>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>Every individual or legal entity in practice can form associations, foundations or other non-profit, non-governmental organizations offline or online.</li> <li>Individuals and legal entities are not sanctioned for not-registering their organizations.</li> <li>Registration is truly accessible within the legally prescribed deadlines; authorities decide on cases in a non-subjective and apolitical manner.</li> <li>Individuals and CSOs can form and participate in networks and coalitions, within and outside their home countries.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>The absolute prohibition of CSO membership for certain professional groups restricts the exercise of freedom of association.</li> <li>Registration is required to operate as a CSO. There are no reported cases that suggest unregistered initiatives, groups or organizations have been subjected to sanctions.</li> <li>Associations acquire legal entity by submitting their founding declarations and annexes to the relevant local administrative authority. The timeline for founding a foundation varies depending on the workload of the courts. Pursuant to the Constitution, the freedom of association may be restricted by law for preservation of national security and public order, prevention of crime, protection of public health, public morals and the rights and freedoms of others. Statutes of associations and by-laws of foundations are subject to review for checking against their compliance with the law. Procedures and criteria for the registration of foreign CSOs are not clearly defined. As of September 2018, 133 foreign associations were listed as permitted to work in Turkey; according to data compiled in 2017, there were 21 foreign foundations permitted to operate in Turkey.</li> <li>There are no barriers to CSOs' international networking and cooperation. However, regional disparities exist with respect to the frequency of such activities. Number of federations and confederations is low owing to the fact that the minimum number of entities required for the formation of such umbrella organizations is quite high and only organizations with the same purpose are allowed to come together to form such umbrella organizations.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>The absolute prohibition of CSO membership for certain professional groups should be lifted; instead limitations should only be introduced concerning the type of organizations public officials cannot be members of due to the nature of their public service. These limitations should be as few as possible and should not be vaguely defined.</li> <li>Restrictions applied to the freedom of association based on vague grounds such as public morals and public order should be lifted or the vague phrases used in the law should be clarified.</li> </ol>

Area 1: Basic Legal Guarantees of Freedoms			
Sub-Area 1.1: Freedom of Association			
Principle 1: Freedom of association is guaranteed and exercised freely by everybody			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
CSOs operate freely without unwarranted state interference in their internal governance and activities.	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>The legal framework provides guarantees against state interference in internal matters of associations, foundations and other types of non-profit entities.</li> <li>The state provides protection from interference by third parties.</li> <li>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.</li> <li>Sanctions for breaching legal requirements should be based on applicable legislation and follow the principle of proportionality.</li> <li>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.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>The legal framework does not provide guarantees against state interference. Relevant laws grant authority to the administration not only for criminal affairs but for many operational procedures including the inspection of the activities of associations and foundations to assess if they are in line with the purposes set out in their statutes and by-laws.</li> <li>There is no holistic approach or practice in this respect.</li> <li>Although the applicable legislation authorizes relevant administrative bodies to issue special accounting regulations for CSOs, since this authority is not exercised in practice, there are no special accounting regulations that are in place. There are two accounting standards, namely balance sheet method and simple accounting method. There are no simplified accounting procedures that take into account the specific nature and structure of grassroot organizations and smaller CSOs.</li> <li>Sanctions for breaching legal requirements are regulated under the applicable legislation but contain disproportionate penalties with no warning mechanisms in place.</li> <li>There are specific provisions in the relevant laws with respect to liquidation and dissolution procedures that regulate automatic dissolution, temporary suspension of activities and termination of associations and foundations. In cases where statutes/by-laws and operations of associations and foundations contain elements threatening national security, public safety, public order and peace, public health and public morals or contain an element of crime, they may face a legal action for termination.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>Since the Penal Code and related laws already cover penal sanctioning for activities containing elements of crime, the punitive provisions in the Law on Associations should be removed.</li> <li>The vaguely defined criteria and grounds for termination of associations and foundations should be clarified and the applicable legislation should be made in line with international standards.</li> <li>The sanctions applicable to CSOs should be amended in a manner to ensure they follow the principle of proportionality. The number of sanctions and penalties CSOs shall be subject to in case of a breach should be decreased and a warning mechanism should be introduced before resorting to penalties. The deficiencies in the legislation with respect to the definitions concerning inspections and sanctions should be addressed. In order to ensure that the inspections are conducted on equal terms and conditions for all CSOs without discrimination, the frequency, duration and the scope of the authority granted to the inspectors should be explicitly regulated under the applicable legislation.</li> <li>Special and user-friendly accounting standards should be prepared for CSOs.</li> </ol>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>There are no cases of state interference in internal matters of associations, foundations and other types of non-profit entities.</li> <li>There are no practices of invasive oversight which impose burdensome reporting requirements.</li> <li>Sanctions are applied in rare/extreme cases; they are proportional and are subject to a judicial review.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>Although the applicable legislation for associations and foundations acknowledges internal auditing as fundamental practice, state inspection of CSOs covers both substantial (the purpose of activity) and procedural (keeping of mandatory books, etc.) aspects. The state inspection of associations is conducted to establish whether they are acting in line with their purpose stated in their statutes and keeping their books and records in accordance with the legislation. The inspection may be performed either by the Ministry of Interior or the highest-ranking local administrative authority. The state inspection of foundations as well as their economic enterprises is conducted to establish whether they are acting in line with their purpose stated in their by-laws and law. In both cases, the inspection is performed by the General Directorate of Foundations (GDoF).</li> <li>The minimum number of mandatory books kept by associations is 6. Associations are mostly sanctioned for failing to "duly" keep these books and to fulfil notification requirements on time. Heavy bureaucracy with respect to the books and records of associations is still present both in the applicable legislation and in practice.</li> <li>There are cases of regional disparities as well as disproportionate administrative and judicial measures during the practice of inspection and sanctioning. The deficiencies concerning the definitions in the applicable legislation lead to the sanctioning of CSOs.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>The legal framework for state inspections should have clear provisions to guarantee that inspections are performed in an objective and non-discriminatory manner.</li> <li>The number of mandatory books and records should be decreased. The annual reporting templates should be made user-friendly and the information requested from CSOs should be less and simpler. Financial reporting should not be mandatory, and the state inspectors should retrieve that information from the tax authority. Case-by-case reporting requirement of foreign funding during the year should be annulled and reported in the annual report.</li> <li>The book-keeping procedures should be made easier; in cases where associations fail to record necessary information in their books or where they make - unintentionally due to lack of awareness - incomplete/inaccurate records, warning mechanisms should be preferred.</li> <li>Sanctions and penalties should become proportional and warning mechanisms should be in place to allow time for correction.</li> </ol>



Area 1: Basic Legal Guarantees of Freedoms			
Sub-area 1.1: Freedom of association			
Principle 1: Freedom of association is guaranteed and exercised freely by everybody			
STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities.</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. Legislation allows CSOs to engage in economic activities.</li> <li>2. CSOs are allowed to receive foreign funding.</li> <li>3. CSO are allowed to receive funding from individuals, corporations and other sources.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. Relevant articles of the Turkish Commercial Law, Law on Associations and Law on Foundations regulate CSOs' engagement in economic activities. CSOs are not allowed to engage in direct economic activity.</li> <li>2. Associations and foundations may receive in-kind and cash contributions from individuals, institutions and organizations abroad, provided that they notify the relevant authorities. However, since the applicable legislation does not include an explicit definition of "in-kind and cash contributions from abroad", even the membership fees and individual donations transferred from abroad are subject to notification requirement.</li> <li>3. Associations and foundations may accept donation and aid from corporations, individuals and other sources to realize the purposes set out in their statutes/by-laws. The fact that Turkey uses two different notions – aid and donation, and that the difference between the two is not clearly specified in the applicable legislation causes problems in practice. Any income-generating activity (activities in public space, campaigns, collection of donations via SMS) conducted by CSOs in a place other than where their headquarters are located is defined as a fundraising activity, thus becomes subject to permission under the provisions of the Law on Collection of Aid. The barriers and procedures introduced by the Law on Aid Collection make it difficult for CSOs to carry out income-generating activities and amount to a serious interference in the freedom of association as well as the right of ownership. As of November 2018, out of all the associations, institutions and foundations with public benefit status, only 22 are entitled to collect aid without obtaining permission.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. CSOs' engagement in economic activities should be facilitated.</li> <li>2. The notion of "in-kind and cash contributions from abroad" should be clearly defined in the legislation, and membership fees and small donations should be excluded from this definition.</li> <li>3. Instead of making a distinction between donation and aid, it would be helpful to use one single term and to make necessary amendments in the legal framework accordingly. In case these two notions remain in force, the applicable legislation should include explicit definitions of both.</li> <li>4. The Law on Collection of Aid should be annulled completely or CSOs' fundraising activity should be excluded from its scope.</li> </ol>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1. Legislation on CSOs engaging in economic activities is implemented and is not burdensome for CSOs.</li> <li>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.</li> <li>3. Receipt of funding from individuals, corporations and other sources is easy, effective and without any unnecessary cost or administrative burden.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1. Dealing with the procedures necessary for engaging in economic activity is burdensome for CSOs. The low number of CSOs that set up separate economic enterprises is an indication of this burdensome process. According to the data provided by GDoF, in 2017, 1,625 foundations owned Not-for-Profit Entities and Enterprises, and only 0.8% of the overall income of foundations was generated from the revenues of their economic enterprises.</li> <li>2. The use of foreign funding is not subject to approval; however, the receipt of foreign funding should be notified to the relevant authorities. Since this notification should be made before the receipt and/or use of the funding, in practice, the notification requirement becomes an authorization requirement. Since the notification requirement also applies to small donations or membership fees transferred from abroad, CSOs are faced with disproportionate workload.</li> <li>3. There is no legal barrier to the receipt of funds/donations from individuals, corporations and other sources. It is mandatory that cash donations and grants are sent and received through bank transfers. The Law on Collection of Aid makes it difficult for CSOs to undertake public fundraising activity. Since there are no clear and objective criteria with respect to the evaluation of applications that request permission for fundraising activity, the office of the governor and the district governor act with wide discretionary powers, thus CSOs are faced with arbitrary practices.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1. Economic activities of CSOs should be encouraged and should be held exempt from corporate tax.</li> <li>2. Policies and schemes should be devised to promote and facilitate corporate and individual philanthropy.</li> <li>3. Case-by-case reporting requirement of funding received during the year should be annulled and CSOs should be allowed to collectively notify all the funds received by the end of the year in an annual declaration.</li> </ol>

Area 1: Basic Legal Guarantees of Freedoms			
Sub-area 1.2: Related Freedoms			
Principle 2: Freedoms of assembly and expression are guaranteed to everybody			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
CSO representatives, individually or through their organizations, enjoy freedom of peaceful assembly.	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>The legal framework is based on international standards and provides the right for freedom of assembly for all without any discrimination.</li> <li>The laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies.</li> <li>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.</li> <li>Any restriction of the right based on law and prescribed by regulatory authority can be appealed by organizers.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>Pursuant to the Constitution, everyone has the right to organize meetings and demonstrations without having to obtain any prior authorization. However, the Law on Meetings and Demonstrations introduces restrictions to the exercise of this right. Foreigners' exercise of their freedom of assembly is subject to the authorization of the Ministry of Interior.</li> <li>Advance notification of the relevant local administrative authority (48 hours prior to the event) is required for organizing an assembly and demonstration. In the absence of this notification, the assembly or demonstration is considered unlawful. Therefore, it can be said that the law does not allow spontaneous, unplanned and counter-assemblies.</li> <li>In all cases, an advance notification is required at least 48 hours prior to the event. By means of limitations on sites, routes and places, rights to assembly and demonstrations may be restricted by law for the sake of preservation of national security and public order, prevention of crime, protection of public health, public morals and the rights and freedoms of others.</li> <li>The right of CSOs to appeal against the prohibitions introduced by the public authority is not regulated in the applicable legislation.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>Since there are too many articles that are not in line with international standards in the existing Law on Meetings and Demonstrations as well as its related regulation, introducing amendments to those will not solve all problems. This Law should be annulled completely, and a new law should be drafted which regulates freedom of association in line with international standards. Restrictions regarding the place and timing of peaceful assemblies and demonstrations should be removed by law.</li> </ol>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>No excessive use of force is exercised by law enforcement bodies, including preemptive detentions of organizers and participants.</li> <li>Media should have as much access to the assembly as possible.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>There are various examples of assemblies and demonstrations that were prohibited in 2018. During the state of emergency, in addition to the prohibition of a large number of peaceful gatherings, all kinds of publicly open events were totally banned for weeks or months in various provinces. The practice of imposing increased penalties to the participants of outlawed gatherings has been yet another deterrent factor. There are reported cases where people taken into custody during the police intervention to the gatherings were often sentenced under the Law on Misdemeanours.</li> <li>Article 18 of the Law stipulates that the organizers of an assembly should be notified about the postponement or prohibition decision at least 24 hours prior to the assembly. However, the legal framework already brings heavy restrictions regarding the place and timing of assemblies.</li> <li>Since the notification requirement applies to all sorts of assemblies, spontaneous, unplanned and counter-assemblies can be considered unlawful. The Law sets forth sanctions for those who prevent or disrupt the assembly or demonstration.</li> <li>The instances where the CSOs may exercise their freedom of assembly without prior notification are considered unlawful and thus subject to limitations. Under the state of emergency, in numerous provinces, all kinds of activities including making press statements, setting up tents and stands, holding sit-in protests were either banned by the governor's office or were subjected to its authorization. These restrictions were not limited to marches and demonstrations, but they rather became common practices spanning to the activities of rights based CSOs.</li> <li>There were various instances of excessive use of force by the police including battering, tear gas, water cannons, chemical water usage, etc. during peaceful demonstrations. There were instances of disproportionate use of force by the police on numerous occasions during the demonstrations that were attended by the groups who are critical of government policies.</li> <li>Media is allowed to attend the assemblies; however, there is no regulation encouraging such attendance. Furthermore, in some instances, media representatives were subjected to interference, verbal and even physical abuse, and questioned by the police during assemblies.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>Since the Law on Meetings and Demonstrations is very restrictive, limiting and grants the administration with arbitrary powers, it should be annulled completely and a law harmonizing the exercise of the right with international standards should be adopted. The main problems with the organization of meetings and demonstrations are seen in practice. By making the necessary changes in the law, the arbitrariness of the administration should be limited and freedom of use should be ensured.</li> </ol>

Area 1: Basic Legal Guarantees of Freedoms			
Sub-area 1.2: Related Freedoms			
Principle 2: Freedoms of assembly and expression are guaranteed to everybody			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>CSO representatives, individually or through their organizations enjoy freedom of expression.</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>The legal framework provides freedom of expression for all.</li> <li>Restrictions, such as limitation of hate speech, imposed by legislation are clearly prescribed and in line with international law and standards.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>The Constitution guarantees freedom and privacy of communication for all. However, both the Law on the Internet and the legal framework, grant public institutions the authority to block online content without a court order based on wide discretionary grounds that fall short of complying with international standards.</li> <li>Pursuant to the relevant law, unless there is a duly issued court judgment based on one or more of the following grounds including preservation of national security and public order, prevention of crime, protection of public health, public morals and the rights and freedoms of others, communication cannot be hindered and its privacy cannot be violated. The Law on Regulation of Publications on the Internet and Combating Crimes Committed by means of such Publications does not provide explicit definition of crimes concerning the web contents published online. This situation gave rise to arbitrary practices and had significant negative impact on the freedom of political expression. Under the state of emergency, the Decree Law No. 671 abolished the Directorate of Telecommunication and Communication, and authority over the Internet has been transferred to the Information Technologies and Communication Authority (BTK).</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>The Law No. 5651 on Regulation of the Publications Made on the Internet and Fight against the Crimes Committed by means of such Publications should be revised in line with international standards.</li> </ol>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>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.</li> <li>There are no cases of encroachment of the right to freedom of expression for all.</li> <li>There are no cases where individuals, including CSO representatives, would be persecuted for critical speech in public or private.</li> <li>There is no sanction for critical speech, in public or private, under the penal code.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>According to the Freedom House 2018 Freedom on the Net Report, Internet freedom in Turkey ranked as “not free”. According to the 2018 data on Blocked Websites, the number of websites blocked in 2017 is 115,805. 92% of the decisions for blocking access were taken by TIB, only 3,063 websites (2.6%) were blocked by court order. In addition to the practices of blocking access to websites and social media networks, there were instances of slowing down access to the Internet by throttling techniques to limit bandwidth, to curb the flow of news during important political events or security crises.</li> <li>Based on the Turkish Statistical Institution data from 2018, 72.9% of the total population accessed the Internet in the last three months.</li> <li>According to the Freedom House 2018 Freedom on the Net Report, during the state of emergency, there was an increase in the number of social media accounts that were put under surveillance.</li> <li>The number of people arrested due to their social media posts increased in the 2016-2018 reporting period. The Freedom House 2018 Freedom on the Net Report notes that the Turkish Internet users increasingly face arrests and legal prosecution for their online activities and that hundreds of Twitter users were accused of insulting governmental institutions and the President and making propaganda of terrorist organizations.</li> </ol>	<p><b>Practice:</b></p>

# AREA 2: FRAMEWORK FOR CSO FINANCIAL VIABILITY AND SUSTAINABILITY

Once founded, CSOs need access to resources to carry out their activities. The Monitoring Matrix describes the resources generally used by CSOs as financial aid (tax advantages, income-generating activities, donations and public funding) and human resources (employees and volunteers). The fundamental principles in this area underline that CSOs should benefit from incentivizing

taxation practices to be able to generate their own income and mobilize local resources. In case of public funding for CSOs, the main principle to be followed is transparent transfer and accountable use of funds. The third principle highlights the necessity of having public policies and legal conditions in place that will promote and facilitate the development of sustainable human resources in CSOs.

## KEY FINDINGS

All income-generating activities of CSOs are taxed and economic enterprises of associations and foundations are subject to the same tax rate as commercial businesses. Tax incentives are limited for CSOs with public benefit status and tax exemption.	Area	2
	Sub-Area	2.1
Requirements to gain public benefit and tax exemption statuses are different for associations and foundations, and such privileges are conferred upon a limited number of CSOs by presidential decree without a decision-making mechanism with clear and objective criteria in place.	Area	2
	Sub-Area	2.1
There is no strategically planned regular and permanent public funding mechanism in place that supports the institutional infrastructure and activities of CSOs towards the development of the sector.	Area	2
	Sub-Area	2.2
Practices with respect to planning, distributing, and monitoring public funding for CSOs vary and the distribution process for public funding for CSOs are not regulated on the basis of transparency and accountability criteria.	Area	2
	Sub-Area	2.2

## RECOMMENDATIONS

In order to support the financial sustainability of CSOs, the tax legislation should be revised with a holistic approach and new regulations should be set in place.	Area	2
	Sub-Area	2.1
A comprehensive definition of public benefit should be created based on clear and objective criteria that is not different for associations and foundations. The criteria and procedures for acquiring this status should be set. These statuses should be granted to all CSOs meeting pre-set conditions by an independent body that any organization can easily reach.	Area	2
	Sub-Area	2.2
A concrete and permanent public funding mechanism should be set to support CSOs' institutional infrastructure and activities as well as civil society financial sustainability.	Area	2
	Sub-Area	2.2
A framework document or piece of legislation regulating the key processes of public funding for CSOs in a participatory manner.	Area	2
	Sub-Area	2.2

Area 2: Framework for CSO Financial Viability and Sustainability			
Sub-Area 2.1: Tax/Fiscal Treatment for Csos And Their Donors			
Principle 3: Principle: CSOs and donors enjoy favourable tax treatment			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
Tax benefits are available on various income sources of CSOs.	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs.</li> <li>2. The law provides tax benefits for economic activities of CSOs.</li> <li>3. The law provides tax benefits for passive investments of CSOs.</li> <li>4. The law allows the establishment of and provides tax benefits for endowments.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. Grants and donations to CSOs are tax-exempt.</li> <li>2. Economic enterprises of associations and foundations are subject to the same tax practice as for profit businesses. There are no special advantages set in place for economic activities.</li> <li>3. All income-generating CSO activities are subject to tax. Foundations and associations' income in the form of rent from property they own, dividends from the participation stocks and shares they have, and the interest yield from their bond, Turkish Lira (TL) and foreign exchange investments are subject to withholding in accordance with the Income Tax Law. Foundations and associations themselves deduct the amounts subject to income tax withholding from the profits of their economic enterprises. Furthermore, a Value Added Tax (VAT) exemption is not in place.</li> <li>4. The legislation allows for the establishment of endowments. In establishing endowments, CSOs are exempt from Inheritance and Succession Tax and Corporate Tax.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. The entire tax legislation related to CSOs should be reviewed with a holistic approach and incentives should be put in place.</li> <li>2. Economic enterprises established for the purpose of attaining the objectives of the foundations and associations should be exempt from Corporate Tax. Transfers to the association or foundation of the profit after Corporate Tax paid by profit-generating economic enterprises should not be considered distribution of profit and not be subject to Income Tax withholding.</li> <li>3. Taxes related to passive investments of CSOs should be lifted.</li> <li>4. Foundations with Tax Exemption Status and associations with Public Benefit Status should be exempt from VAT, Property Tax, Stamp Duty, Motor Vehicles Tax, and Special Consumption Tax as well as Notary Public Fees.</li> </ol>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1. There is no direct or indirect (hidden) tax on grants reported.</li> <li>2. Tax benefits for economic activities of CSOs are effective and support the operation of CSOs.</li> <li>3. Passive investments are utilized by CSOs and no sanctions are applied in doing so.</li> <li>4. Endowments are established without major procedural difficulties and operated freely, without administrative burden or high financial cost.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1. Donations and grants are tax-exempt.</li> <li>2. Provisions in the Corporate Tax Law regarding economic enterprises of foundations and associations are quite restrictive.</li> <li>3. CSOs may engage in passive investments but there are different taxation practices.</li> <li>4. It is incumbent upon foundations to establish endowments. There is no administrative challenge in establishing or operating endowments. The minimum endowment value for foundations is 60,000 TL.</li> </ol>	<p><b>Practice:</b></p>

Area 2: Framework for CSO Financial Viability and Sustainability			
Sub-Area 2.1: Tax/Fiscal Treatment for Csos And Their Donors			
Principle 3: Principle: CSOs and donors enjoy favourable tax treatment			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
Incentives are provided for individual and corporate giving.	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>The law provides tax deductions for individual and corporate donations to CSOs.</li> <li>There are clear requirements/conditions for receiving deductible donations and these include a wide range of publicly beneficial activities.</li> <li>State policies regarding corporate social responsibility consider the needs of CSOs and include them in their programs.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>A tax deduction of 5% is applied on donations by real persons and legal persons to foundations with Tax Exemption and associations with Public Benefit status (10% in development-priority regions). No tax deduction is applicable for donations by real persons on payroll.</li> <li>Only tax-exempt foundations and associations with public benefit status can receive donations from real persons and legal entities that are subject to tax deduction. The fact that these statuses used to be granted by the Council of Ministers, an authority that is hard to reach and political, caused few organizations to have these statuses and presented a barrier to objective decisions being taken. Amendments transferring this authority to the President following the transition to the Presidential Government System were adopted in July 2018.</li> <li>No overarching Corporate Social Responsibility (CSR) policy or strategy exists to pay regard to CSO needs.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>Tax-deductible amounts on donations by real persons and legal entities should be raised.</li> <li>Barriers before donations by salaried employees should be lifted, and it should be possible for salaried employees to be able to deduct their donations from their tax base by declaring their donations to their employers.</li> <li>The Public Benefit status should be granted not by an authority like the Presidency, which is hard to reach and political but by an independent body that each organization can easily access.</li> <li>CSR policies should be encouraged and certain tax exemptions should be applicable.</li> </ol>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>There is a functional procedure in place to claim tax deductions for individual and corporate donations.</li> <li>CSOs are partners to the state in promoting CSR.</li> <li>CSOs working in the main areas of public interest, including human rights and watchdog organizations, effectively enjoy tax deductible donations.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>Two different public benefit definitions exist for associations and foundations and the requirements for each differ. No tax exemption is granted for foundations serving a particular region or a particular community. In order to obtain a tax exemption status, the foundations must be working on health, social assistance, education, scientific research and development, culture, environmental protection, or afforestation. As the definition of public benefit is unclear, public officials authorized to grant this status have been given broad discretionary power, which brings about subjective practices.</li> <li>No special regulation or incentive mechanism exists regarding CSR.</li> <li>Tax deduction is only applicable for donations to organizations with tax exemption and public benefit status. Rights-based organizations state they especially have difficulty in obtaining public benefit status. According to November 2018 data, the number of tax-exempt foundations among the 5,158 new foundations is 278. The ratio of tax-exempt foundations to newly established foundations is confined to 5% as in previous years. According to data reported in the same period, the 388 associations with public benefit status only make up 0.03% of the 114,339 active associations.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>A “public benefit” definition based on clearer and more objective criteria that is not restrictive should be made and objective criteria and procedures should be laid down for obtaining these statuses.</li> <li>A comprehensive definition of CSOs working for public benefit should be established and discrepancies between foundations and associations should be removed. These statuses should be granted to all organizations meeting pre-set conditions by an independent body that any organization can easily reach.</li> <li>CSR policies and programmes should be promoted by all public institutions and private sector contributions should be supported.</li> </ol>

Area 2: Framework for CSO Financial Viability and Sustainability			
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	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants.	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>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.</li> <li>2. There is a national-level mechanism for distribution of public funds to CSOs.</li> <li>3. Public funds for CSOs are clearly planned within the state budget.</li> <li>4. There are clear procedures for CSO participation in all phases of the public funding cycle.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. Central Finance and Contracts Unit (CFCU) ensures that the grants distributed within the framework of the programmes financed by the EU in Turkey are implemented in accordance with the EU's administrative procedures. Regulation on Providing Aid from Public Institutions Budgets to Associations, Foundations, Unions, Organizations, Institutions, Endowments and Similar Entities allows aids for the organizations cited in the title of the regulation. Relevant ministries issue directives and regulations on providing aids to associations and similar organizations based on this regulation. No legislation or policy paper exist that allow public support for the institutional development of CSOs.</li> <li>2. There is a national institution for EU funds. Public funds are allocated to CSOs through ministries and project partnership mechanisms with funding provided rarely through grant allocation or service contracts.</li> <li>3. Relevant budget items are present in the central government and local administration budgets and it is possible to access the total amount of transfers to non-association institutions, organizations, endowments, etc. According to Ministry of Finance data, the total of the public funding by the central government and local administrations to associations, unions, institutions, organizations, endowments, etc. stands at 1.797.389,000 TL. Although the amounts transferred to not-for-profit organizations has gone up over the years, there has not been a considerable increase in their share in in the general budget. Furthermore, as this budget item also includes endowments and unions, the amount transferred can be considered low.</li> <li>4. There is no specific regulation set for CSO participation in the processes for planning and monitoring public funds allocations.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. Relevant amendments to legislation should be made to regulate planning, distribution and monitoring processes of public funding for CSOs and a national strategy should be adopted.</li> <li>2. A national structure/mechanism should be established in charge of coordinating public funding distribution.</li> <li>3. Funds to be allocated to CSOs should be announced annually, including the activities for which they have been allocated.</li> </ol>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1. Available public funding responds to the needs of the CSO sector.</li> <li>2. There are government bodies with a clear mandate for distribution and/ or monitoring of the distribution of state funding.</li> <li>3. Funding is predictable, not cut drastically from one year to another; and the amount in the budget for CSOs is easy to identify.</li> <li>4. CSO participation in the public funding cycle is transparent and meaningful.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1. A concrete and permanent public funding mechanism to support CSOs' institutional infrastructure and activities as well as civil society financial sustainability does not exist.</li> <li>2. While there is no specific public finance auditing mechanism, donor institutions are responsible for carrying out monitoring and auditing activities. General budget auditing is performed by the Ministry of Treasury and Finance.</li> <li>3. The amount of the public funding that would be allocated to CSOs and the conditions and procedures regarding the distribution of public funds are identified by each authority separately or it is stated in the relevant regulation that the decision regarding the determination of fund amounts is left to the discretion of the minister in ministries and to the top executive in other authorities. Fund allocation methods and the budget allocations for CSOs might vary from year to year.</li> <li>4. Rules regarding CSO participation are not laid down in the distribution process of public funds.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1. The amount of public funding for CSOs should be clearly stated in the state budget and the distribution criteria should be made clear, transparent and accountable.</li> <li>2. There should be clear arrangements for CSO participation in the planning, programming, and monitoring processes of public funding.</li> </ol>

Area 2: Framework for CSO Financial Viability and Sustainability			
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 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
Public funding is distributed in a prescribed and transparent manner.	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. The procedure for distribution of public funds is transparent and legally binding.</li> <li>2. The criteria for selection are clear and published in advance.</li> <li>3. There are clear procedures addressing issues of conflict of interest in decision-making.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. Public funding practices left to the discretion of fund-distributing institutions vary between different institutions. According to article 8 of the Regulation on Providing Aid from Public Institutions Budgets to Associations, Foundations, Unions, Organizations, Institutions, Endowments and Similar Entities, public institutions are obligated to report until the end of February of the following year a list of the names, information, purpose of aid, subject of funding, and the amount of the aid provided with respect to the organizations aided. However, the relevant article of the regulation does not lay down methods for sharing this information with the public or indeed about the continuation thereof.</li> <li>2. Some of the relevant Ministries issue Project Application Guidelines which include selection criteria. However, these practices vary from one institution to the next.</li> <li>3. There are procedures set for dealing with disagreements attributable to selection criteria. However, these procedures, too, vary.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. A code of conduct that standardizes selection and evaluation criteria for public funding and fund allocation should be developed.</li> <li>2. Project financing decisions for CSOs and the selection process of the CSOs selected for public-CSO cooperation as well as project management processes should be subject to independent supervision.</li> <li>3. CSOs' right to objection in disagreements in the selection process should be recognized, with the objection procedures set in law.</li> </ol>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1. Information relating to the procedures for funding and information on funded projects is publicly available.</li> <li>2. State bodies follow the procedure and apply it in a harmonized way.</li> <li>3. The application requirements are not too burdensome for CSOs.</li> <li>4. Decisions on tenders are considered fair and conflict of interest situations are declared in advance.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1. Usually Ministries do not set out the total budget, selection and evaluation criterias for funds and aids allocated to CSOs. No common practices exist for non-EU-financed Ministry funds. Even though the total amount allocated and distributed is announced, the decisions of the committee, information of the projects chosen for funding, and the score/results of the assessment as regards their budget are not disclosed to the CSOs or the public.</li> <li>2. There is no common understanding or practice regarding ministries providing financial support to CSOs.</li> <li>3. Applying for public funding does not represent an additional cost for CSOs. Application requirements might differ.</li> <li>4. There are no data regarding the fairness of tendering processes.</li> </ol>	<p><b>Practice:</b></p>



Area 2: Framework for CSO Financial Viability and Sustainability			
Sub-Area 2.3: Human Resources			
Principle 5: State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
CSOs are treated in an equal manner to other employers.	<b>Legislation:</b> 1. CSOs are treated in an equal manner to other employers by law and polities.	<b>Legislation:</b> 1. CSOs, like all other employers, are subject to the Labour Law. There is no specific regulation or set of practices regarding the CSO employees.	<b>Legislation:</b> 1. Amendments to legislation should be made to encourage employment in CSOs.
	<b>Practice:</b> 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.	<b>Practice:</b> 1. CSOs are considered equal with other employers; however, there are no employment incentives or programmes for this sector. 2. The Directorate General for Relations with Civil Society (DGRCS) and the General Directorate of Foundations (GDoF) collect data on associations and foundations. 2018 employment data have been published for associations but not for foundations.	<b>Practice:</b> 1. Cooperation between DGRCS and GDoF should be improved and CSO statistics should be disclosed in a standardized and user-friendly format, including employment data, in line with international standards. 2. CSO statistics should be included in the official statistics programme kept by the Turkish Statistical Institute and updated.

Area 2: Framework for CSO Financial Viability and Sustainability			
Sub-Area 2.3: Human Resources			
Principle 5: State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
There are enabling volunteering policies and laws.	<b>Legislation:</b> 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.	<b>Legislation:</b> 1. There is no general regulation that could be considered to draw a legal framework for volunteer work, volunteering, voluntary activities, and voluntary service. The participation of volunteers in the provision of public services is regulated in certain acts and regulations such as the Law on Special Provincial Administration and the Municipality Law. 2. Ministry of Youth and Sports declared 2019 to be a Volunteer Year. Targets have been set to improve the volunteering culture and to enhance voluntary capacity. 3. There is no specific regulation defining the mutual rights and responsibilities between CSOs and volunteers. Some CSOs are known to have developed their own volunteering policies.	<b>Legislation:</b> 1. A volunteering status composed of protective measures should be formed to cover the different types of volunteering and a legal base should be set to safeguard the parties in the volunteer-CSO relationship.
	<b>Practice:</b> 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.	<b>Practice:</b> 1. There is no specific piece of legislation or policy paper and related incentives with respect to volunteering. The National Volunteering Committee, founded by the United Nations Volunteers and bringing together more than 35 CSOs, is working to develop a volunteering policy. 2. Health and safety measures CSOs need to provide for their volunteers and the related procedures are not defined. There are cases where CSOs take these measures for their volunteers through private personal insurance. 3. As there is no clearly defined legal base for volunteer work and exceptions regarding volunteer work are not specified in the labour and social security legislation, in inspections, CSOs risk facing penal sanctions as regards work conducted with volunteers. In previous years, one CSO was sanctioned a hefty fine for hiring uninsured workers.	<b>Practice:</b> 1. The purpose and the framework of the legislation to be created regarding volunteer work should be identified in a participatory way with the participation of CSOs.

# AREA 3: PUBLIC SECTOR-CSO RELATIONSHIP

The third and final area focuses on the public sector-CSO relationship. The principles contained herein are applicable for the relationship between the central government in power and CSOs as well as the relationship between CSOs and the parliament and local administrations. The third area is divided into three sub-areas. The first sub-area analyzes the framework and practices for cooperation and the main principle requires a strategic approach serving as the basis for

the relationship that will allow for the public sector-CSO relations to improve and for CSOs to develop further. The second sub-area stresses the importance of the active participation of citizens and CSOs in the formulation of policies and legislation. The third sub-area, as a new field of activity, focuses on the provision of various services (e.g. health, social services, research, etc.) by CSOs through tendering or delegation and strengthening cooperation.

## KEY FINDINGS

Under the Presidential Government System, no national strategy or legal framework on public sector - CSO relations has been adopted.	Area	3
	Sub-Area	3.1
There is no public institution or mechanism that is responsible for maintaining public sector-CSO cooperation and promote civil society engagement.	Area	3
	Sub-Area	3.1
There is no policy or strategy that recognizes the importance of CSO participation in decision-making processes, nor any policy or strategy that defines or promotes such engagement processes.	Area	3
	Sub-Area	3.1

## RECOMMENDATIONS

A framework legislation and policy papers regulating the relations between public institutions and CSOs and containing agreed-upon principles, mechanisms, and responsibilities should be created in a participatory fashion.	Area	3
	Sub-Area	3.1
A national institution or mechanism (cooperation office/unit, contact points at ministries, Council) should be formed to carry out public sector-CSO cooperation and promote civil society participation.	Area	3
	Sub-Area	3.1
Regulation on the Procedures and Principles of Legislation Preparation should be amended to render consultation with CSOs binding and feedback mechanisms should be set in the regulation as regards comments conveyed by CSOs.	Area	3
	Sub-Area	3.1

Area 3: Public Sector-CSO Relationship			
Sub-Area 3.1: Framework and Practices for Cooperation			
Principle 6: There is a strategic approach to furthering state-CSO cooperation and CSO development			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>The State recognize, through policies and strategies, the importance of the development of and cooperation with the sector.</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>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).</li> <li>2. There are binding provisions on the participation of CSOs in the decisions taken by the competent institution or mechanism(s).</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. There is no national institution or coordinating cooperation office/unit or ministry contact points working on the development of public sector-CSO relations and civil society. Under the Presidential Government System, 9 presidential policy councils were established to engage CSO, academia, and sector representatives and to develop policy recommendations. Although the President identified the members of the councils, composed of at least three members, on 8 October 2018, there is no information regarding the work programmes and engagement activities of the councils.</li> <li>2. There is no policy or strategy that recognizes the importance of CSO participation in decision-making processes, nor any policy or strategy that defines or promotes such engagement processes. Although the Regulation on the Procedures and Principles of Legislation Preparation includes provisions about consultation with CSOs, CSO consultation has not been required in draft laws and has been left to ministerial discretion. Even though the law-making process was amended by the transition to the Presidential Government System, no regulation regarding the legislation preparation process and the principles and procedures thereof had been put in place by 2019.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. A national institution or mechanism (cooperation office/unit, contact points at ministries, Council) should be formed to carry out public sector-CSO cooperation and promote civil society participation.</li> <li>2. A framework legislation and policy papers regulating the relations between public institutions and CSOs and containing agreed-upon principles, mechanisms, and responsibilities should be prepared in a participatory fashion.</li> <li>3. Members of the councils created under the Presidency should be selected through an open call and based on transparent criteria.</li> <li>4. Regulation on the Procedures and Principles of Legislation Preparation should be amended to render consultation with CSOs binding and feedback mechanisms should be set in the regulation as regards comments conveyed by CSOs.</li> </ol>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>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.</li> <li>2. CSOs are regularly consulted and involved in processes and decisions by the competent institution or mechanism(s).</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1. The Presidential Decree issued in September 2018 which established DGRCS and the regulation issued as regards its organizational structure and mandate authorize this institution to develop strategies for relations with civil society, ensure and strengthen coordination and cooperation between the public sector and civil society organizations. Within this structure, a new mechanism called the Civil Society Consultation Board has also been formed. As of 2019, no member has been appointed to the board. Criteria regarding the selection of the CSO representatives for the board have not been announced.</li> <li>2. As there are no egalitarian, sustainable, and accessible mechanisms, it is not possible to talk about an overarching procedure for CSO participation in decision-making processes. CSOs rarely participate in legislative processes and when they do, it is mostly a one-sided consultation process. The EU 2018 Turkey Progress Report underscored that there was no open discussion environment during the referendum process where the constitutional amendments which introduced the Presidential Government System in April 2017 were adopted for civil society to engage in the process.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1. Determining policies to be developed in line with the objectives of DGRCS and monitoring and evaluation processes of the implementation should be organized in a participatory manner.</li> <li>2. Participation of CSO representatives in the Civil Society Consultation Board to be established under DGRCS should be selected through an open call and based on transparent criteria.</li> </ol>

Area 3: Public Sector-CSO Relationship			
Sub-Area 3.2: Participation in Policy and Decision-Making Processes			
Principle 7: CSOs are effectively included in the policy and decision-making process			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
There are standards enabling CSO participation in decisionmaking, which allow for CSO input in a timely manner.	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. There are clearly defined standards on the participation 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.</li> <li>2. State policies provide for educational programs/ training for civil servants on CSO participation in the work of public institutions.</li> <li>3. Internal regulations require specified units or officers in government, line ministries or other government agencies to coordinate, monitor and report CSO participation in their work.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>1. Although important amendments were made regarding the legislative function of the Turkish Grand National Assembly (TGNA), no amendment has been made to allow for civil society engagement in law-making processes and to define consultation processes in the TGNA Rules of Procedure.</li> <li>2. Article 5 of the Regulation on Procedures and Principles of Strategic Planning in Public Administration issued in accordance with the provisions of the Law No. 5018 on Public Finance Management and Control provides that a public institution shall ensure participation of CSOs and receive their contributions while preparing strategic plans. It is known that in this process, public officials participate in training programmes. A 2018 review of the effective strategic plans of certain public institutions and organizations indicates that these plans ensure participation at the preparation stage only partially and formally.</li> <li>3. Although there are public officials in individual ministry and public institution units taking the initiative to engage civil society, there are no units/public officials in charge of monitoring and reporting CSO participation. Public officials in charge of engaging external stakeholders in the strategy planning stage at the Strategy Development and Planning Department obtain CSO opinions by means of questionnaires or other such methods. However, as the strategic plan monitoring and evaluation stage is generally not open to external stakeholder engagement, following the adoption of the strategic plan, public officials do not conduct a regular consultation process.</li> </ol>	<ol style="list-style-type: none"> <li>1. TGNA Rules of Procedure procedure should be amended so as to include provisions to ensure civil society participation.</li> </ol>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1. Public institutions routinely invite all interested CSOs to comment on policy/legal initiatives at an early stage.</li> <li>2. CSOs are provided with adequate information on the content of the draft documents and details of the consultation with sufficient time to respond.</li> <li>3. Written feedback on the results of consultations is made publicly available by public institutions including reasons why some recommendations were not included.</li> <li>4. The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/training.</li> <li>5. Most of the units/officers coordinating and monitoring public consultations are functional and have sufficient capacity.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>1. Public Sector-CSO relations are not of a permanent nature and public institutions have discretion over the practices they choose to follow. There are no specified, egalitarian, and sustained accessible mechanisms to regulate CSO participation in decision-making processes. Practices are not standardized due to a lack of official procedures or action plans on civil society-public sector relations.</li> <li>2. The Regulation on the Procedures and Principles of Legislation Preparation states that professional organizations with public institution status and CSOs should provide their comments on the drafts within thirty days. Otherwise, they are considered to have issued an affirmative opinion. Furthermore, in practice, in the rare instances where CSOs are asked for their comments, they are given much less time than 30 days. There are no objective mechanisms governing feedback, negotiation and collaboration methods within consultation processes.</li> <li>3. As feedback and information mechanisms have not been formed, consultation processes take place as one-sided and one-off instances, with some exceptions. Although a broad consultation process was conducted for the preparation of the 11th Development Plan in 2018, a feedback and information mechanism for after the meetings were not created.</li> <li>4. Various trainings have been provided for public officials in the preparation process for relevant ministry and public institution strategy papers.</li> <li>5. Although a general acceptance that public sector personnel suffer a lack of capacity as regards participation and civil society engagement pervades, there are no specific data on the issue.</li> </ol>	<p><b>Practice:</b></p>

Area 3: Public Sector-CSO Relationship			
Sub-Area 3.2: Participation in Policy and Decision-Making Processes			
Principle 7: CSOs are effectively included in the policy and decision-making process			
STANDARD 2	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>All draft policies and laws are easily accessible to the public in a timely manner.</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>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.</li> <li>Clear mechanisms and procedures for access to public information/documents exist.</li> <li>There are clearly prescribed sanctions for civil servants/units for breaching the legal requirements on access to public information.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>The Regulation on the Procedures and Principles of Legislation Preparation includes provisions stipulating that, in the event that it concerns the general public, drafts may be brought to the general public attention by the relevant ministry through the internet, press or broadcasting in order to inform or take the feedback into account during the opinion evaluation process but these provisions are not binding. Presidential Decree (Decree No. 1) on the Organization of the Presidency states that the Directorate General for Legal Affairs and Legislation established under the Directorate of Administrative Affairs of the Presidency has the mandate to identify the procedures and principles of legislation preparation but no concrete steps have been taken on this issue as of 2019.</li> <li>Right to Information Law sets out the procedures and principles of access to information and documentation. Article 7 of the Act states that, an application of access to information may be rejected in the event that the information or documentation for which access is requested requires a special kind of work, research, or analysis; and, furthermore, provides broad grounds for public officials on which to reject applications.</li> <li>Right to Information Law contains penal sanctions against civil servants and other public officials for neglect, fault, or culpability with respect to the enforcement of the law.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>Public institutions and organizations should publish detailed and up-to-date information about their work plans, draft laws, and policies regularly. Necessary mechanisms should be established for civil society to convey their comments, with a reasonable time period allocated for them to be able to do that.</li> <li>To ensure that CSOs are able to reach comprehensive and up-to-date information on the issues for which they have made an access to information request, improvements should be made in the legislation as regards the provisions on the exceptions that limit the exercise of this right.</li> </ol>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>Public institutions actively publish draft and adopted laws and policies, unless they are subject to legally prescribed exceptions.</li> <li>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.</li> <li>Cases of violations of the law are sanctioned.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>During the state of emergency, the drafts of the statutory decrees issued by the executive branch and Presidential Decrees were not published for access by the public and to receive comments.</li> <li>Access to information requests lodged in 2018 were rejected mostly on grounds that such access “required further research”. There are also cases where access to information requests are not answered in the stipulated time or the information provided is insufficient. In some exceptional cases, a detailed or well-guided response, compiling data from numerous offices within an institution, has been provided.</li> <li>According to 2017 TGNA data, out of the 1,806,958 access to information requests lodged in 2017, 81% was responded positively, 114,854 were responded partially positively, and 115,941 (6%) of the applications were rejected. Out of those whose requests were rejected, 791 appealed to the courts. In the event of a violation of the legislation, disciplinary penalties are applicable but there are no data regarding this issue.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>Public officials in charge of providing the necessary information in response to access to information requests should be supported by regular training programmes and coordination and information sharing facilitation measures should be taken at public institutions to enable comprehensive and up-to-date information to be provided.</li> </ol>

Area 3: Public Sector-CSO Relationship			
Sub-Area 3.2: Participation in Policy and Decision-Making Processes			
Principle 7: CSOs are effectively included in the policy and decision-making process			
STANDARD 3	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes.</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>Existing legislation requires public institutions to invite CSO representatives on to different decisionmaking and/or advisory bodies created by public institutions.</li> <li>There are clear guidelines on how to ensure appropriate representation from civil society, based on transparent and predetermined criteria.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>CSO representatives can participate in the specialized committees composed of members of municipal councils, metropolitan municipal councils, and provincial assemblies. Municipality Law sets out CSO participation in decision-making processes through city councils. According to the Local Monitoring Research and Practices Association report, as of April 2018, although there are 1,398 municipalities in Turkey in total, only 285 city councils have been established. CSO participation is prescribed in various boards, councils, and committees established by various administrative arrangements such as laws, regulations, circulars, or communiqués at the central level.</li> <li>Because of the “area of duty and activity” measure stipulated in the legislation regarding local administration organizations, CSO participation is confined to specialized committees working on issues that relate to their field of activity. Furthermore, it may at times not be possible to establish a clear-cut area of duty and activity for certain CSOs as they might in fact have several areas of activity. Moreover, no criteria are specified in the laws regarding which CSOs should be invited. Different approaches are also adopted for the selection of the CSOs to participate in the public bodies of an advisory nature. There are instances where some CSOs are, in a pattern, openly referred to in legal regulations at the central level, cooperation is solely devoted to public-benefit associations and foundations, and accreditation is required. In some regulations, no measures exist as to the number of CSOs to be involved in the councils or boards to be formed and how these CSOs would be identified.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>In order to ensure active CSO participation in policy and decision making processes at every level, the legislation should require both at the national and the local level the formation of advisory bodies and the rules to be applicable in the formation of the bodies should be set out in a way that leaves no room for misinterpretation.</li> <li>An amendment should be made to enable willing CSO representatives to attend the meetings of the specialized committees at the Municipal Council.</li> </ol>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>Decision-making and advisory bodies on issues and policies relevant for civil society generally include CSO representatives.</li> <li>CSO representatives in these bodies are enabled to freely present and defend their positions, without being sanctioned.</li> <li>CSO representatives are selected through selection processes which are considered fair and transparent.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>As regulations were enacted by means of statutory decrees issued by the executive branch during the 2016-2018 state of emergency and the subject of the structural changes within the transition to the Presidential Government System was at the top of the agenda; there was a limited number of cases where councils, committees, and working groups were structured in a way to request the views of the representatives of public institutions and organizations, professional organizations of a public institution nature, employee and employer trade unions, academics, and CSOs. However, the joint work conducted was ineffective.</li> <li>No measure or safeguard exists to ensure that CSO representatives express their views freely in advisory boards.</li> <li>Objective mechanisms and procedures have not been designed for the selection of the CSOs and CSO representatives participating in the processes. In the preparation process for the 11th Development Plan, the Special Committee on Civil Society Organizations was established and CSOs were included in the consultation meetings by invitation. The criteria against which CSOs are selected are not announced.</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>Procedures for the selection of the CSOs to be represented at decision-making and advisory boards should be made more tangible and objective, and other laws including provisions on this subject should be amended accordingly.</li> </ol>

Area 3: Public Sector-CSO Relationship			
Sub-Area 3.3: Collaboration in Service Provision			
Principle 8: The environment is supportive for CSO participation in service provision			
STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>CSOs are engaged in different services and compete for state contracts on an equal basis to other providers.</p>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>Existing legislation allows CSOs to provide services in various areas, such as education, healthcare, social services.</li> <li>CSOs have no barriers to providing services that are not defined by law (“additional” services).</li> <li>Existing legislation does not add additional burdensome requirements on CSOs that do not exist for other service providers.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>Relevant laws and regulations allow CSOs to cooperate with public institutions in various areas to provide services. However, there are no specific provisions in the legislation about CSOs providing services.</li> <li>Provisions in the relevant regulations are binding for the additional services that can be provided by CSOs as well.</li> <li>Relevant legislation and regulations do not distinguish between CSOs and other legal entities.</li> </ol>	<p><b>Legislation:</b></p> <ol style="list-style-type: none"> <li>Specific provisions regarding CSOs providing services should be determined in a participatory manner and the legislation should be amended accordingly.</li> </ol>
	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>CSOs are able to obtain contracts in competition with other providers and are engaged in various services (e.g., education, health, research, and training).</li> <li>CSOs are included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation).</li> </ol>	<p><b>Practice:</b></p> <ol style="list-style-type: none"> <li>There is no legislative barrier to CSOs engaging in competition. However, due to a lack of encouraging practices, CSOs rarely provide services.</li> <li>Although there are some examples to the contrary, there is no general regulation about CSO engagement in these processes.</li> </ol>	<p><b>Practice:</b></p>

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# TURKEY PROFILE: ECONOMIC, POLITICAL, AND SOCIAL INDICATORS

2017 WORLD BANK DATA		
Population	80,745,020	
GDP	851,1 billion USD	
GNI per capita	10,930 USD	
Average life expectancy	75	
Bertelsmann Stiftung Transformation Index (BTI) 2018	Score: 6.17 Rank: 51	1-10 1-129
United Nations Human Development Index 2017	Rank: 71	1-178
Charities Aid Foundation World Giving Index 2018	Rank:128 Donating money: 12% (122) Volunteering time: 9% (126) Helping a stranger: 40% (113)	1-146
CIVICUS Civic Pulse	Obstructed	Closed Obstructed Repressed Narrowed Open
World Bank Voice and Accountability Index 2017	Rank: 30	100-0
World Bank Rule of Law Index 2017	Rank: 49	100-0
Freedom House Freedom on the Net Report 2018	Score: 66 Status: Not Free	1-100
Freedom House Freedom of the Press Report 2017	Score: 76 Status: Not Free	0-100
Indiana University Lilly Family School of Philanthropy Global Philanthropy Environment Index 2018	Score: 2.73 Ease of Operating Philanthropic Organizations: 2.17 Tax incentives: 2.0 Cross-border flows: 3.0 Political environment: 2.0 Socio-cultural environment: 4.0	1-5
Reporters without Borders Press Freedom Index 2017	Score: 53.5	0-100
Transparency International Corruption Perceptions Index 2017	Rank: 81	1-180



