

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

Monitoring Matrix on Enabling Environment for Civil Society Development

-TURKEY Country Report-

"The Civil Society Environment in Turkey 2016 Report"

Project funded by
the European Union



EU Instrument for
Pre-accession Assistance (IPA)
Civil Society Facility (CSF)

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A PROJECT OF THE GERMAN MARSHALL FUND

TÜSEV
Türkiye Üçüncü Sektör Vakfı
Third Sector Foundation of Turkey

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

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TUSEV Publications, May 2017

No 74

ISBN 978-605-83950-8-4

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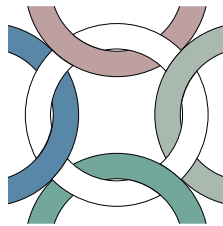
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EXECUTIVE SUMMARY

1. CIVIL SOCIETY AND CIVIL SOCIETY DEVELOPMENT IN TURKEY

The year 2016 is marked by rising deadly terrorist attacks in major cities and elsewhere, making security situation increasingly turbulent throughout Turkey. Since early 2015, Turkey has been encountering a number of destabilizing pressures: renewed tensions over Kurdish conflict, instability spilling over from neighboring Syria, series of terrorist attacks of ISIL, flow of refugees, political deadlocks; and economic instability. During 2016, fighting with outlawed PKK (Kurdish separatists) flared up again in south-eastern of Turkey after a two-year-old ceasefire collapsed in July 2015. There have been a number car bombings and gun attacks by other groups including suicide attacks by ISIL, and attacks by Kurdish separatist TAK in cities including Ankara and Istanbul.

A faction within Turkey's military used tanks and fighter jets in its coup attempt to overthrow the government on 15th July, 2016. Gun battles broke out in Ankara and Istanbul that 312 people were killed in the coup attempt, including 145 civilians, 60 police, three soldiers and 104 plotters. More than 2,000 citizens injured in this uprising when Turkish citizens took to the streets to confront the coup forces. The coup is allegedly staged by a faction within the military loyal to the Muslim cleric Fethullah Gülen- head of the Islamic transnational religious and social movement, which the government acknowledges as a terrorist group. The state of emergency was approved by the National Parliament on 21th of July, 2016 for three months following the failed army coup, to enable authorities to react in efficient ways to investigate and punish those responsible.

By 2016, the legal-political environment is not conducive for civil society development in Turkey. An overreaching national strategic document creating mechanisms for CSO-Government cooperation is still missing. There have been no major reform packages passed to improve the legal framework since 2008, when the EU accession process was vivid. The reshuffling of the Cabinet of Ministers, triggered by the resignation of Turkish prime minister Ahmet Davutoğlu in May 2016 and the appointment of Binali Yıldırım as the country's new prime minister, left 64th government's 2016 Action Plan void. It is not known whether the current government will be committed to undertakings of former government's plan including adopting a comprehensive Civil Society Law regulating legal statutes, institutional structures, activities, financial resources of CSOs; and as well as civil society-public sector relations.

The definitions of "civil society" and "civil society organization" continues to be absent in the relevant legislation and policy documents. Despite the existence of other forms of organized activity – e.g. civic initiatives, groups, platforms - foundations and associations continue to be the only two legal entity forms recognized by the state as CSOs. However, the organizations lacking legal personalities are not forbidden and no sanctioning for has been reported, yet they are prone to be excluded from public consultations in general. Foundations and associations are subject to different legislations and regulated by different public agencies. Department of Associations (DoA) and General Directorate of Foundations (GDoF) are the highest public authorities responsible from associations and foundations. These public bodies also have the authority and responsibility to inspect CSOs. With regards to inspection practices, inconsistencies are observed in the frequency, duration and scope of inspections, specifically for human rights organizations. Furthermore, penalties constitute an important barrier for fully exercising the freedom of association. Penalties and fines are burdensome for breaching the comprehensive bureaucratic requirements laid down in the laws. Reductions in administrative fines,

The failed coup attempt and consequences of the state of emergency

The state of relations between civil society and the government worsened in 2016. The coup attempt in Turkey was an unforeseen incident and caused a severe interruption in policy making. The context of political instability has paved way for a state of constant readiness to curb basic freedoms, including the freedoms of association, assembly and expression, for the sake of the preserving “national security” or “public order”.

The State of emergency approved by the National Parliament on 21st of July for three months following the failed army coup allowing authorities to react in efficient ways to investigate and punish those responsible for this coup attempt and those have linkages to Gülen Movement. The government extended the state of emergency for another 3 months that came into effect on 19 October 2016.

State of Emergency regulated under Article 119, 120 and 121 of the Constitution and State of Emergency Law no. 2935. The state of emergency allows the Council of Ministers, chaired by the President, to issue statutory decrees that carry the force of law. Furthermore, according to Law no. 2935, the Council of Ministers can issue regulations suspending or restricting use of fundamental rights and freedoms including freedom of association.

The state of emergency brings a risk of undermining democratic standards due to bypassing the parliament and further consultative mechanisms in the law making process. The statutory decrees passed under the state of emergency introduced included restricting measures affecting civil society sector in general.

Following the coup attempt, on 21 July 2016 the Turkish authorities informed the Secretary General of the Council of Europe that Turkey would notify derogation from the European Convention on Human Rights under Article 15 of the Convention.

The mechanisms of checks and balances were not put in place to ensure safeguards against in proportionate

measures and to preserve separation of powers and the rule of law. The state of emergency allows the president and cabinet to bypass parliament when drafting new laws and to restrict or suspend basic rights and freedoms. Under the three-month state of emergency, the statutory decrees cannot be appealed. The Constitutional court rejected the appeal of Turkey’s main opposition party, on the grounds of non-competence.

The first statutory decree no. 667 came into force on July 23, 2016 within the framework of the state of emergency. This decree authorizes detentions without access to a judge for up to thirty days, which is quite long. This applies not only to people involved in coup attempt but to all persons suspected for involvement in terrorist offences and organized crime, during the validity of the state of emergency. This decree foresees punishments not only in cases of membership or belonging to a terrorist organization, but also for contacts with such an organization (Articles 1, 2, 3 and 4). This decree closed down 1,125 associations, 104 foundations, 19 trade unions, 15 universities, 934 private schools, and 35 private medical establishments. Their activities suspended and their assets reverted to the state authorities. The Decree further provided a simplified administrative procedure for the disbanding of further organizations (Article 2).

Following an statutory decree No. 677 which came into force on 22 November 2016, 375 registered associations were permanently closed and their assets were seized. This decree cancelled closure of 18 foundations and 175 associations that were suspended with the statutory decree No. 667.

The freedom of peaceful assembly has become severely restricted in Turkey after the failed coup attempt, particularly when exercised by anti-government groups. There were instances of excessive use of force by the police, including beating, during peaceful demonstrations during 2016.

or guidance or warning mechanisms are not effective if not totally absent.

CSOs, human rights defenders, journalists and citizens that publicly oppose government policies and are critical of the President, often faced legal and financial obstacles in exercising their freedom of expression during 2016. In the wake of the failed coup attempt, the government closed more than 100 broadcasters, newspapers, magazines, publishers, and distribution companies and detained more than 100 journalists and media workers. Courts and regulators censored at least 30 news-related websites. In total of 41 journalists, media workers and media executives are imprisoned as of 1st of December 2016.

According to 2016 Freedom of Press Report, 'media is not free' in Turkey and remained among the countries that suffered the largest declines in 2015. Media in Turkey is the least free in the European regional ranking.

Internet censorship and blocking or slowing access to social media networks by the authorities has increased in the last couple of years, posing challenges to exercise of freedom of expression. Turkey was downgraded in its internet freedom status. According to Freedom House ratings, internet freedom in Turkey ranked as "Not free". This report underlined that "Internet freedom fell by 15 points in Turkey, the most drastic five-year decline recorded."

Although, the Article 34 of the Constitution recognizes the right of citizens to organize an assembly and demonstration without having to obtain any prior authorization, freedom of peaceful assembly remains to be repressed in Turkey. Various articles of the Law on Meetings and Demonstrations (No 2911, 5/10/1983), related regulations and their further restrictive implementation are not in line with the Constitutional article while also being incompliant with the European Convention on Human Rights and/or European Court of Human Rights rulings. The freedom of peaceful assembly has become severely restricted in Turkey aftermath failed coup attempt, particularly when exercised by anti-government groups. There were instances of excessive use of force by the police, including beating, during peaceful demonstrations during 2016.

CSOs face serious problems in their fundraising activities mainly due to the highly restrictive, bureaucratic and

limiting Law on Collection of Aid (No: 2860). The Law requires permission for each fundraising activity by a CSO, via an application procedure in which the CSO is requested to provide a set of comprehensive information (e.g. amount of money to be raised, how it will be used, the timeframe of the activity, and where it will be conducted). The decision to evaluate the application and approval or disapproval lies with the local state authority. In recent years, funds raised by several organizations have been confiscated by public authorities because they published their bank account numbers on brochures, Facebook pages and websites in an effort to raise donations. The tax framework does not provide a supportive environment for the financial sustainability of CSOs as well as leading to unequal practices. The regulation that defines procedures for obtaining the 'public benefit' (for associations) and 'tax exemption' (for foundations) statuses are vaguely defined and the decision-making process is highly political. The status is granted by the Council of Ministers to a very limited number of organizations. According to the data reported from 2016, there are 268 tax-exempt foundations out of 5,013 foundations in Turkey. The ratio of the number of tax-exempt foundations to the total number remained similar (5 percent) to previous years. 388 associations with public benefit status constitute only the 0.35 percent of the total number of 109,903 active associations. Contrary to bureaucratic and long selection process, privileges provided with the status are very limited.

The lack of strategy and coordination also applies to public funding. There is no regular and continuous public funding mechanism that supports the institutional infrastructure and activities of CSOs. The total budgets, modality and forms of funding for CSOs are determined at the discretion of Ministries and they are not predictable since the total budget may vary from year to year. Although there is an item in the national budget, referring to cash transfers made to not-for-profit organizations; neither the definition and types of CSOs this budget line refers to exist, nor is a general percentage allocated to this budget item in a systematic manner. There exist major criticisms by CSOs on transparency and accountability of funds allocated by the public bodies.

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

measures, responsibilities, actions do not exist. Thus, participation usually occurs in an ad-hoc and inconsistent manner mostly based on personal relations and initiatives rather than on institutional duties and responsibilities. With regards to institutional framework, there is no specific institution responsible for facilitating, monitoring or reporting relations between the public sector and CSOs, and except for few examples, there are no relevant units within public institutions to maintain, sustain and foster these relations. The majority of Ministries do not have contact points for CSOs.

There are no specific, continuous and accessible mechanisms regulating CSO involvement in policy making. Public institutions may act differently on the same issue since formalized procedures or frameworks of action to govern civil society-public sector cooperation are not convened. Throughout consultations meetings held in 2016, it has been widely reported that, CSOs that are critical of government policies and operate in rights-based issues are being treated in discriminatory ways and excluded from the public consultations.

2. KEY FINDINGS

No	Top 6 findings from the Report			Reference to the EU CS Guidelines	
		Area		Objective	
1	The definitions of civil society and civil society organizations are absent in the related legislation. The legal framework only recognizes associations and foundations as CSO legal entities.	Area	1	Objective	1
		Sub-Area	1.1	Result	1.1.a
2	The legal framework regulating state inspection of CSOs is complicated, restrictive, and bureaucratic and is focused on limitations rather than freedoms, defining penalties and sanctions that do not meet the principle of proportionality.	Area	1	Objective	1
		Sub-Area	1.1	Result	1.1.a
3	Locations and duration allowed for meetings and demonstrations are restrictive while the Law provides the administration and security forces with wide discretionary powers.	Area	1	Objective	1
		Sub-Area	1.2	Result	1.1.a
4	Tax exemption and public benefit statuses are granted to very limited number of CSOs by the Council of Ministers. These procedures are highly bureaucratic, political and non-transparent while the privileges brought by these statuses are very limited.	Area	2	Objective	2
		Sub-Area	2.1	Result	2.1.a
5	A standardized approach or legislation with respect public funding mechanisms to support the capacities and activities of CSOs is missing in Turkey.	Area	2	Objective	2
		Sub-Area	2.2	Result	2.4.b
6	There is neither a government strategy nor relevant legal or operational framework laying out Public Sector-CSO relations.	Area	3	Objective	3.
		Sub-Area	3.1	Result	3.1.a

3. KEY POLICY RECOMMENDATIONS

No	Top 6 recommendations for Reform			Reference to the EU CS Guidelines	
		Area			
1	The legal framework should be revised to include the definitions of civil society and civil society organization, which acknowledge a variety of legal entities including foundations, associations as well as initiatives, social enterprises and grant-making foundations. Un-registered civil society activities should also be acknowledged in the legal framework.	Area	1	Objective	1
		Sub-Area	1.1	Result	1.1.a
2	The legal framework regulating inspection of CSOs should be revised and limitations of state interference in internal affairs of CSOs should be clearly laid down. The rules for inspection and the limits of authority of the state inspectors should be clearly defined in the legislation. Since the Penal Code already covers penal sanctioning, the punitive provisions in the Laws on Foundations and Associations should be removed.	Area	1	Objective	1
		Sub-Area	1.1	Result	1.1.a
3	The Law and Regulations for Demonstrations and Meetings should be annulled completely and a new law should be drafted that would allow peaceful assemblies and demonstrations to be held in line with the European Convention on Human Rights and the European Court of Human Rights rulings.	Area	1	Objective	1
		Sub-Area	1.2	Result	1.1.a
4	There should be a comprehensive re-examination of tax laws regarding civil society organizations. Tax exemption/ Public Benefit statuses should be granted by an autonomous and transparent authority which bases its decisions on criteria that are objective.	Area	2	Objective	2
		Sub-Area	2.1	Result	2.1.a
5	A principle law setting forth the process of public funding for CSOs should be adopted.	Area	2	Objective	2
		Sub-Area	2.2	Result	2.4.b
6	The framework of the civil society-public sector cooperation, including provisions ensuring civil society participation in the legislation and formation of public institutions that would directly manage the relationship with civil society should be prepared in a participatory manner.	Area	3	Objective	3.
		Sub-Area	3.1	Result	3.1.a

4. ABOUT THE PROJECT AND THE MONITORING MATRIX

This Monitoring Report is part of the activities of the “Balkan Civil Society Acquis-Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs” project funded by the European Union (EU) and the Balkan Trust for Democracy (BTD). This Monitoring Report is the first of this kind and is published on a yearly basis since 2013. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev) developed by BCSDN and ECNL. It is part of a series of country reports covering 7 countries in the Western Balkans and Turkey¹. A Regional Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area at www.monitoringmatrix.net.

The Monitoring Matrix presents the main principles and standards that have been identified as crucial to exist in order for the legal environment to be considered as supportive and enabling for the operations of CSOs. The Matrix is organized around three areas, each divided by sub-areas:

(1) Basic Legal Guarantees of Freedoms; (2) Framework for CSOs’ Financial Viability and Sustainability; (3) Government – CSO Relationship. The principles, standards and indicators have been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They rely on the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries. The Matrix aims to define an optimum situation desired for civil society to function and develop effectively and at the same time it aims to set a realistic framework which can be followed and implemented by public authorities. Having in mind that the main challenges lay in implementation, the indicators are defined to monitor the situation on level of legal framework and its practical application.

¹ Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

INTRODUCTION

1. ABOUT THE MONITORING REPORT

This Monitoring Matrix Monitoring Report (MM 2016 Report) focuses on the current legislation concerning enabling environment and their practical implementation in Turkey throughout 2016. MM 2016 Report mainly focuses on the period between 1 December 2015 and 31 December 2016, but also includes information from previous reporting years when relevant.

2. THE MONITORING MATRIX ON ENABLING ENVIRONMENT FOR CIVIL SOCIETY DEVELOPMENT

This Monitoring Report is part of the activities of the “Balkan Civil Society Acquis - Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs” project funded by the EU and the Balkan Trust for Democracy (BTD). This Monitoring Report is the first of this kind and published on yearly basis since 2013. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev). It is part of a series of country reports covering 7 countries in the Western Balkans and Turkey². A Regional Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area at www.monitoringmatrix.net.

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

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

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

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

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

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

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

The development of the Monitoring Matrix on enabling environment for CSDev was part of a collective effort of CSO experts and practitioners from the BCSDN network of members and partners and with expert and strategic support by ECNL. The 11-member expert team spanned a variety of non-profit and CSO specific knowledge and experience, both legal and practical, and included experts from 10 Balkan countries. The work on the Matrix included working meetings and on-line work by experts, which was then scrutinized via stakeholder focus group and public consultations. The work on the development of the Matrix was supported by USAID, Pact. Inc, and ICNL within the Legal Enabling Environment Program (LEEP)/Legal Innovation Grant and Balkan Trust for Democracy (BTD).

3. CIVIL SOCIETY AND CIVIL SOCIETY DEVELOPMENT IN TURKEY

History of development of civil society can be traced back late Ottoman Empire era where foundations emerged as “philanthropic institutions” that allowed social solidarity through charitable activities independent political and economic spheres.³ However, centralized Ottoman polity allowed little room for the development of any countervailing societal force or constellation to challenge the central authority. Modern Turkish state which was founded in 1923 and new establishment was not outcome of bottom-up societal confrontation and lacked autonomous intermediary groups and institutions. Heper (1985: 16) noted that the Turkish republic inherited the strong state and weak civil society tradition from Ottoman era, which was embraced by the new ruling elite in keeping society together for the modernization of society and political organization of the state.⁴ Only after the 1980s, civil society actors gained relative automatization from the state and acted as mediators for public participation and democratization.

Above all, the EU accession process has substantially reconstituted state –society relations in Turkey. When the reform process was at its peak point, Turkey has implemented a series of reforms that promoted democratization process, including reforms to its basic

framework laws affecting civil society. Turkey still operates, however, under the 1982 Constitution, which was written immediately following a military coup; although there are basic guarantees of rights and freedoms, the Constitution is not up to the standards found in developed democracies. Up until 2004, when a new Associations Law was enacted in Turkey, the autonomy of the Turkish CSOs was fairly restricted. The new Law was viewed positively by both civil society and the EU. It lifted some of the limitations on civil society. Between 2004 and 2008, within the scope of the EU accession process, the regulatory environment of the civil society has been improved and various laws and regulations related to civil society were reviewed and amended, enhancing freedom of association in Turkey. Subsequently, in 2008, Turkey adopted a Foundations Law, which further improved the legal environment.⁵

Today, Turkish CSOs are nonetheless more active than they have ever been before and are more aware of the deficiencies within the laws that still restrict their activities. Although Constitutional regulations are to a great extent in compliance with the European Convention on Human Rights (ECHR), the legal framework still contains numerous incompatibilities with international standards. Since 2008, there have been only slight improvements in the legal framework, mostly in secondary legislation. Therefore, future reforms are both necessary and inevitable. In terms of the strategies and policies for CSO-Government partnerships, the situation has not been improved in Turkey. By 2016 an overreaching national strategic document creating mechanisms for civil society participation in public policy making is still not available.

The state of relations between civil society and the government worsened in 2016. The coup attempt in Turkey was an unforeseen incident and caused a severe interruption in policy making. The political context aftermath the failed coup and introduction of the state of emergency lead to important changes in the nature and scope of the monitoring phase during second half of 2016. Under these circumstances, the reform agenda of the government was suspended.

³ Civil Society in Turkey: An era of transition. CIVICUS Civil Society Index Turkey Report. http://www.tusev.org.tr/usrfiles/files/civil_society_in_turkey_an_era_of_transition_civics_civil_s.pdf Access date: December 5, 2016.

⁴ Heper, M. 1985. *The State Tradition in Turkey*. Walkington: Eothen Press.

⁵ TUSEV & ECNL. 2006. Assessment of the Legal Framework for Cooperation Between the CSOs and the Government in Turkey. Access date: December 13, 2016. http://ecnl.org/dindocuments/94_Legal%20Environment%20Assessment_Turkey.pdf

The context of political instability has paved way for a state of constant readiness to curb basic freedoms, including the freedoms of association, assembly and expression, for the sake of the preserving “national security” or “public order”. Council of Ministers, chaired by the President is authorized to pass statutory decrees. Therefore, state of emergency brought a risk of undermining democratic standards due to bypassing the parliament and further consultative mechanisms in the law making process. The statutory decrees passed under the state of emergency introduced restricting measures affecting civil society sector in general.

The socio-cultural context is not conducive to civil society development in Turkey. The findings of the 2014 World Giving Index presents that the culture of giving is not cultivated in Turkey (being the 128th in the Index among 135 countries).⁶ These findings depict the low level of interpersonal trust in the country. According to results of Individual Giving and Philanthropy Report published by TUSEV in 2016, interpersonal trust, which is one of the fundamental elements of social capital, is quite low in Turkey. Only one out of every 10 respondents (10 percent) believed most people could be trusted. According to results of this study, CSOs’ perceived influence in addressing society’s problems has deteriorated over 11 years. There is more negative situation depicted concerning the perceptions of the influence of CSOs in addressing society’s problems. A total of 64 percent of the respondents in 2004 believed CSOs had influence while this figure decreased to 48 percent in 2015. As a result, citizens who do not trust others and who live in a closed social circle have in return limited engagement in civil society activities.⁷

Over the last 10 years, there has been a dramatic increase in the civil society membership. By 2015, according to data provided by DoA, the number of members of associations is 10,979.88 and the participation rate is 14.2 percent of the overall population. In 2004, there were only 5.2 million members and participation rate was 7.5 percent of the overall population. Despite this sharp increase, participation in civil society is still relatively low in

comparison to the EU average and enlargement countries. Despite an above 100 percent increase in civil society membership within the last 10 years, as of November 2016, only 14.2 percent of Turkish citizens are members of CSOs and 85.7 percent of the overall population has no membership in any associations. In comparison to 2015, there is increase in civil society participation rate.⁸ Number of citizens per CSO may be an illustration of civic activism. There is one CSO for every 697 citizens in Turkey.

However, CSOs in Turkey are predominantly working in areas such as religious services, sports and social solidarity. Despite their increasing role and visibility, rights based organizations constitute a very small segment of civil society in Turkey. Based on official data from DoA, as of November 2016, only 1,621 associations are registered as rights based organization.⁹

Civil society in Turkey is not free from ideological, political and cultural divisions, rather remaining as an arena where divergent societal visions compete. This situation limits the potential of civil society ensuring democratization since such controversial divisions embedded in the society are replicated and/or reproduced once again in Turkey’s public sphere through civil society activism.¹⁰ The link between society and nonprofit organizations remains quite weak. This disconnection leads to public mistrust and disappointment, particularly during moments of intense government pressure on some of those CSOs that are critical of policies and agenda of the government.

In parallel to the late development of civil society in Turkey, CSOs have recently been able to gain the attention of policy-makers and academia. Therefore, there is quite limited data on civil society, which is particularly scarce concerning issue-oriented CSOs.¹¹ Within the process of implementation of e-government in Turkey, the DoA started to collect data on civil society. An

⁶ Turkey is not featured in 2015 and 2016 World Giving Index.

⁷ *Individual Giving and Philanthropy in Turkey*. Third Sector Foundation of Turkey. Access date: December 5, 2016. http://www.tusev.org.tr/usrfiles/images/belgeler/Individual_Giving_and_Philanthropy_in_Turkey.pdf

⁸ In 2015, it was depicted 12 percent of Turkish citizens were members of CSOs, with one CSO existing for every 800 individuals and 87.8 percent of the overall population has no membership in any associations.

⁹ *The number of members of associations*. DoA. Access date: December 5, 2016. <https://www.derekle.gov.tr/tr/Anasayfa/Linkler/derneklerin-faaliyet-alanina-gore.aspx>

¹⁰ Özler, S. İ and A. Sarkissian. 2011. Stalemate and Stagnation in Turkish Democratization: The Role of Civil Society and Political Parties. *Journal of Civil Society* 7 (4): 363-384.

¹¹ *CIVICUS Civil Society Index (CSI) Project Country Report for Turkey II: Civil Society in Turkey: At a Turning Point*. TUSEV. Access date: November 25, 2016. http://www.tusev.org.tr/usrfiles/files/step_eng_web.pdf

e-registration system (DERBIS) was introduced in 2013.¹² The statistics on the number of associations indicate that there are 109,912 active associations in 2016¹³; this number was 72,525 in 2000. Moreover, the number of registered members reached over 10.9 million in 2015, compared with only 5.2 million in 2004.¹⁴ According to the information obtained from the database of GDoF, there is an increase in the number of foundations, as well. In 2009, number of new foundations was 4,460, reaching to 5,013 by the end of 2015.¹⁵ This change indicates a positive trend and a striking increase in the variety of organizations in Turkey. Currently, there is large number of CSOs promoting the growth of participatory democracy, creating public awareness for socio-political issues and working for improvement of services.

Although CSOs are active in all of Turkey's provinces, available data depicts an uneven geographical distribution, with an urban concentration. Based on official data from DoA, as of November 2016, more than half of associations (52.63 percent) located in Marmara and Central Anatolian regions.¹⁶

Gender inequality in civic engagement is also evident. The data depicts the gender inequality in civil society. As of November 2016, among 10,895,923 association members in Turkey, only 2,190,675 are women (2.86 percent of the total population), while 8,705,248 are male (11.35 percent of total population).¹⁷ As of November 2016 (data reported is from 2015), only 18.8 percent of members of mandatory organs are women and 81.1 percent are male.¹⁸

While civil society is developing rapidly, the majority of CSOs are at an early stage in their organizational development. Restrictions in the legal and fiscal environment along with the lack of financial and human

resources and low levels of citizen participation are among the most important challenges faced by CSOs in Turkey.

Apart from legal obstacles, limited access to funds and financial capacity pose as the main constraint before institutionalization of CSOs. Many CSOs do not have strategic plans or policies (i.e. for human resources, communication, and fundraising). Based on official data from DoA, as of 2013 only 9.36 percent of associations (or 11,114 associations out of 104,114) have their own websites. In average, associations spent 14.5% of their total amount of expenditures for the personnel costs in 2015. This rate was approximately 12% percent in previous years. The results of the survey conducted as part of this project in 2016 support these findings. According to results of, 61 CSOs out of 100 do not employ a full time employee and 32 percent of CSOs participated in this survey stated they have an annual budget less than €2,800 (TRY 10,000). The second largest cluster of CSOs (18 percent) claimed an annual budget ranging between €2,800 - 7,900 (TRY 10,000 - TRY 30,000). 5 percent of respondents reported their organization had an annual budget ranging between €395,000 - €790,000 (TRY 1,500,000 - TRY 3,000,000) during 2016. Only 7 percent of CSOs had an annual budget exceeding €790,000 (TRY 3,000,000) during 2016.

The table provided in Annex 1, provides a set of indicators to depict the profile of Turkey with respect to economic, political and social indicators from 2016.

¹² Associations Information System (DERBIS) became active in 18 February, 2013.

¹³ This data is retrieved from DoA as of 23.11.2016.

¹⁴ The number of members of associations. DoA. Access date: December 27, 2016. <https://www.dernekler.gov.tr/tr/AnasayfaLinkler/dernek-uye-sayilarinin-turkiye-nufusu.aspx>

¹⁵ *The New Foundation Statistics*. General Directorate of Foundations (GDoF). Access date: December 2, 2016. <http://www.vgm.gov.tr/db/dosyalar/webicerik205.pdf>

¹⁶ *The number of associations per regions*. DoA. Access date: December 2, 2016. <https://www.dernekler.gov.tr/AnasayfaLinkler/derneklerin-bolgele-re-gore.aspx>

¹⁷ *The number of members of associations*. DoA. Access date: December 5, 2016. <https://www.dernekler.gov.tr/tr/AnasayfaLinkler/dernek-uye-sayilarinin-turkiye-nufusu.aspx>

¹⁸ *The data on the gender of members elected for mandatory bodies of associations*. DoA. Access date: December 5, 2016. <https://www.dernekler.gov.tr/tr/AnasayfaLinkler/organ-uye-cinsiyet.aspx>

METHODOLOGY

1. OVERVIEW OF THE METHODOLOGICAL APPROACH

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

The primary data collection method is the desk research and analysis of legislation regulating foundations and associations in Turkey. To crosscheck the results, the EU documents and reports, reports and publications published by relevant state bodies, country specific reports and other reports published by international organizations and CSOs were reviewed as part of the secondary literature.

The MM 2016 report and its unique monitoring methodology cross-cuts all other projects implemented and outputs produced by TUSEV. TUSEV publishes annual Civil Society Monitoring reports since 2011. Recent one, Civil Society Monitoring Report 2013-2014 was published and presented to wider audiences in December 2015. Throughout 2015 and 2016, TUSEV continued publishing “Monitoring Case Studies” as part of Civil Society Monitoring Project. These reports are being published after an intensive desktop research that takes a year alongside focusing on single case studies that are being prepared in the light of interviews conducted with representatives of CSOs, donor organizations and the public sector. The findings of the research play an important role in defining the framework and major areas to be highlighted in the MM 2016 Report.

Furthermore, findings and reports of the Strengthening Civil Society Development and Civil Society Public Sector Dialogue in Turkey Project (implemented by TUSEV, STGM and YADA since June 2012 in Turkey) and its follow up activities aftermath completion of the project were of important benefit for this report. As

part of this project, Active Participation in Civil Society: International Standards, Obstacles in National Legislation and Proposals Report that was authored by law scholars was published in 2015. This report reviews the legislation on associations and foundations, identifies the legal obstacles for active participation in civil society in Turkey and present recommendations to overcome these obstacles. The MM 2016 report enables a follow up study to review the extent of Turkey’s progress in attaining such standards recommended in this report.

The national level consultation for Balkan Civil Society Acquis project has been conducted via an online survey targeting representatives from associations, foundations, platforms and other type of CSOs to have further information on different aspects of standards and indicators. 100 respondents (representing 79 associations, 17 foundations, 1 initiative, 1 federation and 2 social enterprises) have participated in this survey. The first five operation areas of these organizations are: Education, Science, Research (12 percent), Women (9 percent), Children and Youth (8 percent), Human Rights (8 percent) and Culture (8 percent).¹⁹ The geographical distribution of CSOs participated in this survey is moderate with coverage of 29 cities from all 7 geographical regions of Turkey.

2. PARTICIPATION OF THE CSO COMMUNITY

The MM 2016 report is a product of the TUSEV’s continuous and consistent national-level monitoring of the enabling environment for civil society development. Local Policy and Advocacy Coordinator of the Project, as well as other members of TUSEV team took part in different meetings, conferences, working groups and other relevant activities to enhance outreach of the project, as well as

¹⁹ This is a multiple choice question. Respondents were asked to select all relevant areas from the list that would cover their agenda.

to enlarge the support base of legal reform in related fields and to raise awareness among the CSOs and other relevant stakeholders. Participation in project activities of different platforms were utilized (1) to discuss, identify and prioritize issues and problems regarding CS enabling environment (2) disseminate information to wider public (e.g. publishing info notes, social media campaign, present MM and findings in academic, semi-academic or nonacademic conferences); and (3) to build capacity and awareness among related public institutions as well as to build leverage.

TUSEV is one of the members of TACSO Turkey Local Advisory Group (LAG) that brings key civil society stakeholders together serves as a platform to bring major recommendations to promote civil society development in the country. As a member of TACSO Local Advisory Group (LAG), TUSEV attended two consultation meetings in 2016 attended by over 30 representatives of 20 LAG member CSOs and public institutions. Local Policy and Advocacy Coordinator of the Monitoring Matrix Project and a TUSEV representative were present in these meeting and utilized the insights and feedback given by all stakeholders in this field.

TUSEV continued to take part in the “EU Guidelines working group” that is composed by public officials from relevant ministries and other CSO representatives that got together with guidance of TACSO in the process of determining Civil Society guidelines country objectives for 2020. TACSO’s regional conferences are opportunities to bring members of working group. There has been an ongoing communication among STGM, TUSEV with other participants representing General Directorate of Foundations, Ministry of Development, Ministry of EU Affairs and Ministry of Internal Affairs with an agenda to discuss new developments and prospective reform agenda concerning civil society enabling environment. Public officials provided their expert opinion on the political feasibility of country targets, as well as possible means of verification and data sources to trace the progress in this field. DoA continued to provide data on associations from 2016. Ministry of EU Affairs conducted a preliminary research to find out the total amount of public funding allocated to CSOs by the budget of Ministries. The preliminary results of this study were shared in the regional conference on “Transparent Allocation of Public Funds: EU Good Practices and Models” held in March 2016

and fostered discussion among members of EU Guidelines working group. Public officials attending this working group meeting are well informed on BCSDN network, MM country reports, regional reports and CS Guidelines. On the other hand, TACSO initiated a consultation meeting on the interim evaluation of the IPA II country strategy paper for 2014-2020 which sets out the TR-EU financial co-financing priorities with a sectoral approach to civil society environment. CSO representatives, including TUSEV provided their feedback on the discuss country targets, indicators and possible intervention areas for 2017 with participation of nine CSOs.

In the preparation of the MM 2016 report, the project team also relied on the findings of TUSEV’s Civil Society Monitoring Report 2013-2014 and case studies of Civil Society Monitoring Report 2015-2016. The methodology of these reports includes desk research, media review and in depth interviews (via face-to-face, e-mail or phone interviews) with CSO representatives who actively work in civil society.

Another project of TUSEV that brought further data, enabling civil society voices to be covered in this report, has been the Strengthening Civil Society Development and Civil Society-Public Sector Dialogue in Turkey mentioned above. Within this project, TUSEV had the responsibility to conduct legal studies and activities to enhance legal environment and to galvanize civil society public sector cooperation. Towards this end, a Code of Conduct for civil society- public sector cooperation and a monitoring methodology were published as an output of the project. Aftermath completion of this project, TUSEV continued collaborations with local administrations to ensure implementations of this code of conduct to improve participation of CSOs in public policy making processes. For instance, TUSEV team collaborated with officials of Societal Equality department of a local municipality from Istanbul in order to find a working method to apply code of conduct in their daily work routine. Towards this end, Local Policy and Advocacy Coordinator of the project attended civil society consultation meeting organized by this department of local municipality to gather further data and insight of CSOs with special focus on their participation in Local Equality Planning process. This particular meeting was attended by 17 CSOs. Besides, TUSEV representative was given access to a final consultation meeting

report covering position of 119 representatives from 75 CSOs for 8 thematic fields. As a result, with special concentration on this single case, TUSEV published a case study report to analyze the current situation of Social Equality Departments and to bring further policy recommendations.

Another opportunity to consult CSOs in monitoring phase was related to prospect of a “Civil Society Law”. TUSEV, with support of TACSO Turkey, initiated a meeting with broad participation of CSOs to discuss Civil Society Law that was among the one year commitments of the 64th Government’s 2016 Action plan. CSOs discussed their organizational positions vis a vis such a policy proposal and potential synergies to be formed to act together in advocating for change in this field on 2 March 2016. Unfortunately, the political context was not favorable to continue with this agenda.

TUSEV actively involved in consultation with CSOs in 2016 was related to volunteering legislation and its practical implementations. National Volunteering Committee, where TUSEV has been a member, was formed and facilitated by UN Volunteers in 2012. In 2016, two meetings convened by TUSEV with participation of CSO representatives and public officials to work towards a strategic plan to facilitate enabling environment for volunteering in Turkey.

Also, TUSEV was present in the consultation meeting held on 24th of November 2016 by Checks and Balances Network that brought together over 26 CSO representatives to discuss the consequences of the state of emergency upon enabling environment for civil society and steps to be taken following an statutory decree No. 677 issued on 22 November closing and banning activities of 375 associations.

Finally, a survey addressing the representatives from associations and foundations was conducted in 2016 to gather further information and enable participation of the CSO community in the monitoring process.

3. LESSONS-LEARNT

The Monitoring Matrix offers a solid methodological framework with a set of indicators to conduct an overview of the development of enabling environment of civil society in a systematic way. This has been a significant contribution in compiling existing information on civil society and providing further data not just on the existing regulatory framework but its implementation in the context of Turkey. The unique monitoring methodology of this project allowed TUSEV to follow innovative ways of collection and dissemination of information and recommendations in different formats for the relevant stakeholders. Compact info packages were prepared to share for different stakeholders through social media. Besides, Info Notes were published analyzing the state of civil society in Turkey with taking into account international standards and good practices from different countries. To illustrate, the info notes on volunteerism and registration of foreign CSOs were published. Thereby, this project and application of the Monitoring Matrix methodology has shown that strong methodological approaches extend the scope of research and support data driven advocacy activities for policy changes at national and international level. Furthermore, the Monitoring Matrix methodology and the comparable data introduce new research areas to be intensively analyzed and advocated for policy change in Turkey. In the scope of this project, TUSEV reviewed the available legislation and conducted extensive studies on issue areas.

On the other hand, the coup attempt in Turkey was an unforeseen and severe interruption in policy making. The political contexts aftermath the failed coup and introduction of the state of emergency lead to important changes in the nature and scope of the monitoring phase during second half of 2016. Under these circumstances, the reform agenda of the government was suspended. The monitoring process was merely concentrated in such developments to track the measures of the government restricting the civil society activity with the statutory decrees passed under the state of emergency.

FINDINGS AND RECOMMENDATIONS

1. AREA 1: BASIC LEGAL GUARANTEES OF FREEDOMS

SUB-AREA 1.1.: FREEDOM OF ASSOCIATION

1.1.1. ESTABLISHMENT OF AND PARTICIPATION IN CSOS

Legislation

The freedom to establish associations is stated in Article 33 of the Constitution. The same article stipulates that the foreseen rights and grounds for restriction shall apply for foundations as well. This may be interpreted to mean that the Constitution only allows for CSOs to be established in the form of associations and foundations. Similarly, the legal regulations only entail provisions on associations and foundations. Today it is inconceivable to limit the CSOs only to these two forms of organizing.

Since, the legal framework only recognizes the formation of associations and foundations as legal entities, other forms (e.g. initiatives, non-profit companies, groups, networks) of collective action are not recognized and not provided legal entity status. In addition to associations and foundations, platforms²⁰ are also recognized by law but not accepted as legal entities. Thereby, no collective group other than registered associations and foundations are allowed to pursue any legal purpose (e.g. having a bank account, applying to funds, take legal action).

The registration process and the timeline for registration of associations and foundations are regulated differently by Law on Associations and Law on Foundations. For registration of associations, seven citizens and/or foreigners holding residential permits should apply to the provincial office of the Department of Associations with

the necessary list of documents. No registration fee is required. As soon the association starts official procedure, it is assumed that the association is already founded and thereby it can start its activities. The Department has up to 60 days to review the application. If the administration decides there are missing documents or the application of association violates the existing rules and regulation, the association is given 30 days to rectify. Presently, Articles 84 and 86 of the Civil Code require a minimum of 16 people for the mandatory bodies. In addition to Article 62 that requires the general assembly to be held within the first six months, the newly founded associations are expected to have 16 members and form their mandatory organs (executive board, internal auditing committee and general assembly) within six months.

Registration of foundations is much more complicated than associations. To establish a foundation, there should be assets (all types of immovable and movable property, including cash, securities and bonds, and rights that have an economic value) to be allocated for the specified purpose of the foundation. Council of Foundations, highest decision making body of the General Directorate of Foundations determines the minimum asset value applicable on the establishment of a foundation on annual basis (approximately €16,000 in 2016 - TRY 60,000). Foundations are founded by a charter which is verified by a court. This charter contains information on the title, purpose, assets and rights to attain its goals with organs and applicable administrative procedures. The foundation is granted legal personality when there is approval of the court and registered by The General Directorate of Foundations. The timeline for founding a foundation varies depending on the work load of the courts.

Foreign organizations/representative offices are subject to permission, (provided by the Ministry of Internal Affairs upon the opinion of the Ministry of Foreign Affairs), to operate or open up a branch office in Turkey. Foreign/international CSOs are legally bound to obtain special

²⁰ A platform is defined by law as "interim societies formed by associations themselves or with the foundations, unions and similar other civil organizations under the title venture, movement or any other similar name to realize a common objective".

permits that domestic CSOs are not liable to acquire. The laws that apply to domestic CSOs also apply to foreign CSOs that establish branches or offices in Turkey. However, foreign CSOs are subject to different liabilities and restrictions regarding matters such as the manner of application and notification of activities, in addition to the national legislation. Under the Article 22 of the Regulation on Associations, the set-up of branches and representative offices by foreign foundations in Turkey is subject to the reciprocity condition and is restricted with the situations deemed beneficial for cooperation on international level. According to data provided by the DoA, as of 25.10.2016, only 140 foreign organizations have been given this permission. The process is highly political, untransparent and criteria for permission are not clearly defined. Last but not least, the process can take very long time with no proper feedback.

Individuals and legal persons with legal capacity have the right to establish CSOs. There are certain restrictions in special laws applicable to the members of the Turkish Armed Forces, the Police force and civil servants. The regulations in Article 43 of the Turkish Armed Forces Internal Service Law and additional Article 11 of the Law on Law Enforcement Organization that restrict the right to become association founders. Armed forces officials can only be founders of the amateur military sports clubs and cannot form associations with other purposes. Armed Forces officials may become non-active members of non-political associations and sports clubs whose names have been published by the Ministry of National Defense. Article 11 of the Law on Law Enforcement Organization states that “Law enforcement officials and bazaar and neighborhood wardens (...) cannot be association founders.”²¹

There are certain restrictions to children’s freedom of association in the Law on Associations. The Law has made a distinction based on age and established a separate category under the title of “children’s associations.” According to Law on Associations Article 3 paragraph 3, children who are over the age of 15 but under the age of 18 and who have the capacity to discern “may either found child associations or be a member in order to enhance their

psychical, mental and moral capabilities, to preserve their rights of sport, education and training, social and cultural existence, structure of their families and their private lives with a written permission given by their legal guardians.” The use of the given freedom is only possible with the written permission of legal guardians. Children over 12 years of age but under 15 can become members of children’s associations with the permission of their legal guardians, but cannot be association founders or serve on the boards of directors and auditors. Limiting children’s membership to only children’s associations and delimiting the activity areas of children’s associations is not in line with Article 15 of the Convention on the Rights of the Child.²²

There are restrictions applicable to people who are not Turkish citizens. According to Article 93 of the Civil Code, “The real persons of foreign origin who possess the right for settlement in Turkey may incorporate association or become a member of the existing associations.” As far as foundations are concerned, there are more restrictions for foreigners to be founders of foundations. According to Article 5 of the Law on Foundations, “Foreigners shall be able to establish new foundations in Turkey in accordance with the principle of de jure and de facto reciprocity.”

Practice

Legal framework does not necessarily promote unregistered or legally unrecognized informal CSOs such as groups, initiatives and networks not only from civil society activity but also from applying public funding and participation in public policy making. Along with associations and foundations, platforms²³ are also recognized by law but not accepted as legal entities. Thereby, no collective group other than registered associations and foundations are recognized to pursue any legal purpose (e.g. having a bank account, applying to funds, take legal action). Although not given recognition by state or the legal framework, these forms of organizations are an important part of civil society in Turkey.

²¹ The analysis is a summary from the part of “Civil Servants” under “Establishment” and “Membership” sections of the report published by TUSEV. Ayata G. Ç. & U. Karan. 2014. *Active Participation to Civil Society: International Standards, Obstacles in National Legislation and Recommendations*. Access date: October 20, 2016. <http://www.tusev.org.tr/urfiles/images/MevzuatRapor15.09.15.pdf>

²² The analysis is partially quoted from the part of “Children” under “Establishment” and “Membership” sections of the report published by TUSEV. Ayata G. Ç. & U. Karan. 2014. *Active Participation to Civil Society: International Standards, Obstacles in National Legislation and Recommendations*. Access date: October 20, 2016. <http://www.tusev.org.tr/urfiles/images/MevzuatRapor15.09.15.pdf>

²³ A platform is defined by law as “interim societies formed by associations themselves or with the foundations, unions and similar other civil organizations under the title venture, movement or any other similar name to realize a common objective”.

When the required documents for founding an organization are submitted to DOA, the association is deemed legally established. It is widely stated that, for instance, it is quite burdensome for associations to bring together enough members in the initial stage to fill the seats in the mandatory formal committees: Executive board, general assembly and internal auditing committee, which CSOs are legally bound to form to legally pursue their activities. Associations should have at least 16 members to continue operating within six months following their registration. DoA has up to 60 days to review the application. If the administration decides there are missing documents or the application of association violates the existing rules and regulation, the association is given 30 days to rectify. The associations are obliged to provide their statute along with supporting documents. The legal framework provides a long list of required information to be provided within a statute. These include the definition and procedures of the required organs (i.e. executive board, internal auditing committee, and general assembly).

As if the relevant laws do not already contain excessive requirements, administrative statutory decrees and legal opinions produced by public institutions make registration requirements more difficult in practice. Some examples include, an official documentation taken from each flat/apartment owner for consenting the CSO to operate in their building; or the place of settlement being solely rented/owned by that CSO according to a legal opinion provided by the Ministry for Internal Affairs on 10/04/2013. According to this legal opinion only one organization can be registered at a particular address/ residence in order to avoid problems that might arise if and when the office needs to be closed down/sealed by the state based on an illegal act or offense.²⁴ This legal opinion has not resulted as a sanctioning yet since it is not included in a law or regulation, still there are reported cases of organizations that are asked to have a separate address. Not only does such a requirement lays a large financial burden on the shoulders of many under-resourced associations but it also hinders networking, coalition building or co-learning potential of civil society that can be optimized by sharing the same space and resources.

CSOs are required to declare the type of work/activities they intend to carry out in writing in official documents, such as Statutes of Associations or By-laws of Foundations. When CSOs (specifically foundations) decide to broaden or alter the scope of their activities, they need to deal with various bureaucratic procedures.

There are no barriers on Turkish CSOs' international communication and cooperation; however, regional disparities exist with respect to the frequency of such activities. Foreign foundations/associations are required to get permission for their operations and cooperation in Turkey.

According to data provided by the DoA, as of December 2016, in total 140 foreign CSOs have been given this permission.²⁵ In previous year, this number was 138. According to data provided by GDoF, there are only 21 foreign foundations were given permission to operate in Turkey. In 2016, only one foundation was granted this right. The process is highly political, untransparent and criteria for permission are not clearly defined. Last but not least, the process can take very long time with no proper feedback.

1.1.2. STATE INTERFERENCE [CORE STANDARD]

Legislation

The paragraph in Article 33 of the Constitution that reads, "Associations may be dissolved or suspended from activity by the decision of a judge in cases prescribed by law. However, where it is required for, and a delay constitutes a prejudice to, national security, public order, prevention of commission or continuation of a crime, or an arrest, an authority may be vested with power by law to suspend the association from activity. The decision of this authority shall be submitted for the approval of the judge having jurisdiction within twenty-four hours.

DoA and the GDoF have the legal authority to inspect associations and foundations. However, neither the limits of interferences of inspectors nor the inspection criteria are clearly defined in the legislation. Inspections are not conducted periodically or within a given schedule; they are either arbitrarily decided by the administration or conducted upon a complaint.

²⁴ Please see this legal opinion issued on 10/04/2013 from <http://www.dernekler.gov.tr/tr/Mevzuat/hukukigorusler.aspx> (in Turkish)

²⁵ The list foreign associations and foundations permitted to operate in Turkey, DoA. Access date: December 8, 2016. <https://www.dernekler.gov.tr/>

There are vague limitations (e.g. general morality, public order) in the law that can lead to subjective registration processes allowing broad scope of discretions for public officials. Article 56 of Turkish Civil Code states that “No association may be formed for an object contrary to the laws and morality.” Article 101 of the Civil Code states that “Formation of a foundation contrary to the characteristics of the Republic defined by the Constitution, constitutional rules, laws, ethics, national integrity and national interest, or with the aim of supporting a distinctive race or community, is restricted.”

Law on Foundations and Associations allows authorities to inspect their activities and assess if they are in line with the organization’s statute. Associations and foundations are not prohibited from directly engaging in political activities, but oppositional and/or rights-based CSOs are reportedly facing more government interference in practice than others. The legal framework explicitly defines the ways in which the decision-making system (i.e. governance) should work: e.g. the decisions that can only be made by the general assembly and the decision authority of the executive and internal auditing committee are all clearly framed. Thereby, it is not possible for the CSOs to choose the way they like their decision-making system should work.

The state of emergency allowed the Council of Ministers, chaired by the President, to issue statutory decrees that carry the force of law. Furthermore, according to State of Emergency Law no. 2935, the Council of Ministers can issue regulations suspending or restricting use of fundamental rights and freedoms including freedom of association.²⁶ As explained in the practice section below, the statutory decree no. 667 passed by the Council of Ministers and statutory decree no. 677 suspended many institutions and organizations including foundations and associations.²⁷

Practice

With regards to inspection practices, inconsistencies are observed in the frequency, duration and scope of inspections. There are examples of state interference in internal matters of associations/foundations in practice.

With respect to inspections of rights-based CSOs, it has been reported that unequal treatment (e.g. frequency, duration, and scope of inspections being different between rights-based CSOs and others) continues. Furthermore, regional disparities, disproportionate administrative and judicial practices have been reported.

The inspection process does not involve a guidance mechanism in order to prevent associations and foundations from being fined by DoA and GDoF. Although the Penal Code already covers penal sanctions, the Law on Foundations (5737, 20/2/2008) and Law on Associations (5253, 4/11/2004) brings in further punitive provisions.

Inspections of business/ for-profit entities are applied on the grounds of more established procedures such as with tax related and social security contributions cases. Not-for-profit entities have such responsibilities as well as they can be inspected on the grounds of their political affiliations, right-based issues, proximity to government/ opposition and personal complaints. Therefore, they are more prone to face arbitrary implementations/ interpretations of the law and legislations.

The legal framework lays down a long list of bureaucratic requirements, which pose obstacles for exercising freedom of association, since CSOs have to spend considerable time and resources to comply with them. Furthermore, the fees for breaching these requirements are disproportionately high, for CSOs in Turkey that operate under a rather disabling financial environment. For instance, failing to record an administrative change (such as a change in the board leadership or official address) in due time (15 days) in the official records/books may result with a fine of TRY 835 (approximately €250).

The Turkish government’s decision to shut down and seize the assets of organizations that are allegedly linked to Gülen Movement and terrorist organizations has come into force since the July 15-16 failed coup attempt.

According to the statutory decree published in the Official Gazette on July 23, a total of 1,125 associations, 104 foundations, 19 unions, federations and confederations, and 15 foundation schools were also closed.

Following a statutory decree No. 677 which came into force on 22 November 2016, 375 registered associations were permanently closed and their assets were seized.

²⁶ *State of Emergency Law no. 2935*. Access date: December 28, 2016. <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.2935.pdf>

²⁷ *Statutory Decree No. 667*. Access date: December 28, 2016. <http://www.resmigazete.gov.tr/eskiler/2016/07/20160723.pdf>

Findings from the Monitoring Matrix Survey 2016

- Only 4 out of 100 CSOs stated that “there is fully enabling environment” when they were asked to evaluate the public policies and legislation with regard to freedom of association. 18 of surveyed CSOs stated “there is enabling environment” during 2016. These respondents compare the situation prior to 2004 and refer to the reform packages that were passed in the period 2004 -2008 to improve legal framework within the context of the EU accession process. For instance, one of the respondents exemplified the improved context with reference to the establishment of a civil department (Department of Associations - DoA) for the regulation of associations in 2003 (previously the responsibility of the police), and culminated with a new law in 2004. Of these organizations, one stated *“the legal framework is fine but its application is problematic”*. Another CSO representative stated *“in last 10 years there is more liberal understanding of civil society”* and gave example of operation of associations with an agenda to expand LBGTİ rights. The largest cluster of CSOs (34 percent) claimed “the enabling environment is partially disabling”, the second largest cluster claimed (31 percent) “the enabling environment is disabling”, and 13 percent found the enabling environment is “fully disabling” during 2016. The most common causes reported by CSOs in the narrative section are; the restrictive measures of the state of emergency, arbitrary implementation of rules and practices especially when an organization has a critical or anti-government tone. One of the respondents summarized the context accordingly: *“CSOs that are independent of the state/ government either are not taken account by public authorities or they are targeted as ‘malign of the society’... Citizens are refraining of being members of CSOs. I believe it is because of the sanctions applied for such CSOs, such as closures, or further penal sanctions upon members or executives of CSOs.”*
- 34 percent of surveyed CSOs (34 out of 100) were registered between 2013-2016. The majority of these organizations stated that the procedures to be followed in the registration was easy to understand (61.8 percent), the registration was completed on time (73.5 percent) and the information related to registration was easily accessible (76.5 percent).
- 11 percent of surveyed CSOs (11 out of 100) faced inspection during 2016. The experiences of these CSOs support claims of arbitrary implementation practices stated above. Of these organizations, one stated that DoA took the inspection into consideration because of anonymous complaint letters. Another CSO, with a feminist agenda operating in south east of Turkey faced an inspection process on their last 5 year activities that took 26 days. Respondent from this organization defines the inspection *“very burdensome and uneasy”*. Some others reported routine inspections conducted by Department of Association or Tax authorities.
- 7 CSOs stated that they faced penalties. 6 CSOs got administrative fines. The most common type of sanctions reported by the CSOs were related to missing notification deadlines. For instance, one respondent stated that the reason they faced a fine was not making notification of their general assembly on time. A foundation reported that they did not notify about the change about their Chairperson of the Board in a timely manner to General Directorate of Foundations. An association reported that they made a mistake in reporting their income and expenditures in their balance sheet, so this resulted in administrative fine. In addition, one of the surveyed associations reported that, a court case initiated because their charter included the expression “sexual orientation”, and because they declined to have hierarchical organization model with a chairperson and board. This respondent stated *“The court case finalized in more than one year and in the meantime all our activities were suspended without a court order. In the final hearing the court has ruled that it is not “contrary to morality to be active in the area of sexual orientation and rejected the court case.”*

This decree cancelled closure of 18 foundations and 175 associations that were suspended with the statutory decree No. 667. Before, on 11 November 2016 activities of those CSOs had been suspended. The decree provides the full list of suspended CSOs that include rights-based advocacy and human rights organizations, women's rights organizations, local cultural associations, associations for poverty alleviation, business associations and associations of special interest groups. Article 3 of the statutory decree states that: "Associations listed linked to terrorist organizations or that the National Security Council has established they belong to, cohere with or are linked to structures, formations or groups that are acting against national security, are closed." All assets of the association have been transferred to the Treasury. The individualized reasoning for suspension and closers are not yet known. All assets of the associations are considered to have been transferred to the Treasury free of charge, including the deeds for any premises, without any restrictions. Properties of suspended foundations transferred to GDoF. There is no possibility to appeal or judicial remedy.

In the consultation meeting held on 24th of November 2016 by Checks and Balances Network that brought together over 26 CSO representatives to discuss the consequences of the state of emergency upon enabling environment for civil society and steps to be taken following an statutory decree No. 677 issued on 22 November closing and banning activities of 375 associations. This network is composed of 279 associations and foundations from all over Turkey and 12 of those were closed down with this decree. In this meeting it was widely stated that, mass closures or suspension of activities of CSOs without a court order and proper appeal mechanisms are strongly threatening basic freedoms in Turkey.

1.1.3. SECURING FINANCIAL RESOURCES [CORE STANDARD]

Legislation

Economic activities of CSOs are permitted, only if they set up a separate economic entity under their legal entity. When they set up such entities, there is no tax exemption for economic activities they carry out. In terms of taxation, all economic entities of CSOs are treated like for-profit businesses.

The donation collection and income generating activities of associations and foundations generated outside of their

headquarters are regulated under the Law on Collection of Aid (2860, 23/6/1983).²⁸ It is upon permission when associations and foundations want to collect donations on open public spaces (e.g. activities on the street, public campaigning, internet fundraising, etc.).²⁹ This law does not apply, when individuals or corporations donate to CSOs voluntarily. CSOs do not have to ask for official permit when they only publish their bank account number on their website. However, other online forms of collection of donations are regulated. For example, associations cannot start up a SMS donation campaign or a Facebook fundraising campaign without getting permission. The collection of donations, under this Law is regulated with highly bureaucratic rules and procedures. This brings repressive environment for donation collection and income generating activities of CSOs. There is a special status granted to very few CSOs, which provides the status holder with an exemption from the Law on Collection of Aid. This means that, these CSOs are able to collect donations, as they wish, without prior permission from the related authority. Based on the data provided by the DoA, the number of such organizations having this status remain limited to only 19 which is strikingly low.³⁰

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

²⁸ The Law on Collection of Aid. <http://www.tusev.org.tr/userfiles/image/fundraising%20law.pdf> Access date: December, 28, 2016

²⁹ Regulation Relating To Procedure And Principles applicable in Collection Of Aid. <http://www.tusev.org.tr/userfiles/image/fundraising%20regulation.pdf> Access date: December, 28, 2016

³⁰ The list associations which collect donations without prior permission. DoA. <https://www.dernekler.gov.tr/Anasayfa/linkler/izin-almadan-yardim-toplama.aspx> Access date: December 8, 2016.

CSOs can receive in-kind and cash donations from abroad with no extra fee or costs and these donations are tax-free. The only condition is that the related public institution should be notified as soon as the CSO receives any amount of cash from abroad, prior to any expenditure. However, since foreign aid is not clearly defined in the legislation, even membership fees or individual donations transferred from other countries are subject to notification requirement. This is very burdensome for CSOs, since they have to notify the administration each and every time they receive a membership fee or donation (even very small amounts) from their members or supporters. CSOs may accept donations and assistance from corporations, individuals and other sources to realize the purposes set out in their bylaws/charters. However, strict limitations and restrictions and burdensome procedures are in place for public fundraising under the Collection of Aid Law.

Practice

Dealing with economic activities is burdensome and bureaucratic for CSOs. The low number of CSOs that set up such separate commercial entities is an indication. According to data provided by the DoA and GDoF, as of 2013, the total number of associations and new foundations is 109,098 and only 3,290 of them (2 percent) have formed economic entities.

Use of foreign funds is not subject to approval; however, notifications each time a transfer is made from abroad should be made to the administration, which is cumbersome. Since foreign aid is not clearly defined in the legislation, even membership fees or individual donations transferred from other countries are subject to notification requirement. This is very burdensome for CSOs, since they have to notify the administration each and every time they receive a membership fee or donation (even very small amounts) from their members or supporters.

There is no legal barrier on accepting grants/donations from individuals, corporations and other sources.

It is mandatory that cash donations or grants shall be sent and received through bank transfers. There are no extra costs for making or receiving cross-border donations. However, Collection of Aid Law poses problems for public fundraising of CSOs. Several CSOs' bank accounts were blocked when they circulated their bank accounts via internet or Facebook.

Findings from the Monitoring Matrix Survey 2016

- Only 17 percent of surveyed CSOs (8 associations, 8 foundations and 1 social enterprise out of 100 CSOs) established a separate commercial enterprise to carry out economic activities.
- A large share of CSOs (76 percent) reported that they were not able to raise sufficient funds for the objectives they would like reach during 2016. In the narrative section, CSOs discussed the main reasons behind their fragile financial situation. CSO representatives stated that, the state of emergency, terrorist attacks, political polarization and lack of distrust for civil society became their top priority agenda rather than fundraising. On the other hand, of these organizations, one stated, their members do not pay their membership fees regularly and the project funding can be only allocated for project activities.
- 83 percent of surveyed CSOs reported they did not apply for permission from public authorities for their donation collection initiatives (e.g. activities on the street, public campaigning, internet fundraising, etc.) during 2016. 8 CSOs made such requests, 2 of them were declined. Of these organizations faced rejection find the process very burdensome and vague. Another respondent explain the reason behind their decision for not engaging in any donation collection activity: "The Law on Collection of Aid provides a very unsettled and insecure context so we decided to opt out. Public officials are not very well informed about the distinction among aid and donation. Another restriction of the legislation is the restrictive measures on financial terms (Where the amount of aid collected is not sufficient to achieve the object or an amount is remaining after realization of object, these aid amounts are transferred by the authorities)."

EU Civil Society Guidelines assessment

Sub area 1.1., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020

1. An enabling legal and policy environment, for the exercise of the rights of freedom, expression, assembly and association

1.1.a. Quality of existing legislation and policy framework

50% of gaps in national legislation and policy framework were not identified and addressed.

Associations are registered by submission of documents immediately with no costs.

Registrations of foundations are determined by a court decision. The timeline for establishing a foundation varies depending on the work load of the courts. The minimum endowment amount to establish a foundation was increased to €16,309 (TRY 60,000). This amount is below maximum of the baseline (€17,500).

There is no data on the number of inspections held between 2015-2016.

There are certain restrictions in special laws restricting freedom of association of members of the Turkish Armed Forces, police force, civil servants, children and individuals who do not hold Turkish citizenship.

Foreign organizations/representative offices are subject to permission, (provided by the Ministry of Internal Affairs upon the opinion of the Ministry of Foreign Affairs), to operate or open up a branch office in Turkey. The legislation does not state how long the applications will be processed by the authorities. However, the Ministry of Interior announces its decision to applicants and to the relevant local governorship within 10 days.

With regards to inspection practices, inconsistencies are observed in the frequency, duration and scope of inspections. Inspection practices can be used as deterrence towards rights-based organizations especially the ones with anti-government stances. There is no data on the number of inspections of public

authorities. However, it is assumed that the target of decreasing the inspections by 80% was not achieved.

The number of minimum founding members sought by the state for registration of associations is quite high (seven) compared with international and European standards (2-3 people). Associations should have at least 16 members to continue operating within six months following their registration. (This is not among targets. Target revision can be considered).

The suspensions and closures of CSOs are disproportionate under the state of emergency and are in violation of rights to freedom of expression and associations. A total of 1500 associations, 104 foundations and 19 unions were suspended permanently and their assets were seized by the state.

1.1.b. Progress with the adoption and implementation of relevant legislation

No significant developments took place in 2016 related to the enabling environment on the freedom of association. In fact, no extensive reforms have been made since the major reform packages accepted in 2004 and 2008 that (in those years) improved the enabling environment of civil society to a great extent. The planned reforms regarding the legal framework regulating freedom of association, Turkey's National Action Plan for the EU Accession (Phase- I November 2014 - June 2015) published in November 2014 was not adopted.

1.3.a. Quality of the enabling environment for grass-roots organizations

Grass-roots organizations are also affected by the gaps and improvements in legal framework on enabling environment for CSOs. No collective group other than registered associations and foundations are recognized to pursue any legal purpose (e.g. having a bank account, applying to funds, take legal action, participate to consultation processes). Although not given recognition by the state or the legal framework, these forms of organizations are an important part of civil society in Turkey.

2.1.a. CSOs' perception of the ease and effectiveness of financial rules and reporting requirements (disaggregated by type / size of CSO)

The legal framework lays down a long list of bureaucratic requirements, which pose obstacles for exercising freedom of association, since CSOs have to spend considerable time and resources to comply with them. Furthermore, the fees for breaching these requirements are disproportionately high, for CSOs in Turkey that operate under a rather disabling financial environment. CSOs frequently fined for "improper" record keeping. For instance, failing to record an administrative change (such as a change in the board leadership or official address) in due time (15 days) in the official records/books may result with a fine of TRY 835 (approximately €250).

There is no comprehensive data but given the circumstances the target of decreasing the number of issued administrative fines for legal compliance of CSO by 50% was not achieved.

2.1.b. Quality assessment of financial rules (with the focus on built-in mechanisms that financial rules and obligations change as the turn-over and non-commercial activities change)

The legal framework provides only two types of accounting rules out of three as in the national target and specific nature of grassroots and smaller CSOs are not taken into account. Additionally, CSOs must complete standard forms before receiving and/or utilizing foreign funding.

The Guidelines for EU Support to which sets the agenda for achieving enabling environment for civil society development in enlargement countries for 2014-2020 (EU Guidelines)

(EU CS Guidelines assessment)

Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR)'s - the Guidelines for EU Support to which sets the agenda for achieving enabling environment for civil society development in enlargement countries for 2014-2020 (EU Guidelines). EU Guidelines primarily highlights that accession states should achieve appropriate legal, judicial and administrative environment for exercising the freedoms of expression, assembly and association to ensure enabling environment for civil society development. Civil Society Guidelines is designed as monitoring tool involving clear results to achieve for civil society development and will help to better programming the financial assistance. This guideline includes indicators, methods of verifications for the objective of achieving "an enabling legal and policy environment, for the exercise of the rights of freedom, expression, assembly and association" as well as "an enabling financial environment which supports sustainability of CSOs.³¹ The conducive environment part is primarily adopted from the Monitoring Matrix methodology, with country reports serving in assessment of specific indicators of the EU Guidelines. In each of the assessed sub-areas, a general assessment for respective indicators of the EU Guidelines is provided, based on the monitoring of the respective sub-areas of the Monitoring Matrix.

³¹ DG Enlargement Guidelines for EU support to civil society in enlargement countries, 2014-2020. EU Commission Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR). http://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/civil_society/doc_guidelines_cs_support.pdf Access date: December 28, 2016.

SUB-AREA 1.2.: RELATED-FREEDOMS

1.2.1. FREEDOM OF PEACEFUL ASSEMBLY [CORE STANDARD]

Legislation

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

The meetings and demonstrations should be planned by a committee consisting of seven people with a lead person. The organizers must provide the following information in the notification: (a) the purpose of the meeting; (b) the date and the place of the meeting along with the start and end time; (c) the IDs of the members of the organizing committee, information regarding their occupation, their residence certificate and if available the address of their work, and (d) any additional information outlined as necessary by the Regulation on the Implementation of the Law on Meetings and Demonstrations. The latter provision is written in an open ended way that could lead to excessive governmental discretion. Article 11 of the Law states that all members of the organizing committee must be present at the assembly at the indicated time provided in the notification. With the amendments made in March 2014, the same Article grants rights to security forces to record voices and images of the participants during the assembly or meeting. Besides, according to the Article 12, the organizing committee is given responsibilities to

ensure that the meeting or the demonstration is conducted in a peaceful manner and to take the necessary measures including asking security officers for intervention in case of violence. The committee is also in charge of ending the meeting or the demonstration and to inform the security officer. Article 15 of the Regulation on the Implementation of the Law on Meetings and Demonstrations also states that members of the organizing committee have responsibilities for restraining any provocative behavior, preventing unlawful behavior and collaborating with security forces for these purposes. The Law brings severe restrictions as to the place, route and time of the assembly. According to Article 6 of the Law, outdoors assemblies can take place in any space which is previously determined as “available” by the district governor’s office or the governorship after consulting the provincial representatives of the political parties represented in the Parliament; mayors; representatives of three labor unions with the highest number of members; and finally representatives of the chambers (this “consultation” was added to the Law by an amendment made in March 2014). Article 22 of the Regulation on the Implementation of the Law on Meetings and Demonstrations indicates that outdoor assemblies cannot take place in widely used roads or parks, religious places, public buildings and one kilometer away from the Turkish Grand National Assembly. In addition, the same Article states that intercity highways are not allowed for meetings or demonstrations. Article 7 of the Law states that assemblies cannot take place before sunrise. In addition, outdoor assemblies cannot be held after sunset, and indoor assemblies should end no later than midnight. Last, but not least, the law and the regulation grant the authority to cancel it. Civilian authority is granted the authority to postpone an assembly if (a) there are more than one assemblies notified to be made in the same place and time which makes it impossible for security forces to take necessary measures and (b) to protect national security, public order, prevention of a crime, public health, general morality or to protect others rights and freedoms; or to prohibit an assembly if and when a clear and imminent danger exists. As mentioned above, since the definitions of many of these concepts are not clearly defined in the legal framework, the administration is provided with arbitrary treatment to prohibit or postpone an assembly.

The “Law Amending the Law on Powers and Duties of the Police, Other Laws and Decrees” that is widely

referred as the “Internal Security Reform Package” and fiercely opposed by opposition parties, was passed in Parliament on 27th March, 2015 and 14 different laws and decrees were amended. The Internal Security reform package was proposed following the extensive protests in Turkey’s south-eastern provinces in October 2014 as a spillover of the siege of Kobane by Islamic State militants and Turkish government’s non-intervention policy. This reform package has been widely criticized for considerably strengthening the powers of the police during demonstrators and extending the police’s authority to detain anyone without the permission of prosecutor.

During the state of emergency, the administration has rights to restrict use of rights to assembly. According to Articles 9 and 11 of State of Emergency Law no. 2935, measures can be during the state of emergency “to prohibit, postpone or or impose permission obligation for assemblies and demonstrations in closed and open areas, as well as to determine, publicize, supervise and disperse areas of assemblies and demonstrations”.³²

Practice

Spontaneous, unplanned and counter-assemblies are subject to authorization. The Law sets out sanctions applicable to those who prevent the assembly or demonstration and disrupt the assembly. The instances where the CSOs may exercise their freedom of assembly without prior notification is limited.

The freedom of peaceful assembly has become severely restricted in Turkey after the failed coup attempt, particularly when exercised by anti-government groups. There were instances of excessive use of force by the police, including beating, during peaceful demonstrations during 2016.

On the other hand, on the night of the coup attempt of 15th July, President Recep Tayyip Erdoğan and Prime Minister Binali Yıldırım called on the public “to claim the streets”. The mass rallies named as “democracy- watches” spread throughout major cities and thousands of people, mostly pro-ruling party and supporter of President Erdoğan, have gathered in the country’s squares and streets every

night. The government authorities promoted these rallies since these gatherings are regarded as a continuation of the civilian resistance to the coup attempt. Public transportation was free for residents of Istanbul and Ankara to enable the mass gatherings. Turkish mobile operators, such as Turkish Telecom provided free calls, text, and data packages for their customers over the weekend to help facilitate rallies and post-coup celebrations.³³ Earlier in 2016, the authorities have banned the annual gay pride march citing public order and security concerns.³⁴ Riot police used tear gas and plastic bullets to disperse small number of demonstrators at banned gay pride parade on 27 June 2016.³⁵

In the beginning of October, Ankara governorate issued a ban on Ashura Day gatherings due to intelligence they received on a possible terrorist attack targeting these groups. This ban was supposed to be in place throughout month of Muharram to maintain public order, but after wide opposition of Alawi community, Ashura day gatherings would be allowed in closed venues. Ankara governorate also banned public gatherings on October 10 due to security concerns that marked the first anniversary of Ankara bombing, one of the deadliest attacks in Turkish history which took 103 lives. Riot police dispersed the groups with tear gas and water cannon to prevent any commemoration and at least 60 people were detained in the police actions in the city center.³⁶

On 17th October, in Ankara, all demonstrations and assemblies were outlawed by the authorities until the end of November due to ‘possible terrorist attacks’.³⁷ The arrest of leaders and sitting parliamentarians of Peoples’ Democratic Party (HDP) sparked a wave of protests. In all, the protests throughout Turkey led to the arrest of over hundred people by Turkish security forces.

³² *Secular Turks feels isolated in post- coup Turkey*. Deutsche Welle. Access date: December 5, 2016. <http://www.dw.com/en/secular-turks-feel-isolated-in-post-coup-turkey/a-19409408>

³⁴ *Turkey bans Istanbul gay pride due to security fears*. Al Jazeera. Access date: December 1, 2016. <http://www.aljazeera.com/news/2016/06/turkey-bans-istanbul-gay-pride-due-security-fears-16061714261973.html>

³⁵ *Turkey police fire rubber bullets at banned gay pride parade*. The Telegraph. Access date: December 2, 2016. <http://www.telegraph.co.uk/news/2016/06/27/turkey-police-fire-rubber-bullets-at-banned-gay-pride-parade/>

³⁶ *Police disperse groups marking first anniversary of Ankara attack*. Hurriyet Daily News. Access date: December 2, 2016. <http://www.hurriyetdailynews.com/police-disperse-groups-marking-first-anniversary-of-ankara-attack.aspx?pageID=238&nID=104796&NewsCatID=341>

³⁷ *Ankara bans public gatherings due to terror alert*. Al Jazeera. Access date: December 5, 2016. <http://www.aljazeera.com/news/2016/10/ankara-bans-public-gatherings-due-terror-alert-161017173745908.html>

³³ *Turkey Issues Nationwide State of Emergency for Three Months*. Lexology.

Access date: December 28, 2016. <http://www.lexology.com/library/detail.aspx?g=a451fa13-39f3-476a-a41a-b0c0e58fe02c>.

Findings from the Monitoring Matrix Survey 2016

- 7 percent of surveyed CSOs stated “there is fully enabling environment” when they were asked to evaluate the public policies and legislation with regard to freedom of assembly. 18 percent of surveyed CSOs stated “there is enabling environment” during 2016.
- The largest cluster of CSOs (35 percent) claimed “the enabling environment is partially disabling”, the second largest cluster claimed (23 percent) “the enabling environment is disabling” and 17 percent found the enabling environment is fully disabling during 2016.
- 50 percent of surveyed organizations reported that they organized a form of assembly and demonstration during 2016. Based on the examples they provided in the narrative section, in most of the cases CSOs organized close-door meetings for the purpose of project activities. 3 organizations reported that they gathered in public spaces to announce their press statements. One of those reported police intervention. Some other organizations stated there were times they attended rallies organized by other civil initiatives where police intervention was reported during 2016. CSOs underlined the consequences of the state of emergency where rallies and demonstrations cancelled in various times.

1.2.2. FREEDOM OF EXPRESSION

Legislation

The state is party to all major international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

The Constitution provides rights for freedom of thought and opinion for all. Everyone is equal before the law without discrimination based on language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such grounds. The principle of justice and equality before the law is protected under various provisions of the Turkish Criminal

Code, genocide is prohibited, discrimination, incitement of the public to hatred and enmity or defamation is considered a crime. Defamation is generally regulated under the Law on Misdemeanors. There are certain defamation offenses that are within the scope of the Criminal Code.

European Commission for Democracy through Law (The Venice Commission) prepared an opinion report on articles 216, 299, 301 AND 314 of the Penal Code of Turkey in 2016.³⁸ The Venice Commission, the legal advisory body of the Council of Europe, has recommended changes to the crime of “insulting the president,” and “degrading Turkish nation, state and its organs and institutions, pointing to increase in related cases and penalties tied to the first and the “vague wording” of the latter.³⁹

Following the coup attempt, on 21 July 2016 the Turkish authorities informed the Secretary General of the Council of Europe that Turkey would notify derogation from the European Convention on Human Rights under Article 15 of the Convention.⁴⁰ The State of emergency approved by the National Parliament on 21st of July for three months following the failed army coup allowing authorities to react in efficient ways to investigate and punish those responsible for this coup attempt and those have linkages to Gülen Movement. The government extended the state of emergency for another 3 months that came into effect on 19 October 2016.

The first decree with the force of law (“Kanun Hükmünde Kararname”, KHK/667) came into force on July 23, 2016 within the framework of the state of emergency. This decree authorizes detentions without access to a judge for up to thirty days, which is quite long. This applies not only to people involved in coup attempt but to all persons suspected for involvement in terrorist offences and organized crime, during the validity of the

³⁸ *Opinion On Articles 216, 299, 301 AND 314 of The Penal Code Of Turkey Adopted by the Venice Commission at its 106th Plenary Session (Venice, 11-12 March 2016)*. European Commission for Democracy through Law (Venice Commission.) Access date: December 12, 2016. [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)002-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)002-e)

³⁹ *Article on insulting the president ‘must change’*. Hurriyet Daily News. Access date: December 12, 2016. <http://www.hurriyetdailynews.com/article-on-insulting-the--president-must-change.aspx?PageID=238&NID=96527&NewsCatID=510>

⁴⁰ *Secretary General receives notification from Turkey of its intention to temporarily suspend part of the European Convention on Human Rights Council of Europe*. The Council of Europe. Press release - DC132(2016). Access date: December 5, 2016. [https://wcd.coe.int/ViewDoc.jsp?p=&Ref=DC-PR132\(2016\)&Language=lanEnglish&Ver=original&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE&direct=true](https://wcd.coe.int/ViewDoc.jsp?p=&Ref=DC-PR132(2016)&Language=lanEnglish&Ver=original&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE&direct=true) See also the *Turkish Government’s communication related to the Convention on the Protection of Human Rights and Fundamental Freedoms registered by the Secretariat General on 25 July 2016*. Access date: December 5, 2016. <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2930086&SecMode=1&DocId=2380804&Usage=2>

state of emergency. This decree foresees punishments not only in cases of membership or belonging to a terrorist organization, but also for contacts with such an organization (Articles 1, 2, 3 and 4). This decree closed down 1,125 associations, 104 foundations, 19 trade unions, 15 universities, 934 private schools, and 35 private medical establishments. Their activities suspended and their assets reverted to the state authorities. The Decree further provided a simplified administrative procedure for the disbanding of further organizations (Article 2).⁴¹ Following an statutory decree No. 677 which came into force on 22 November 2016, 375 registered associations were permanently closed and their assets seized.

The mechanisms of checks and balances were not put in place to ensure safeguards against in proportionate measures and to preserve separation of powers and the rule of law. The state of emergency allows the president and cabinet to bypass parliament when drafting new laws and to restrict or suspend basic rights and freedoms. Under the three-month state of emergency, the statutory decrees cannot be appealed. Moreover, the Constitutional Court cannot act as the guarantee of the rule of law. Republican People's Party (CHP) appealed The Constitutional Court for the annulment of two decree laws issued by the government on the grounds that those violate the Turkish constitution. The Constitutional court rejected the appeal of Turkey's main opposition party, on the grounds of non-competence.⁴²

Practice

Freedom of expression has been steadily eroding in Turkey, in particular through arbitrary and restrictive interpretation of the legislation, pressure, dismissals and frequent court cases against journalists, writers and social media users since 2013.

Criminal cases against journalists, writers or social media users are of considerable concern. As of December 2016, at least 81 journalists imprisoned in Turkey⁴³, many of

whom face or were convicted for charges under the Anti-Terror Law. There are high numbers of arrests, hearings, detentions, prosecutions; as well as layoffs are common and which leads to self-censorship. It is also known that several international journalists were deported.⁴⁴

In this reporting period, individuals and journalists were charged with insulting authorities or their policies.⁴⁵ Ministry of Justice, Bekir Bozdağ reported that the number of criminal defamation complaints awaiting prosecution for "insulting" President Recep Tayyip Erdoğan were 1,845 including on the social media as of March 2016.⁴⁶ Aftermath the failed coup attempt President Erdoğan dropped all lawsuits against those charged with insulting him.⁴⁷

The two co-leaders of Turkey's pro-Kurdish Peoples' Democratic Party (HDP) have been detained along with at least 10 MPs because of their reluctance to give testimony for crimes linked to "terrorist propaganda".⁴⁸

Secretary General of Council of Europe Jagland has commented on recent developments and practices aftermath the failed coup attempt in Turkey and warned that the European Convention on Human Rights continues to apply in Turkey even during the state of emergency and raised concerns about disproportionate state of emergency measures restricting freedom of expression.⁴⁹

PEN America along with Human Rights Watch, Amnesty International, and the Committee to Protect Journalists released press releases voicing their concerns on the threats to freedom of expression aftermath shut down news outlets, detention of journalists and academics based on their alleged links to the Gülen Movement. PEN International called on Turkey to release all journalists and writers held solely in connection with their peaceful exercise of their right to freedom of expression after

⁴¹ *Commissioner statement on measures taken under the state of emergency in Turkey*. The Council of Europe. Access date: December 2, 2016. <https://www.coe.int/en/web/media-freedom/-/commissioner-statement-on-measures-taken-under-the-state-of-emergency-in-turkey>

⁴² *Turkish constitutional court rejects CHP's appeal to annul decree laws*. Hurriyet Daily News. Access date: December 2, 2016. <http://www.hurriyetdailynews.com/turkish-constitutional-court-rejects-chps-appeal-to-annul-decree-laws.aspx?pageID=517&nID=104889&NewsCatID=338>

⁴³ *Turkey's crackdown propels number of journalists in jail worldwide to record high*. Committee to protect Journalists. Access date: December 27, 2016. <https://cpj.org/reports/2016/12/journalists-jailed-record-high-turkey-crackdown.php>

⁴⁴ *Freedom on the Net 2015*. Freedom House. <https://freedomhouse.org/report/freedom-net/2015/turkey> Access date: December 21, 2015.

⁴⁵ *Freedom on the Net in Turkey 2016 Report*. Freedom House. Access date: December 1, 2016. <https://freedomhouse.org/report/freedom-net/2016/turkey>

⁴⁶ Nearly 2,000 legal cases opened for insulting Turkey's Erdogan. Reuters. Access date: December 13, 2016. <http://www.reuters.com/article/us-turkey-erdogan-lawsuit-idUSKCNOW42ES>

⁴⁷ *Turkey president Erdoğan to drop cases of insult in coup aftermath*. The Guardian. <https://www.theguardian.com/world/2016/jul/29/turkey-drops-cases-of-insult-against-president-in-coup-aftermath>

⁴⁸ *Turkey draws Western condemnation over arrest of Kurdish lawmakers*. Reuters. Access date: December 5, 2016. <http://www.reuters.com/article/us-turkey-security-kurds-idUSKBN12Y2XA?i=0>

⁴⁹ *Turkey: Secretary General Jagland concerned about state of emergency measures and freedom of expression*. The Council of Europe. Access date: December 5, 2016. <https://www.coe.int/en/web/portal/-/turkey-secretary-general-jagland-concerned-about-state-of-emergency-measures-and-freedom-of-expression>

new wave of arrests of journalists on 17th of August. 149 writers from Turkey have expressed their solidarity with a renowned novelist, columnist and human rights activist Aslı Erdoğan who was detained on 19th of August.

1,128 academics (Barış İçin Akademisyenler, BAK) publicized their declaration entitled “We will not be a party to this crime” on January 11, 2016. Academics condemned the Turkish government’s security operations against the armed Kurdistan Workers’ Party (PKK) in cities of southeast Turkey and called for Turkey to “abandon its deliberate massacre and deportation of Kurdish and other peoples in the region.”⁵⁰

The Istanbul prosecutor responsible for terrorism crimes conducted criminal investigations into all the

academics who signed the petition and many local investigations took place. Turkish police have detained at least 18 academics who signed this petition. 3 signatory academics were arrested on charge of “propagandizing for terror organization” on 16th March, 2016.⁵¹ They were released on 22nd of April, 2016.

With the decree issued on September 2 (No 672), 1,267 academics have been dismissed. 24 academics who were signatory of “Academics for peace declaration” were dismissed with this new statutory decree.⁵²

⁵⁰ Turkey academics held ‘for criticism of army offensive’. BBC News. Access date: December 5, 2016. <http://www.bbc.com/news/world-europe-35321895> Access date: December 5, 2016.

⁵¹ Three Academics Arrested. Bianet. Access date: October 22, 2016. <http://bianet.org/english/human-rights/173047-3-academics-arrested> Access date: December 5, 2016.

⁵² Of 1,267 Academics Dismissed in New Statutory Decree, 24 Are Academics for Peace. Bianet. <http://bianet.org/english/human-rights/180172-of-1-267-academics-dismissed-in-new-statutory-decree-24-are-academics-for-peace> Access date: December 1, 2016.

Findings from the Monitoring Matrix Survey 2016

- 7 percent of surveyed CSOs stated “there is fully enabling environment” when they were asked to evaluate the public policies and legislation with regard to freedom of expression. 16 percent of surveyed CSOs stated “there is enabling environment” during 2016. The largest cluster of CSOs (31 percent) claimed “the enabling environment is partially disabling”, the second largest cluster claimed (30 percent) “the enabling environment is disabling” and 16 percent found the enabling environment is “fully disabling” during 2016.
- When CSO representatives asked whether they freely expressed views during 2016 or not, majority (59 percent) of the survey respondents have chosen “sometimes” and “occasionally” options.
- 48 percent of surveyed stated they have never encountered repressions and sanctions when they have disseminated their critical viewpoints. 26 percent or surveyed CSOs have encountered such actions occasionally and 6 percent stated that they always face such measures.
- There were cases when CSOs targeted when they have expressed their critical stances. Accounts of CSOs describe the political context of 2016 below:
 - “We expressed our views but for whom? Could we have an impact upon policy-making? Which feed-back was taken? Presence in the social media is not sufficient. The state of expression should always be considered together with the counter-reaction of the public authorities.”
 - “We are exposed to the political polarization; our political identity is gaining importance in our relationship to the local governments.”
 - “The political conjuncture results in self-censorship, like many other Turkish CSOs do.”
 - “There is ongoing investigation on my article published in a newspaper.”
 - “We should be bear in mind consequences of the state of emergency.”
 - “In this period, when the political pressure on NGOs is increasing in general, although we do not make any changes to change the content, our expressions are definitely influenced by the political environment.”
 - When it comes to LGBT rights or other “marginalized” sectors, they are constantly targeted with “hate speech”.

1.2.3. ACCESS TO INFORMATION

Legislation

The Constitution guarantees freedom and privacy of communication for all, but likewise contains restrictive clauses. For instance, publications endangering the integrity or security of the state, violation of the general morality and the principle of family protection, revelation of state secrets or publications with the intention to encourage rebellion or other offenses are prohibited.⁵³ The vague use of such terms in the law needs further clarifications to overcome arbitrary applications of the law.

The government has shut down telecommunications regulatory body, Department of Telecommunications and Communication (TIB) as a part of new state of emergency statutory decrees published in the Official Gazette on Aug. 17 due to their alleged connections to Gülen movement.⁵⁴

TIB used to be responsible of implementation of the country's website blocking laws. Prior, on 10th of September 2014 extraordinary authorities were granted to the TIB after an amendment to the Internet Law that was passed at the Parliament. Amendments were made to Internet Regulation Law no. 5651 and extended the authority of TIB to ban websites and remove web contents without a prior court order if there is a violation of privacy, or if deemed necessary for matters of "national security," "restoration of public order" and "prevention of crimes". This law did not ensure in depth- investigation of the cases and therefore paves the way to arbitrary decisions by government authorities. Freedom On the Net 2016 Report mentioned that advocacy groups often criticized the lack of transparency of decisions made by TIB and its apparent lack of independence from the executive.⁵⁵

The decree transfers all authority held by the TIB to the Information and Communication Technologies Authority (BTK), another state authority.

According to basic laws of the telecommunications sector, The Ministry of Transportation, Maritime Affairs, and Communications is responsible for policymaking and the BTK is in charge of regulation. Freedom on the Net 2016 report states BTK is well staffed and holds dedicated budget to perform its functions. The report finds the internal structuring of this authority can threaten the independence of the organization since BTK's board members are appointed by the government.⁵⁶

Freedom on the Net 2016 report states that: "...these restrictions continued to escalate following the failed coup in July 2016, in spite of the crucial role that social media and communication app—most notably FaceTime—played in mobilizing citizens against the coup." Under a decree (No 668) issued in the state of emergency, a total of 102 media outlets (3 news agencies; 16 TV channels; 23 radio stations; 45 newspapers; 15 journals) and 29 publishing houses/distribution firms were closed down within the scope of investigations related to failed coup attempt. Turkish government announced two statutory decrees (No 675 and 676) on 29 October 2016, shutting down 15 pro-Kurdish media outlets. 11 newspapers, two news agencies and three magazines were also closed down by these statutory decrees.

Practice

The government intensified its crackdown on the media throughout 2016. Especially, in the post- failed coup period, authorities detained critical journalists, closed down media outlets, censored online outlets, detained and deported foreign correspondents on the grounds on terrorism-related laws and alleged their connection with the Kurdish conflict, the ongoing conflict in Syria and the Gülen movement.

In the wake of failed coup attempt, prosecutors have issued arrest warrants for at least 150 journalists, media workers and executives allegedly in connection to their Gülen movement.⁵⁷ In total of 41 journalists, media

⁵³ The Constitution of The Republic of Turkey, Article 26 and Article 31. Access date: December 8, 2016. https://global.tbmm.gov.tr/docs/constitution_en.pdf

⁵⁴ *Turkey shuts down telecommunication body amid post-coup attempt measures*. Hurriyet Daily News. Access date: October 12, 2016. <http://www.hurriyetdailynews.com/turkey-shuts-down-telecommunication-body-amid-post-coup-attempt-measures.aspx?pageID=238&nID=102936&NewsCatID=338>

⁵⁵ *Freedom on the Net 2016 Turkey Report*. Freedom House. Access date: December 2, 2016. https://freedomhouse.org/sites/default/files/FOTN_percent202016_percent20Turkey.pdf

⁵⁶ *Ibid.*

⁵⁷ *State of emergency in Turkey: the impact on freedom of media*. Article 19. Access date: December 2, 2016. <https://www.article19.org/data/files/medialibrary/38506/FoE-Under-State-of-Emergency---Turkey-pub-FINAL.pdf>

workers and executives are imprisoned as of 1st of December 2016.⁵⁸

The latest closures brought the number of media outlets shut down in Turkey to 168 under state of emergency by December 2016.⁵⁹

According to 2016 Freedom of Press Report, ‘media is not free’ in Turkey and remained among the countries that suffered the largest declines in 2015. Media in Turkey is least free in the Europe regional ranking with a score 71 (0=best, 100=worst).⁶⁰

Reporters Without Borders (RSF), the World Press Freedom Index ranks 180 countries according to the level of freedom available to journalists. Turkey ranked 151st in the world rankings in 2016 with a score 50.76 (0=best, 100=worst).⁶¹

Police raided the offices of Cumhuriyet, Turkey’s oldest newspaper and detained 13 staff members including editor Murat Sabuncu, columnist Kadri Gürsel, and cartoonist Musa Kart on terror-related charges.⁶² The previous editor of Cumhuriyet, Can Dündar, was convicted of revealing state secrets in May and is now living in exile in Europe.

Turkey was downgraded also in its internet freedom status. According to Freedom House ratings, internet freedom in Turkey ranked as “Not free”. This report underlined that “Internet freedom fell by 15 points in Turkey, the most drastic five-year decline recorded.”

Freedom on the Net 2016 cited multiple blockings of social media platforms and prosecutions of users, most often for offenses related to criticism of the authorities or religion.⁶³ Limiting access of users to the digital media sphere or removing contents have been widely used as a

countermeasure to anti-government protests, corruption scandals, or terrorist attacks.

There have been restrictions observed on connectivity.⁶⁴ Turkish government has shut down mobile and landline internet access in 11 cities in the southeast region to prevent protests over detention of Diyarbakır’s co-mayors. According to Turkey Blocks: “internet connectivity shutdowns have been further observed for six consecutive days up to 31 October 2016 in Diyarbakır, although the wider regions were affected only on the 26th and 27th.” They detected 8 percent of Turkey’s internet infrastructure to be unreachable and estimated that, 6 million citizens affected including those disconnected and others experiencing loss of service.⁶⁵

Twitter, Facebook, and YouTube were temporarily blocked on numerous occasions. According to data of Engelli Web [Database on blocked Websites in Turkey] over 115,805 websites are blocked as of December 2015.⁶⁶ Blocking of websites with or without a court order continues to be implemented. The number of blocked websites by the Telecommunications and Communication Presidency (TİB) is 107,470 (92.6 percent) as of December 2015. Only 3,063 websites (2.6 percent) were blocked with a court order.

Access to multiple social media services including Facebook, Twitter and YouTube throughout Turkey blocked beginning Friday Nov 04 2016 1:20AM local time, ongoing through into Friday afternoon. Restrictions on messaging services WhatsApp, Skype and Instagram have also now been detected. This was the first time nation-wide restrictions on the popular messaging apps in recent years. This incident was relation to detention of multiple leaders of opposition political party HDP.⁶⁷

⁵⁸ *Journalists imprisoned*. Reporters without Borders. Access date: December 5, 2016. https://rsf.org/en/barometre?year=2016&type_id=235#list-barometre

⁵⁹ *Turkish government shuts down 15 Kurdish media outlets*. European Federation of Journalists. Access date: December 5, 2016. <http://europeanjournalists.org/blog/2016/10/30/turkish-government-shuts-down-15-kurdish-media-outlets/>

⁶⁰ *Freedom of the Press 2016 Report*. Freedom House. Access date: December 1, 2016. <https://freedomhouse.org/report/freedom-press/freedom-press-2016>

⁶¹ *Turkey 2016 Report*. Reporters without Borders. Access date: December 1, 2016. <https://rsf.org/en/turkey>

⁶² Committee to protect Journalists. Turkey closes 15 media outlets, raids newspaper office, detains at least 12. Access date: December 1, 2016. <https://cpj.org/2016/10/turkey-closes-15-media-outlets-raids-newspaper-off.php>

⁶³ *Freedom on the Net 2016 Report*. Freedom House. Access date: December 1, 2016. https://freedomhouse.org/sites/default/files/FOTN_2016_BOOKLET_FINAL.pdf

⁶⁴ *Freedom on the Net 2016 Turkey Report*. Freedom House. Access date: December 2, 2016. https://freedomhouse.org/sites/default/files/FOTN_percent202016_percent20Turkey.pdf
This report covers the period between June 2015 –May 2016. The paragraphs in italics provide further information and relevant developments reported in post-coup period from different sources.

⁶⁵ *New internet shutdown in Turkey’s Southeast: 8 percent of country now offline amidst Diyarbakır unrest*. Turkey Blocks. Access date: December 2, 2016. <https://turkeyblocks.org/2016/10/27/new-internet-shutdown-turkey-southeast-offline-diyarbakir-unrest/>

⁶⁶ Please see data collected through *Engelli Web [Database on blocked Websites in Turkey]* from: <https://engelliweb.com/>

⁶⁷ *Facebook, Twitter, YouTube and WhatsApp shutdown in Turkey*. Turkey Blocks. Access date: December 5, 2016. <https://turkeyblocks.org/2016/11/04/social-media-shutdown-turkey/>

Turkey accounted for almost 90 percent of all content that was locally restricted by Twitter in the second half of 2015. Turkey's regulator fined the company TRY 150,000 (US\$ 51,000) for refusing to remove what it termed "terrorist propaganda" from the site. Turkey has made more requests to Twitter to delete contents than any other country in the world as of 30th June, 2016, data published by the Twitter showed. In total, out of 5,195 (total of court orders and requests of government agency, police, other) content removal requests, 2,493 were made by Turkey in the first half of 2016.⁶⁸

Findings from the Monitoring Matrix Survey 2016

- 38 percent of the survey respondents stated they have the impression that their communication and access to internet is being monitored by state without legal basis. Some CSOs indicated increased practices of blocking access to websites and social media platforms during the state of the emergency. One of those claimed: "Recent arrests are the clearest example of this."

EU Civil Society Guidelines assessment

Sub area 1.2., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020

1.1.a. Quality assessment of existing legislation and policy framework

The Article 34 of the Constitution recognizes the right of citizens to organize an assembly and demonstration without having to obtain any prior authorization. The Law on Demonstrations and Meetings (no. 2911) restricts the freedom of assembly. There is no overall data but given the circumstances that the target of decreasing Police interference to peaceful assembly and protests by 90% has not been achieved.

In the post- failed coup period, authorities detained critical journalists, closed down media outlets, censored online outlets, detained and deported foreign correspondents on the grounds on terrorism-related laws and alleged their connection with the Kurdish conflict, the ongoing conflict in Syria and the Gülen movement.

According to 2016 Freedom of Press Report, 'media is not free' in Turkey and remained among the countries that suffered the largest declines in 2015. Internet censorship by the government is common and has increased in the last couple of years. The Law on Regulation of the Publications Made on the Internet and Fight against the Crimes Committed via such Publications (the Law on the Internet) had a significant

negative impact on freedom of expression. Turkey was downgraded also in its internet freedom status. According to Freedom House ratings, internet freedom in Turkey ranked as "Not free". Freedom on the Net 2016 cited multiple blockings of social media platforms and prosecutions of users.

The government intensified its crackdown on the media throughout 2016. Reporters Without Borders (RSF), the World Press Freedom Index ranks 180 countries according to the level of freedom available to journalists. Turkey ranked 151st in the world rankings in 2016.

In the wake of failed coup attempt, prosecutors have issued arrest warrants for at least 150 journalists, journalists, media workers and executives allegedly in connection to their Gülen movement. In total of 41 journalists, media workers and executives are imprisoned as of 1st of December 2016.

The latest closures brought the number of media outlets shut down in Turkey to 168 under state of emergency by December 2016.

1.1.b. Progress with the adoption and implementation of relevant legislation

2016 period did not witness ground-breaking legislative changes in the legal framework, which directly concerns CSO operations.

⁶⁸ Removal requests worldwide. Twitter. Access date: December 2, 2016. <https://transparency.twitter.com/en/removal-requests.htm>

2. AREA 2: FRAMEWORK FOR CSO FINANCIAL VIABILITY AND SUSTAINABILITY

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

2.1.1. TAX BENEFITS [CORE STANDARD]

Legislation

In general, tax legislation and tax environment do not provide a supportive environment for the financial sustainability of CSOs and bring certain limitations. CSOs are subject to equal tax rates with the profit making sectors. Despite the fact that there are some tax exemptions for CSOs defined and provided in the legal framework, they are very limited. Grants and donations received by CSOs are also tax exempt.

Foundations and associations in Turkey are exempt from the Corporate (Profit) Tax unless they deal with economic activities. Associations and foundations are obliged to start economic enterprises to be able to engage in income-generating activities. The commercial enterprises of associations and foundations are treated as business corporations and the Corporate Tax is levied upon profits of CSOs. This brings heavy burden on CSOs that undertake economic activities to create social benefit.

The law does not provide tax benefits for economic activities of CSOs. Foundations, tax-exempt or not, are subject to all other taxes. Those taxes include income tax applicable to their earnings including rent, interest and dividends.

Tax exemptions for CSOs are very limited. Foundations and associations are not exempt from VAT, Consumption, Property, Communication, Stamp, and Motor Vehicle Taxes and Notary fees. Also all kinds of passive investments are subject to income tax.

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

Tax and Corporate Taxes in relation to donations made to their endowments. CSOs are allowed to make passive investments; however, there are different tax treatments are applicable. In addition to the above mentioned rules, several tax deductions are applied to foundations with tax exemption status and associations with public benefit status.

The law in Turkey does provide for a public benefit status for CSOs, however the tax exemption and public benefit statuses are granted to a very limited number of CSOs only by the Council of Ministers. The selection process is highly bureaucratic and political at times.

Current statuses in Turkish laws regarding public benefit status currently exist as specific provisions in association and foundation law, respectively. As such, one year after establishment, an association or foundation is eligible to apply to the regulating authority (Department of Associations or General Directorate However, policy and procedures (regulation) which define the framework of public benefit are very vaguely defined; and the number of associations and foundations which have been approved for this status reflects this. Upon the application to respective authorities, which obtain input from the Ministry of Finance, the Council of Ministers must approve the application. In order to attain public benefit status, CSOs in Turkey must engage in public benefit activity throughout the country. It would be overly burdensome and impracticable, however, to require that an organization engage in activity throughout the entire country, especially a country as large as Turkey. Unfortunately, even upon obtaining this status, not much is gained. The only notable difference is that donors are able to deduct donations made to public benefit organizations. The tax exempt status grants foundations with an opportunity to provide their donors tax deductions from their taxable income. Foundations serving a specific region or group cannot get tax exemptions. Furthermore, the procedures for these statuses are not clearly defined with a selection criteria list. The conditions for gaining 'public benefit' and 'tax exemption' statuses differ.⁶⁹

Practice

Turkey has scored 3.1 out of 5 in Philanthropic Freedom Report and ranked at 47st out of 65 countries assessed by Hudson Institute in 2015. The domestic tax regulation received 3.0 points out of 5 and Turkey was placed among

⁶⁹ Comparative report on Public Benefit Law. TUSEV & ICNL. Access date: December 29, 2016. <http://www.tusev.org.tr/userfiles/image/image/tusev%20public%20benefit%20report%202004.pdf>

countries with medium to low incentives. The report highlights that tax incentives for donors exist however receiving these deductions is quite difficult and the CSOs that can receive tax deductible donations are very limited in number.⁷⁰

According to the data reported from 2016, there are 268 tax-exempt foundations out of 5,013 foundations in Turkey. The ratio of the number of tax-exempt foundations to the total number remained similar (5 percent) to previous years. 388 associations with public benefit status constitute only the 0.35 percent of the total number of 109,903 active associations. Contrary to bureaucratic and long selection process, privileges provided with the status are very limited.

Findings from the Monitoring Matrix Survey 2016

- 22 percent of the surveyed CSOs have public benefit/ tax exemption statuses and 2 organizations stated they have applied for such statuses and expecting approval. One of those reported they are expecting the decision for three years. 18 percent of surveyed CSOs have claimed they did not know that they could apply for public benefit / tax exemption status.
- Vast majority of CSOs (35 percent) have stated that they do not apply since they believe they will not be granted with this status. Some of those cannot fulfill the requirements for application. In some of the cases, CSOs evaluated the process of granting such statuses, discriminatory, political, and not transparent. One of those summarized their perspective accordingly: *"We do not have the time and energy to spend time for the application. There are too many criteria set by the government to obtain public benefit association status. This status is granted by the decision of the Council of Ministers. Especially in the last five years, I think that the majority of associations that were granted the status of public benefit association are state/ government oriented."*

2.1.2. INCENTIVES FOR INDIVIDUAL/CORPORATE GIVING

Legislation

Real persons or legal entities can deduct up to 5% of their annual taxable income if they donate to a tax-exempt foundation or a public benefit association. This is only applicable for self-employed persons and not for salaried employees.⁷¹ The deduction from the taxable income means that part of the donation is financed by the state. In addition, for donations made by real persons or entities to foundations or associations for projects related to arts and cultural heritage, there is no deduction limitation. Same rule applies to donations made to foundations or associations with food banking permit. For donations that fall into these two categories, donors can have 100 percent tax deductions from their taxable income. According to "Turkish Taxation System" report of Revenue Administration published in 2016, there are no percentage limits on the deductions if donations are made to the public administrations under government budget or with special budget, to special provincial administrative bodies, to the municipalities and villages, to Turkish Red Crescent and the Turkish Green Crescent Associations (except for their economic enterprises).⁷²

Practice

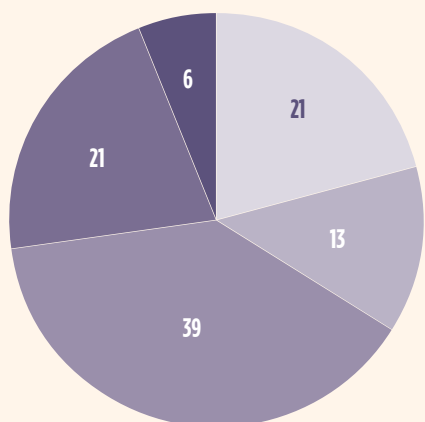
Individual giving is not stipulated. No tax deduction is available for donations made by individuals who are on payroll. This is a significant limitation to possible donations to be made to CSOs, by excluding the majority of society from tax exemptions. Any amendment on payroll giving is not foreseen in Ministry of Finance's planning.

⁷⁰ Hudson Institute. 2015. *The Index of Philanthropic Freedom*. Access date: November 17, 2016. <http://s3.amazonaws.com/media.hudson.org/files/publications/2015.06.15IndexofPhilanthropicFreedom2015.pdf>

⁷¹ Comparative Highlights of Foundation Laws: The Operating Environment for Foundations in Europe 2015. European Foundations Centre. http://efc.issuelab.org/resource/comparative_highlights_of_foundation_laws_the_operating_environment_for_foundations_in_europe_2015 Access date: December 28, 2016.

⁷² The Ministry of Finance, Revenue Administration. Turkish Taxation System 2016. http://www.gib.gov.tr/sites/default/files/fileadmin/taxation_system2016.pdf

Graph 1: Which of the following reform proposals should be prioritized in order to support the financial capacity and sustainability of CSOs?



- Re-examination of tax laws to extend tax reliefs for individual and corporate donations
- Amendment of the Law on Collection of Benefits to make CSOs exempted from the law.
- Preparation of a framework document or legislation regulating the basic processes of public funds provided to CSOs
- Facilitating the easier procedures of obtaining public benefit and tax exemption status
- Other

Source: Monitoring Matrix Survey 2016

Findings from the Monitoring Matrix Survey 2016

- CSOs were asked to state their first three revenue sources for 2016. Based on their ranking, membership fees (27 percent) and individual donations (25 percent) constitute more than half of their revenues. Funding granted by national grant making organizations is in third place (11 percent). EU funding (11 percent) and funding schemes of other international organizations (7 percent) constitutes almost one fifth of revenues of surveyed CSOs in 2016. Corporations provided 6 percent of total revenues of surveyed CSOs. Service provision earnings (4 percent) and financial earnings (2 percent) constitute small amount of their total revenues. Local administration funding schemes (2 percent) and national public funding schemes (1 percent) are at the bottom of the rankings.

EU Civil Society Guidelines assessment

Sub area 2.1., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.

2.2.a. Quality and applicability/practice of the legal framework for individual and corporate giving

No significant developments occurred in 2016 regarding the tax legislation and environment. The framework does not provide a supportive environment for the financial sustainability of CSOs and bring certain limitations. Tax incentives for donors exist however receiving these deductions is quite difficult and the CSOs that can receive tax deductible donations are very limited in number.

Foundations and associations in Turkey are exempt from the Corporate (Profit) Tax unless they deal with economic activities. Grants and donations received by CSOs are also tax exempt. Tax deduction is only applicable if legal persons or corporations donate to CSOs that have a tax-exempt status (for foundations) or public interest status (for associations). Individuals on pay-roll cannot deduct their donations.

Donations are deductible up to 5% (10% for the development priority regions) of taxable income only when real persons or legal entities donate to tax-exempt foundations or associations with public benefit status.

'Public benefit' (for associations) and 'tax exemption' (for foundations) statuses is vaguely defined and the decision-making process is highly political and the privileges provided with the statuses are very limited. Based on Article 27 of the Associations Law, the Council of Ministers has the authority to grant this status to eligible CSOs. However, the selection process is highly bureaucratic and political at times. This process is not guided by an autonomous, transparent and easily accessible institution. Furthermore, the procedures for these statuses are not clearly defined with a selection criteria list. The conditions for gaining 'public benefit' and 'tax exemption' statuses differ.

Tax exemption and public benefit statuses are granted to a very limited number of CSOs by the Council of Ministers. As of 2016, there are only 268 tax-exempt foundations out of 5,013 foundations in Turkey. The ratio of the number of tax-exempt foundations to the total number remained however similar (5%) to previous years. As of December 2016, the 388 associations with public benefit status constitute only the 0.35% of the total number of 109,903 active associations.

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

Associations and foundations must establish a separate commercial enterprise to carry out economic activities. In terms of taxation, all economic entities of CSOs are treated as for profit businesses. Only 2% of CSOs have formed economic entities.

The donation collection and income generating activities of associations and foundations generated outside of their center are regulated under the Law on Collection of Aid (Law No: 2860, 23/6/1983). The Law on Collection of Aid with heavy limitations, bureaucratic rules and procedures creates obstacles for financial viability of CSOs.

The law does not provide tax benefits for economic activities of CSOs. Associations and foundations are obliged to start economic enterprises to be able to engage in income-generating activities. The commercial enterprises of associations and foundations are treated as business corporations and the Corporate Tax is levied upon profits of CSOs. This brings heavy burden on CSOs that undertake economic activities to create social benefit.

Foundations and associations are not exempt from VAT, Consumption, Property, Communication, Stamp, and Motor Vehicle Taxes and Notary fees. Also all kinds of passive investments are subject to income tax.

Tax regime does not provide any exclusive incentives to encourage human resources capacity of CSOs.

SUB-AREA 2.2.: STATE SUPPORT

2.2.1. PUBLIC FUNDING AVAILABILITY [CORE STANDARD]

Legislation

Public funds allocated to CSOs are not systematically planned in the state budget. Ministries or Municipalities may set aside a budget for allocation to CSOs. There is a budget line in the State budget (Budget no. 5.3.1.1: transfers to organizations such as associations, unions, funds, and etc.) dedicates public funds provided to not-for-profit organizations. Although there is a budget line in the state budget, referring to cash transfers made to not-for-profit organizations; neither the definition and types of CSOs this budget line refers to exist, nor is a general percentage allocated to this budget item in a systematic manner.

There is no mechanism for distribution of public funding for CSOs specifically. There were instances where Ministries and public institutions have issued directives and regulations based on the decision of the Council of Ministers on the regulation of funding of associations and foundations from public administrations' budgets. The Presidency for Turks Abroad and Related Communities⁷³, Development Agencies⁷⁴ and SODES (Social Support Program) of Ministry of Development⁷⁵, Ministry of Culture and Tourism⁷⁶ and Ministry of Youth and Sports⁷⁷ have issued regulations to provide project grants or funding. There is no holistic and standardized process or procedures for public funds (other than EU funds) allocated to CSOs.

Practice

In general, the funding allocated to CSOs is not predictable from one year to another. The budget allocated to the CSOs are not provided, decided or published as a percentage of the general budget, and it is

⁷³ *The regulation on public funding*. The Presidency for Turks Abroad and Related Communities. Access date: November 17, 2016. <http://www.ytb.gov.tr/documents/ytb/files/mevzuat/idari-mali-destek-hakkindayonetmelik.pdf>

⁷⁴ *Regulation on Project and Activity Support Funding of Development Agencies*. Access date: November 17, 2016. <http://www.resmigazete.gov.tr/eskiler/2008/11/20081108-3.htm>

⁷⁵ *Social Support Program (SODES)*. Ministry of Development. Access date: November 19, 2016. <http://www.sodes.gov.tr/SODES.portal>

⁷⁶ *Regulation on funding from Ministry of Culture and Tourism to support projects of local administrations, associations, foundations and private theatres*. Access date: November 19, 2016. <http://www.resmigazete.gov.tr/eskiler/2007/03/20070315-7.htm>

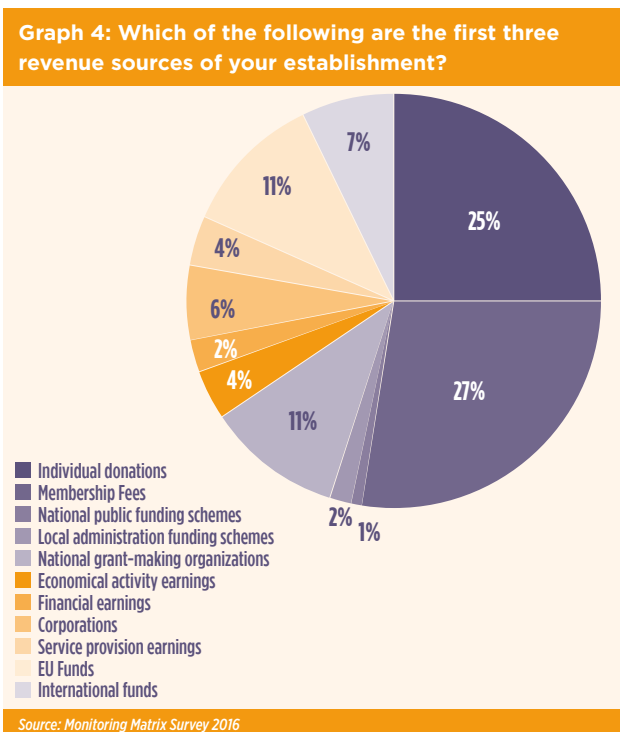
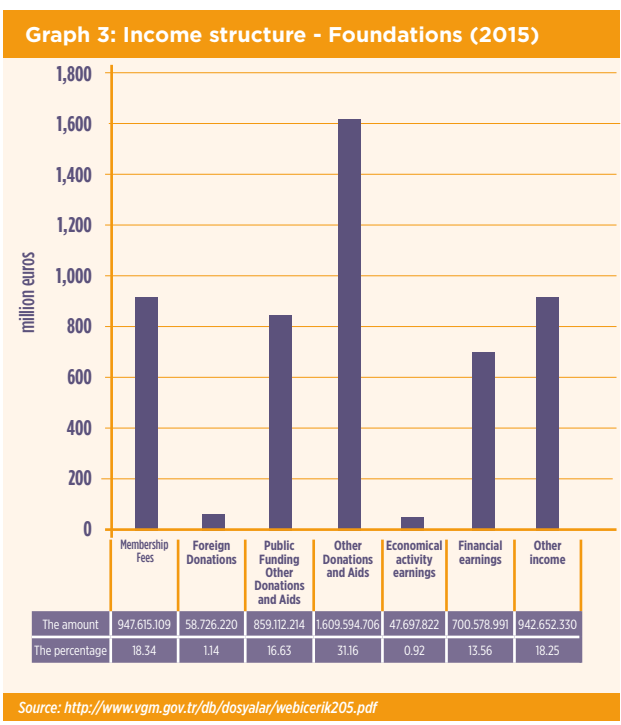
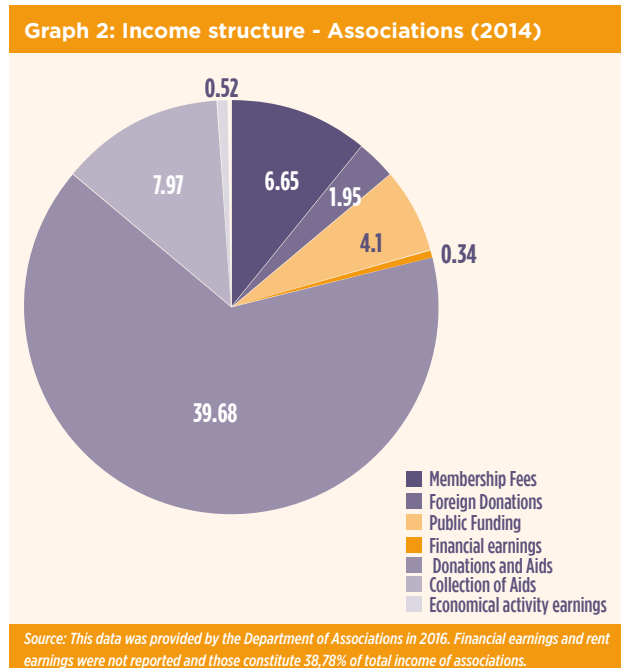
⁷⁷ *Regulation on Ministry of Sports and Youth Project Support Programs*. Access date: November 22, 2016. <http://www.mevzuat.gov.tr/Metin.Aspx?MevzuatKod=7.5.16014&MevzuatIlski=0&sourceXmlSearch=>

not possible to identify concretely the amount provided to CSOs. The budget for such funding is left to the discretion of Ministries and they vary from year to year.

The total amount of cash transfers can be identified but it is not possible to access neither the lists of CSOs or activities nor the amounts provided based on a request of information made in 2016; Ministry of Finance disclosed the amount for 2014 and 2015 fiscal periods. According to the information provided by the Ministry, from the state budget approximately €183,000 (TRY 655,181,000) dedicated for non-profit entities under the budget line 5.3.1.1. This amount was raised to €261,000 (TRY 900,165,000) in 2015.

Yet it is widely accepted by CSOs that the budget remains insufficient and not proportional to the size and needs of civil society in Turkey. According to data provided by the DoA of Ministry of Interior public funding constitutes 4.10 percent of total amount of income sources of associations as of 2015. Comparing to membership fee funding source of associations that makes 39.6 percent of their income sources, the public funding is not negligible but still considerably low.

There is no requirement that government consults with CSOs over priority areas to be supported with funding schemes.



2.2.2. PUBLIC FUNDING DISTRIBUTION [CORE STANDARD]

Legislation

There are no significant developments that took place in 2016 and the government support to CSOs remains insufficient, unpredictable and not provided in a transparent, accountable, fair and non-discriminatory manner. There are no defined rules setting out CSO involvement on defining priorities and decision-making processes of allocation of the public funding.

The Public Financial Administration and Control Law (No. 5018), regulates state budget and funding in general, lay down conditions and principles for inspection, expenditure, and reporting. Another important piece of legislation is the Regulation No.26231 namely the “Regulation on Providing Aid from Public Institutions Budgets to Associations, Foundations, Unions, Organizations, Institutions, Endowments and Similar Entities”. According to this regulation, public institutions should annually announce their support to not for profit organizations, with their names, total amount of funding provided, aims and reasons for this support. This regulation only holds central administration responsible for announcing their support, but not Municipalities or Provincial Administrations. Lastly, several Ministries have issued regulations and directives of their own for providing state funding. These Ministries also published application guidelines, the amount of support provided, the names of CSOs and projects supported. However, regarding the selection process, the distribution is left to the discretion of the commissions formed under the relevant Ministries. Commission decisions do not disclose the projects that apply for funding in their entirety or the reasons for selecting the chosen project.

Practice

As it was reported by CSO representatives in the MM Survey 2016, public funding process to support civil society has been detected as a key problem area in terms of accessibility, transparency and accountability.

The DoA of Ministry of Interior and published project application guidebook for 2016 with a manual for using PRODES (Proje Destek-Project Support) which allows online application and reporting. As an example, The DoA of Ministry of Interior announces the full list of

project grantees and the amount of the budget that was allocated per association every year. The information related to 2015 project cycle is available online.⁷⁸

According to the application manual published for the 2016 project cycle, the foreseen budget to be allocated is €6.2 million (TRY 22,515,000,000). The minimum amount of the budget can be €1,395 (TRY 5,000) and the limit is €41,860 (TRY 150,000).⁷⁹

The Presidency for Turks Abroad and Related Communities has published programme areas to be funded, application procedures and the amount of the budget to be allocated to CSOs for 2016 on its website.⁸⁰

SODES of Ministry of Development published full list of CSOs and other organizations that were entitled to receive funding from 2008 to 2015 funding cycle. This data has been released for all cities allowing tracking down information of CSOs supported with SODES.⁸¹

Ministry of Culture and Tourism has published the list of grantees of 2015 and the amounts of the funding on its website. In total 929 “cultural activities” were supported by the Ministry with a total budget of €2.8 million (TRY 10,071,619).⁸² The amount of budget was of €6.1 million (TRY 20,464,548) in 2014.⁸³

In 2015, Turkiye Diyanet Foundation that has an institutional partnership with Presidency of Religious Affairs has been awarded with largest amount of funding (€64,000 – TRY 230,000). Beyoglu Municipality from Istanbul is in the second place with the amount of funding €19,500 (TRY 70,000). The report presents an unfair distribution of funding in favor of largest cities including Istanbul with 130 project support and Ankara, 120 project support.

⁷⁸ List of Project Grantees. Department of Associations. 2015. <https://www.dernekler.gov.tr/tr/Anasayfa/Linkler/2015-proje.aspx>

⁷⁹ Application Guideline 2015. Department of Associations. <https://www.dernekler.gov.tr/media/templates/dernekler/images/folder/2016-yili-basvuru-rehberi.pdf>

⁸⁰ 2016 Project Cycle. Presidency of Turks Abroad and Related Communities. https://www.ytb.gov.tr/proje_destek.php

⁸¹ Social Support Program (SODES). Ministry of Development. Access date: December 17, 2015. <http://www.sodes.gov.tr/SODES.portal>

⁸² List of Project Supports for Cultural Activities. Ministry of Culture and Tourism. <http://sgb.kulturturizm.gov.tr/Eklenti/44250,2015-yili-kulturel-etkinliklere-yapilan-yardimlar-pdf.pdf?0>

⁸³ List of grantees and the amount of the funding. Ministry of Culture and Tourism. Access date: November 15, 2016. <http://sgb.kulturturizm.gov.tr/Eklenti/38891,2014-yilinda-yapilan-yardimlar.pdf?0>

2.2.3. ACCOUNTABILITY, MONITORING AND EVALUATION OF PUBLIC FUNDING

Legislation

General principles regarding distribution of public funds, financial accountability, monitoring and evaluation are regulated under the Law No. 5018 on Public Finance Management and Control. Despite the fact that there is a regulation (No. 26231), which holds public institutions accountable to annually publicize the list of organizations, amount and aim of financial support, other than a few Ministries, the majority of public institutions do not comply with this regulation.

Practice

The Ministries distributing the funds are also responsible from monitoring such funds. General budget inspection is carried out by the Ministry of Finance. There is no specific body with the mandate to coordinate and monitor public funding to CSOs.

There are Monitoring and Evaluation units set up under certain Ministries, but there is no data available on the methods they follow or any results of their monitoring on the impact of public funds. As one exception, an extensive study has been conducted for the evaluation of SODES and produced intensive report on the output and impact of the program.⁸⁴

2.2.4. NON-FINANCIAL SUPPORT

Legislation

The Law on the Relations of Associations and Foundations with Public Institutions (No 5072) prohibits state authorities granting in-kind support to CSOs other than pre-determined funding. Despite aforementioned Law, there are examples of cooperation between CSOs and public institutions based on protocols, especially on the local level. There is no data available with respect to personal favoritism and/or discrimination of state authorities against CSOs based on their loyalties or political affiliation. Compared to the relations of CSOs at central level public institutions, Municipalities are more eager to offer in-kind support to CSOs, often in the

form of free travel, meeting rooms, and assistance with announcing CSO activities to larger audiences.⁸⁵ However, the relevant article of the Municipality Law (25874, 13.07.2005), which give responsibility to municipalities to assist and support CSOs, limit the organizations to be supported with the ones having a public benefit or tax exemption statuses. In addition, in 2012, an amendment was made on article 75 of the Municipality Law, which has the possibility to further hamper cooperation between CSOs and municipalities.⁸⁶ TUSEV Civil Society Monitoring Report 2012, based on an expert opinion, stated that the new article contains neither a clarification regarding the types and nature of service activities to be supported nor the criteria for permission. In such a context, this revision increases the discretionary power of the central government and accordingly decreases the freedom of association.

In Turkey, the Law on Relations of Associations and Foundations with Public Institutions does not allow CSOs to use equipment that belongs to state authorities; however some exceptions are specified in the secondary legislation. The Municipality Law enables granting of non-financial supports to associations with public benefit status and foundations with tax exemption status. Also, cooperation between municipalities and CSOs is based on protocols. The Municipality Law (Article 75), which is the basis for allocation of non-financial supports, does not specify the forms of these supports or the criteria for obtaining this type of support for associations and foundations.⁸⁷

⁸⁵ TUSEV. 2014. *Civil Society Organizations and Public Sector Relations: Problems and Expectations*. The Results of the Consultation Meetings and an Evaluation. Access date: November 28, 2016 <http://www.siviltoplum-kamu.org/usrfiles/files/Civil-Society-Organizations-and-Public-Sector-Relations.pdf>

TUSEV. 2014. Local Consultation Meeting Outcomes Reports. Access date: December 18, 2016. <http://www.siviltoplum-kamu.org/en/activities/desktop-research-for-code-of-conduct-is-completed>

⁸⁶ Municipality Law (No 25874, 2005: previous Article 75): Municipality, can execute service projects in partnership with vocational/Professional organisations having a public institution nature, associations working for public benefit, disability associations and foundations, foundations provided a tax benefit status by the Council of Ministers and with vocational chambers governed by the Guilds and Small Artisans Law (507) on topics that fall in its duties and responsibilities in line with agreements made and upon the decision of the Municipal Assembly. Municipality Law (No 25874, 2005: amended Article 75): Municipality can execute service projects in partnership with vocational/Professional organisations having a public institution nature, associations working for public benefit, foundations provided tax exemption by the Council of Ministers and with vocational chambers governed by the Guilds and Artisans Organisations Law (5362). For service projects to be executed in partnership with other associations and foundations it is necessary to get the permission of the highest administrative authority of the district.

⁸⁷ *Ways of non-financial gains for CSOs in the Balkans and Turkey*. Balkan Civil Society Development Network. Access date: November 21, 2016. http://www.balkanncsd.net/novo/wp-content/uploads/2015/08/NFS_EN_web_03042015.pdf

⁸⁴ The report published in 2013 is the latest one. SODES funds have not been allocated in 2014 and the report on 2015 funding cycle is not available online yet.

Practice

In the survey conducted by TUSEV in 2016, CSOs in Turkey reported having received printing costs transportation and venue support for their meetings by municipality's administration. Some of those reported

CSOs requested premises of the municipalities for their events and meetings. It is known that, some municipalities provide office spaces for CSOs. Yet, there is no unified procedure and criteria for gaining these premises.

Findings from the Monitoring Matrix Survey 2016

- Majority of surveyed CSOs (92 percent) reported they were not granted public funding during 2016. Only 6 CSOs out of 100 were recipients of the public funding schemes. Of these 6 organizations assessed the processes such as application and reporting process and in general 4 of them were quite satisfied and willing to apply in the same funding schemes next term.
- 42 percent of the respondents have chosen "completely disagree" and 34 percent "disagree" options when they were asked to assess the statement of "Public funds are sufficient enough for the sector". Only 5 percent agree with such statement.
- Vast majority of the respondents of the survey conducted in 2016 have chosen "completely disagree" (40 percent) and "disagree" (28 percent) choices when they were asked to assess the statement of "The process of allocation of public funds is transparent." Only 1 percent agree with such a statement.
- 26 percent of the respondents have chosen "completely disagree" and 30 percent "disagree" options when they were asked to assess the statement of "Access to information about application procedures for public funds is easy." 14 percent of survey respondents agree and 5 percent completely agree with such a statement. One of those stated that "*funds are sufficient but distributed selectively.*" CSOs that provided their accounts in the narrative part most of time highlighted the lack of transparency and accountability of funds allocated by the public bodies:

"CSOs are being discriminated when their funding applications do not have favorable political affiliations."

"Public funds are not accessible to all."

"I think the funds are not being distributed fairly."

"The terms of application are very challenging."

"Project applications are evaluated with objective set of criteria."

One of those explained their experience with the Ministry of Youth and Sports: *"We can follow up our results for our project application with a tracking number provided by the Ministry. In the end, we cannot access the full list showing CSOs that are entitled to receive funding."*

On the other hand, CSOs provided their recommendations:

"Available funding schemes should be diversified... There should be new set of rules and procedures to sustain transparency of the process."

"Public authorities should exchange information and ideas with CSOs before rejecting their project applications."

- In 2016, 24 percent of surveyed CSOs were granted in-kind support. In general, CSOs reported having received printing costs, transportation support and conference venues sponsoring especially by municipality's administration.
- 4 percent of organizations who participated in this survey stated they are not informed about in-kind support and 49 percent of CSOs have never applied for in-kind supports. Some of those stated that they would like to keep their distance to state bodies to avoid conflict of interests.
- 10 percent of surveyed CSOs stated their application for in-kind support was rejected. One of those stated that they faced discrimination.
- 10 percent of surveyed claimed that they believe they would not be able to have such support, so they opted out.

EU Civil Society Guidelines assessment

Sub area 2.2., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.

2.4.a. Increase of public funding for CSOs

According to data of 2015-2016, Public funding constitutes 4.10% of total income of associations and 16.63% of foundations. The national target is 10%.

There are no significant developments that took place in 2015 and the government support to CSOs remains unpredictable and not provided in a transparent, accountable, fair and non-discriminatory manner.

There is no accurate general information on the percentage of the total budget allocated to CSOs from the general budget. Based on a request of information made in 2016; Ministry of Finance disclosed the amount for 2014 and 2015 fiscal periods. According information provided by the Ministry, from the state budget approximately €183,000 (TRY 655,181,000) dedicated for non-profit entities under the budget line 5.3.1.1. This amount was raised to €261,000 (TRY 900,165,000) in 2015.

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

There is no holistic approach or legislation with respect to regulate the state support granted to CSOs, with exception of distribution of EU funds by The Central Finance and Contracts Unit (CFCU). The funds that

will be allocated to CSOs are not planned in the state budget; the Ministries may set aside a budget if authorized by the Law. The funds of Ministries are distributed to CSOs with project partnership mechanisms rather than through grant allocation. The budget for such funding schemes is determined at the discretion of Ministries and may vary from year to year.

There is no standardized approach or legislation with respect to regulation of the public funds granted to CSO and there are no defined rules setting out CSO involvement.

General principles regarding distribution of public funds, financial accountability, monitoring and evaluation are regulated under the Law No. 5018 on Public Finance Management and Control. There were instances where Line Ministries (the examples are limited) have issued directives and regulations based on the decision of Council of Ministers on the regulation of funding of associations and foundations from public administrations' budgets. These ministries have also published application guidelines, announced application criteria and publicized the amount of support provided in the last years and the names of the projects that they have supported.

CSOs evaluate the procedures of access to public funds as burdensome and the process as not transparent.

There is no the coordination structure in place to monitor and report the planning and implementation of the public funding for CSOs.

SUB-AREA 2.3.: HUMAN RESOURCES

2.3.1. EMPLOYMENT IN CSOS [CORE STANDARD]

Legislation

In Turkey, CSOs are subject to the Labor Law (No 25134, 10.06.2003). CSOs are subject to the same legal requirements and obligations with regards to employment as the for-profit entities. There are no special policies to stimulate employment in non-profit sector. For example, if a company operating in the sector that is determined as the priority sector to be supported in development plans of the government, they can benefit tax and employment

incentives. However, similar, incentives are not provided to not-for profit sector.

Practice

According to data provided by GDoF, there are 1,909 foundations employ full-time employees. They reported in total CSOs employed 17,022 employees in 2015.⁸⁸ According to data obtained from the DoA, as of 2015,

⁸⁸ The New Foundation Statistics. General Directorate of Foundations (GDoF). Access date: December 5, 2016. <http://www.vgm.gov.tr/db/dosyalar/webicerik205.pdf>

out of 48,167 employees of associations, 35,808 are full-time, 3,640 are part-time and 8,719 project-based staff.⁸⁹ Comparing to data from previous years, there is no substantial increase in the employment level in non-profit sector.

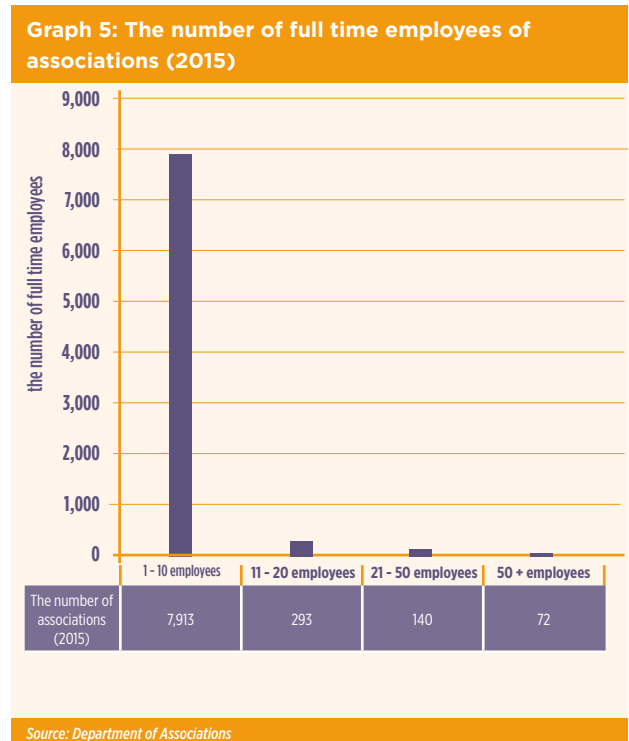
Turkey has significantly lower average number of employees per CSO: (0.57) considering a total of 65,697 employees for 114,925 CSOs (total number of associations and foundations reported in 2016).

The reliability of this data is questionable since the data provided on the website of DoA was subject to change retrospectively. For example, it was reported 33,783 employees working for associations in 2013 and average number of employees per CSO was calculated as (0.50) with taking into account 17,205 employees of foundations.⁹⁰ However, the current dataset reports 97,595 employees for 2013.⁹¹ According to updated data of 2013, it is reported that 114,800 employees was working for 102,727 CSOs in 2013. Based on the revised data, there were 1.11 average number of employees reported per CSO back in 2013.

Table 1:

(2015) Exchange rate as of 08.12.2016 is 1 EUR = TRY 3.627	Total amount of expenditures	Personnel costs	percentage
Associations (simplified budget format)	€1.21 9.697.749 (TRY 4,423,843,736.59)	€87.963.616 (TRY 319,044,036.26)	7.21%
Associations (balance sheet format)	€1.493.158.474 (TRY 5,415,685,783.70)	€305.776.593 (TRY 1,109,051,701.75)	20.47%

Based on the data provided by the DoA for 2015, associations that submitted their budget in simplified format reported, they have spent 7.21% of their total amount of expenditures for the personnel costs. Associations that submitted their budget in the balance sheet format have reported that they have spent 20.47% of their total amount of expenditures for the personnel costs. In average, associations spent 14.5% of their total amount of expenditures for the personnel costs in 2015. This rate was approximately 12% percent in previous years.



⁸⁹ The number of employees of associations. DoA. Access date: December 8, 2016. <https://www.dereklekter.gov.tr/tr/AnasayfaLinkler/calisan-sayisi.aspx>

⁹⁰ Ways of non-financial gains for CSOs in the Balkans and Turkey. Balkan Civil Society Development Network. Access date: November 21, 2016. http://www.balkancsd.net/novo/wp-content/uploads/2015/08/NFS_EN_web_03042015.pdf

⁹¹ The number of employees of associations per cities of Turkey. Department of Associations. Access date: December 1, 2016. <https://www.dereklekter.gov.tr/tr/AnasayfaLinkler/calisan-sayisi.aspx>

Findings from the Monitoring Matrix Survey 2016

- Vast majority of respondents (61 percent) reported that they operate without a full-time staff. One of those stated that “...majority of CSOs are not financially self-sufficient so they cannot employ full time employees.” An animal rights activist described their context accordingly: “In Turkey, the number of animal rights CSOs which employ full time workers do not exceed five”.
- 22 percent of surveyed CSOs reported that they employ at most 5 paid staff.
- The largest cluster of CSOs (41 percent) agree with the statement “there is fully disabling enabling environment” when they were asked to evaluate the public policies and legislation with regard to employment policies to promote employment in society sector. The second largest cluster of CSOs (30 percent) fully disagree such statement. In general, CSOs demand a new legislation providing incentives for civil society sector to create more full-time jobs for citizens.

Some of their noteworthy and mostly common recommendations are summarized below:

“The legislation/ practices in different countries should be analyzed. Employment in civil society sector can be supported by the public sector. Ex-convicts or who doesn’t want to opt out military service can work voluntarily or part-time in CSOs”

“Social security contributions of the employees working for associations or foundations operating in some distinctive fields can be covered by the state.”

“Conditions for establishing economic enterprise should be abolished.”

2.3.2. VOLUNTEERING IN CSOS [CORE STANDARD]

Legislation

In the public policy realm, apart from some initiatives taken recently to promote volunteerism in Turkey, there are no holistic approaches for further actions to be taken in this field. In the national legislation, there is no specific

regulation with respect to facilitating volunteering. The legal basis defining the contractual relationship between volunteers and CSOs is not defined or regulated and thus lacking.

Practice

According to data provided by GDoF, there are 589 foundations working with volunteers with a total number of 1,021,681 volunteers in 2015.⁹² The reliability of this data is questionable since there is no legal definition of volunteers, there is a high level of discretion in reporting number of volunteers by foundations. It is known that, in some of the cases foundations report the total number of individuals donate to their organizations as volunteers.

A recent discussion on legal aspect of volunteerism also reflects upon the possible impacts from the adoption of a volunteering law in the long run. Some experts stated CSOs may face possible restrictions that may occur due to having a national and legally binding definition of voluntarism once and if a volunteering law is adopted.

Despite the lack of an enabling legal environment, there are initiatives to promote volunteerism in Turkey. The National Youth and Sports Policy Document (No 4242, 2012) undertakes to 1) increase the participation of young people in volunteering activities and removing obstacles for volunteering engagement; 2) raise awareness of young people about the participation in voluntary activities for disadvantaged people; 3) support voluntary activities of young people and non-governmental organizations and informing young people about non-governmental organizations and volunteering. The stakeholders of these objectives are determined as: The Ministry of Youth and Sports, the Ministry of Family and Social Policies, the Ministry of Development and non-governmental organizations.⁹³ There is also a web-portal supported by Ministry of Youth and Sports to match volunteers with relevant projects, initiatives and institutions.⁹⁴

With the efforts of UN Volunteers Program, a National Volunteering Committee was set up in April 2013 with

⁹² *The New Foundation Statistics*. General Directorate of Foundations (GDoF). Access date: December 5, 2016. <http://www.vgm.gov.tr/db/dosyalar/webicerik205.pdf>

⁹³ *The National Youth and Sports Policy Document (2012/4242)*. Ministry of Youth and Sports. Access Date: December 12, 2016. [http://www.gsb.gov.tr/content/files/TheNationalYouthandSportsPolicyDocument\(1\).pdf](http://www.gsb.gov.tr/content/files/TheNationalYouthandSportsPolicyDocument(1).pdf)

⁹⁴ This portal can be reached from: <http://gencgonulluler.gov.tr/>

the participation of CSOs and public institutions. In 2015, the Committee continued to initiate several meetings to act as a strategic advisory board for the recognition and empowerment of volunteering. In one of those meetings, it was reported AFAD (Emergency Response Presidency) is developing a guide /policy on volunteerism. The details are not yet known.

Findings from the Monitoring Matrix Survey 2016

- According to results of the survey, 64 percent of these organizations stated in 2016 that at least 1 and at most 50 active volunteers engaged in their work.
- 62 percent of surveyed CSOs did not encounter any administrative and/ or bureaucratic difficulties in working with volunteers in 2016, whereas 18 percent reported that they did face difficulties. One of those described the context: *“Because the social and political environment is becoming increasingly unfavorable for civil society or active citizenship, especially when it comes to such issues as LGBT rights, volunteers or possible volunteers, especially in the post-coup attempt (The first decree with the force of law etc.) They are [our volunteers] very worried. Another one working for a women organization located in south east of Turkey reported similar experiences: “Our volunteers in general are university students. They are afraid and ended their affiliations with our organization.”*

One of the respondents shared their experiences: *“Civil society is, unfortunately, perceived here as a form of dangerous form of organization. In fact, our volunteers were warned by the provincial state administration of associations and asked if their families are aware of what they are doing.”* Another respondent has a similar viewpoint: *“The awareness of civil society and its importance is very limited. The restrictive political environment diminishes the attractiveness of this field of work for citizens.”*

2.3.3. NON-FORMAL EDUCATION

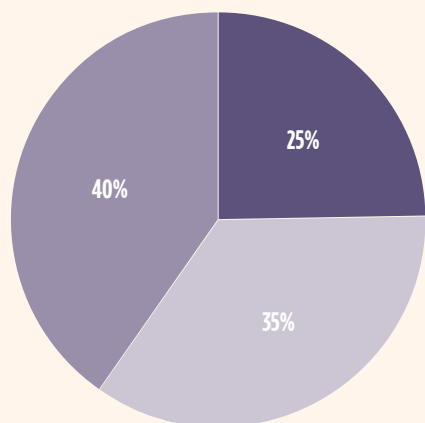
Legislation

Subjects related to civil society are not covered systematically in the official curriculum at different levels of the educational system. The Ministry of Education has initiatives to promote social responsibility in secondary education institutions; however there is no holistic approach. Despite the lack of a holistic approach, The Ministry of Education is conducting pilot studies in the formal education regarding the adaptation of subjects relating civil society to the formal curriculum within the scope of Democratic Citizenship and Human Rights Education. In the university level, students can attend courses related philanthropy, civic engagement, civil society and other similar topics.

Practice

Education system in Turkey is highly centralized and provision of non-formal education by CSOs is not recognized by law. There are limited numbers of examples where CSOs carry out formal education. Existing examples of cooperation focus on supporting the formal and non-formal education through instructor trainings and capacity development activities by CSOs working in the fields of education and environment. Some prominent CSOs working in the fields of education and environment have signed protocols with the relevant Ministries. Representatives from these organizations stated that these cooperation examples are not systematically applied or regulated. There are cases of CSOs reporting public authorities do not renew protocols for cooperation without concrete reasons or changes in bureaucracy or frictions related to political affiliations. CSOs claim cooperation is sustainable if and when public officials perceive CSOs as trustable partners.

Graph 6: Which of the following reform proposals should be prioritized to support civil society participation in terms of public policies and the legal environment?



- Preparation of a new legislation covering different forms of volunteering to promote volunteerism.
- Bringing employment incentives for the civil society sector.
- Civil society participation should be promoted through education policies.

Source: Monitoring Matrix Survey 2016

Findings from the Monitoring Matrix Survey 2016

- The largest cluster of CSOs (38 percent) agree with the statement “there is disabling enabling environment” when they were asked to evaluate the public policies and legislation with regard to education policies to promote employment in society sector. The second largest cluster of CSOs (34 percent) fully disagrees with such a statement.
- The most common causes that reported by CSOs in the narrative section are; lack of trust of civil society, cultural prejudices, and ‘securitization of civil society activities’ by state authorities. One of those stated that education system does not have an agenda to raise awareness about civil society participation. CSOs stated civil society related topics should be included in the education system starting from the primary education to higher education levels.

EU Civil Society Guidelines assessment

Sub area 2.3., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.

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

The percentage of total employment of CSOs (65,189 employees) is only 0.24% of total workforce.⁹⁵ In 2013, this rate was 0.20% of total workforce (The national target is 0.5%).

Employees working in associations constitutes 0,18% (48,167 employees) (in 2013- 0.13%) and those working in foundations is 0.06% (17,002 employees) (in 2013 - 0.06%) of the total employment in Turkey in 2015.

In average, associations spent 14.5% of their total amount of expenditures for the personnel costs in 2015. This rate was approximately 12% percent in previous years.

Turkey has significantly lower average number of employees per CSO (0.57) which comes to a total of 65,697 employees for 114,925 CSOs (total number of associations and foundations reported in 2016).

The reliability of this data is questionable since the data provided on the website of DoA was subject to change retrospectively.

⁹⁵ Total employment is 26,448 million, reported by Turkish Statistical Institute in December 2015. Access date: December 9, 2016. <http://www.tuik.gov.tr/PreHaberBultenleri.do?id=21569>

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

Turkey is the only country (among those covered by this project) that collects data on volunteers in a more systematic way. Out of the total number, 94% of volunteers are engaged with foundations and only 6% with associations.

According to data provided by GDoF, there are 589 foundations working with volunteers with a total number of 1,021,681 volunteers in 2015. According to data obtained from the DoA, as of 2014, there are 14,957 volunteers for associations.⁹⁶

The data on volunteers are not fully reliable, since there is no official definition of volunteering, and some foundations, for example, declare their funders as volunteers.

Based on the data provided by GDoF and DoA, the number of volunteers was not increased by 100% in between 2014/2015.

1.2.c. Quality of legislative framework

No significant developments occurred in 2016. The legal environment does not provide non-discriminative provisions to provide an enabling environment for facilitating employment, volunteering and other engagements with CSOs. In Turkey, CSOs are subject to the Labor Law and there are no special provisions with respect to CSO employees.

The Labor law does not clearly define volunteering and status of volunteering without causing any additional burden/cost for CSOs. There is no practice of tax-free reimbursement of travel expenses and per diems to volunteers.

⁹⁶ According to data reported in MM 2015 Report; out of 109.391 employees of associations, 75.608 were volunteers and 33.783 were paid-staff as of 2013.

3. AREA 3: GOVERNMENT-CSO RELATIONSHIP

SUB-AREA 3.1.: FRAMEWORK AND PRACTICES FOR COOPERATION

3.2.1. THE STATE RECOGNIZES, THROUGH THE OPERATION OF ITS INSTITUTIONS, THE IMPORTANCE OF THE DEVELOPMENT OF AND COOPERATION WITH THE SECTOR [CORE STANDARD]

Legislation

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

In terms of the strategies and policies for CSO-Government partnerships, the situation has not been improved in Turkey. By 2016, the legal-political environment is not conducive for civil society development in Turkey. An overreaching national strategic document creating mechanisms for CSO-Government cooperation is still missing. There have been no major reform packages passed to improve the legal framework since 2008, when the EU accession process was vivid. The reshuffling of the Cabinet of Ministers, triggered by the resignation of Turkish prime minister Ahmet Davutoğlu in May 2016 and the appointment of Binali Yıldırım as the country's new prime minister, left 64th government's 2016 Action Plan void. It is not known whether the current government will be committed to undertakings of former government's plan including adopting a comprehensive Civil Society Law regulating legal statutes, institutional structures, activities, financial resources of CSOs; and as well as civil society-public sector relations.⁹⁷

At the central level the most important piece of legislation on the issue is Regulation on the Procedures and Principles of Legislation Preparation, which foresees that legislation drafts shall be sent to related ministries and public institutions and organizations to solicit their opinions. According to the Regulation on Procedures and

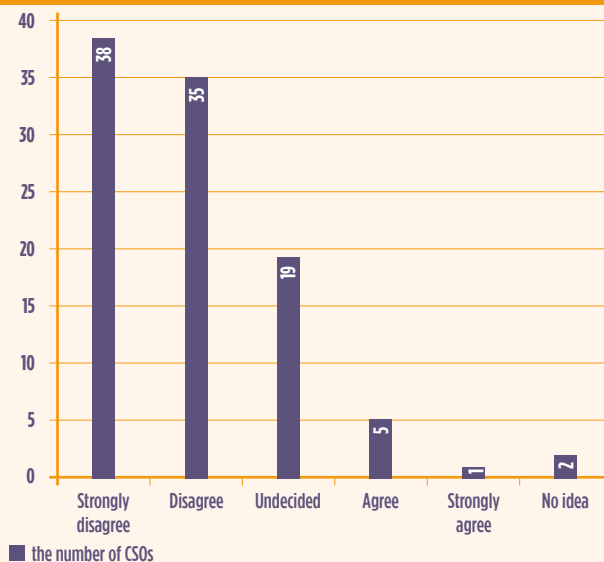
⁹⁷ A new website set up in 2016 listing reform plans of the government. The details are not yet to know. Access date: December 7, 2016. <http://reformlar.gov.tr/reformlar>

Principles of Strategic Planning in Public Administration (2006), Clause 5, the institution is responsible to ensure the participation of CSOs and that their contributions are received. However, no clear indication regarding the selection process, criteria, or methods and means of integrating the received contributions is available in the regulation. Furthermore, no consistent mechanisms for monitoring and reporting the participation of CSOs and/or their contributions have been defined. Thus, it is not possible to measure the extent of consultations with CSOs or to what extent their contributions were integrated in the plans.

According to the Regulation on Procedures and Principles of Strategic Planning in Public Administration (2006) Article 7 paragraph 2, "(...) non-governmental organizations shall submit their opinions regarding the drafts within 30 days. Where no response is received in this time the lack of response will be treated as an affirmative opinion". These provisions indicate that it is not obligatory to send the legislation amendments to CSOs to solicit their opinion, however, where it is sent and CSOs do not reply within a certain period then their lack of response is treated as an affirmative opinion. Considering their limited institutional capacity, expecting CSOs to respond within 30 days is most often not realistic. The most important underlying reason is the lack of sufficient human and financial resources that would enable the CSOs to evaluate such legal regulations. At this point providing support for CSOs through public resources is of great significance.

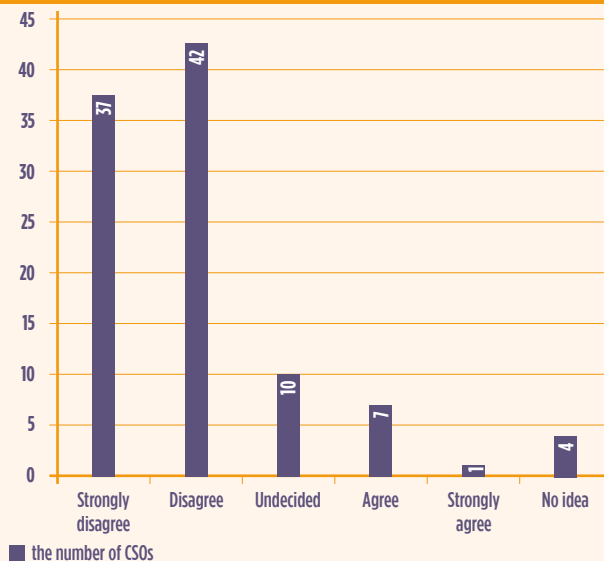
Despite the lack of a general strategy document, there is a reference to communication and cooperation with respect to shared goals between the public sector and civil society in the Strategy Plans prepared by the ministries and various organizations in accordance with the Law No 5018 on Public Finance Management and Control. All public institutions including Ministries and municipalities at the local level are required to draft strategic plans. According to the Regulation on Procedures and Principles of Strategic Planning in Public Administration (2006), Clause 5, a public institution is responsible to ensure participation of CSOs and to receive their contributions.

Graph 7: "The public sector recognizes CSOs and their competences."



Source: Monitoring Matrix Survey 2016

Graph 8: "CSOs are included in policy making and decision making processes by open and transparent criteria."



Source: Monitoring Matrix Survey 2016

Practice

There is no separate government agency/ office responsible to facilitate and monitor relations between the public sector and CSOs. There is no consultative body/ council focusing especially on civil society development. In some exceptional cases, separate departments/ contact points in Ministries set up in assisting CSOs.

Except for a few Ministries such as the Ministry for EU Affairs and Ministry for Youth and Sports, the majority of the Ministries do not have contact points for CSOs. The “Civil Society, Communication and Cultural Affairs Directorate” of the Ministry for EU Affairs operates with

the aim to facilitate civil society participation in EU accession process, collect their input and opinions and coordinate relations among civil society, private sector, local administrations and universities. The Ministry for EU Affairs has initiated the formation of institutionalized mechanisms to consult CSOs on EU accession process on a regular basis, via the “EU Advisory and Steering Committees” set up under the EU Offices of Local Governorships in 81 provinces. In 2013, the Ministry for Youth and Sports has set up a Department of Civil Society Organizations under the Directorate of Youth Services (DoCSO). In 2016, there is no new contact point set up to facilitate participation of CSOs.

Findings from the Monitoring Matrix Survey 2016

- The largest cluster of CSOs (35 percent) agree with the statement “there is disabling enabling environment” when they were asked to evaluate the public policies and legislation with regard to civil society – public sector cooperation. 20 percent of surveyed CSOs found “the enabling environment fully disabling” for civil society participation. 35 percent of surveyed CSOs agree “the enabling environment is partially enabling.” Only 2 organizations out of 100, found “the enabling environment is full enabling.”

- The most common cause that reported by CSOs in the narrative section are deepening political polarization, ideological gap and increasing partisanship during 2016. It was widely stated that, some organizations that are supportive of the government agenda are favored by the state authorities so that they can engage in sustainable cooperation with the public authorities.

Some of the most noteworthy comments were:

“Public authorities select CSOs to be supported and refrain supporting some others.”

“Relations of some CSOs with the government are very good. The criterion for those relations is not transparent.”

“I think that the public sector - CSOs collaborations distorted in last couple of years. I observe that CSOs that are close to the political power can carry out projects and sustain their cooperation [with the state bodies]”

- Among those saying, “the enabling environment is fully disabling” indicated that the difficulties of reaching high-

rank decision makers: *“Relations with public employees can be formed up to a certain level, but dialogue and cooperation with top management is almost impossible. This attitude creates havoc in lower levels.”*

- CSOs in general stated that civil society- public sector is worsening. One of those working in the field of animal rights explained their experiences: *“Despite the Paris Principles and Good Practice Principles on the Participation of Civil Society, our relation with public institutions in Turkey is not functional. We can’t have appointments from bureaucrats many times. Even if we make an appointment, these negotiations go on “tea day” setting. Public institutions do not attempt to solve the problem by taking into account expertise of CSOs. Scientific reports prepared by CSOs are not taken into consideration. I think there is stubbornness; public institutions are doing their utmost to ignore the views of CSOs and often even reverse it. For example, state and local governments resist working with volunteers despite the Animal Protection Act makes this cooperation obligatory. It is because they do not want to be inspected.”*
- One of those exemplified the worsening atmosphere accordingly: *“During the 24th legislative period, CSOs were ignored and dismissed in the commission discussions in the Parliament.”* This representative stated that they opted out attending commission meetings since they have seen their existence there is merely a decoration: *“We do not want to be part of a previously written script.”*

EU Civil Society Guidelines assessment

Sub area 3.1., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.

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

In 2016, the state of CSO-Government relations has not been improved in terms of adopting new strategies and policies. Contrary to Western Balkan countries where the majority of the countries have concluded or started the process of adoption of strategic documents that regulate the standards and mechanisms for CSOs-Government cooperation, in 2016 an overreaching national strategic document creating mechanisms for CSO-Government cooperation is still missing.

There is neither a binding legislative framework nor a national level institution or mechanism to govern the relationship between CSOs and public institutions. There is no designated body, institution or contact point for maintaining and coordinating dialogue between CSOs and the government.

Except for a few Ministries such as the Ministry of EU Affairs and Ministry for Youth and Sports, the majority of the Ministries do not have contact points for CSOs to maintain, sustain and foster relations with CSOs. Thus, in Turkey 70 percent of Ministries did not set up such bodies/units.

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

3.2.2. STANDARDS FOR CSO INVOLVEMENT [CORE STANDARD]

Legislation

Due to the absence of legal and institutional framework, there is no holistic approach with regards to participation of CSOs in policy development and decision making processes. Thus, participation usually occurs in an ad hoc and inconsistent manner mostly based on personal relations and initiatives rather than institutional duties and responsibilities.

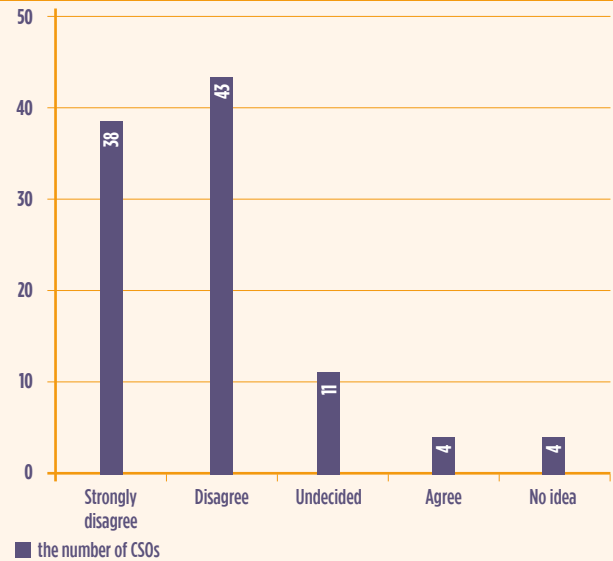
There are several pieces of legislation, which lay down different aspects of civil society-public sector relations. The most important ones being the Regulation on the Procedures and Principles of Legislation Preparation and the Law on Municipalities. According to the Regulation on the Procedures and Principles of Legislation Preparation (19/12/2005, 9986), the Ministries may consult CSOs on draft laws, the consultation is not mandatory. Furthermore, according to Clause 7 of the Regulation, if and when consulted, CSOs should provide their comments on the draft laws within thirty days. If they do not provide their comments within this time frame, they are considered to have issued an affirmative opinion on the draft law. Last, but not least, following the consultation stage, the drafts are sent to the Prime Minister's office, and are prone to be amended at that stage with no further steps available for CSOs' to provide further comments. CSOs, cannot review the drafts until they come to the agenda of the General Assembly of Turkey.

The by-law of the Grand National Assembly of Turkey (TGNA) does not lay down a participation or consultation procedure. Parliamentary committees are not obliged to consult civil society in law or policy-making processes. Thereby, as in all other levels of decision-making in Turkey, the initiative to involve CSOs in Parliamentary commissions lies with the chairperson of those committees. Public institutions should be held responsible to conduct consultations on draft legislation and on policy decisions. The process should be transparent and accountable.

Relevant laws and regulations such as the Regulation on the Procedures and Principles of Legislation Preparation, the Law on Municipalities, the Regulation on Procedures and Principles of Strategic Planning do not define objective mechanisms, procedures and criteria with respect to the selection processes of CSOs that are to be involved in policy processes (e.g. consultation, dialogue). Thereby, the process is not transparent and no accountability regarding the selection process could be sought for. 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.”

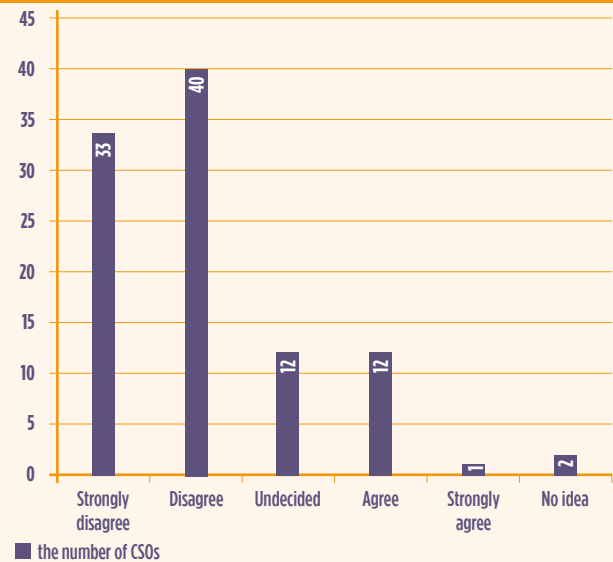
State institutions do not prepare, provide or conduct comprehensive and systematic training programs on these topics. In addition, due to the fact that CSOs involvement in policy processes are not defined within responsibilities and work plans of public institutions, when and if a positive relation between CSOs and the public sector occurs, it is dependent on the approach and voluntary dedication of the civil servants concerned. Thereby, since the dialogue is not institutionalized, the relations are either halted or start from scratch when those civil servants are appointed to another position. Some participation practices that occur at different levels of participation (information provision, consultation, dialogue and partnership) are consultations held by several Ministries on law and regulation drafts, on preparation of development plans or strategic plans, on EU accession process; consultations held by some Parliamentary Commissions on laws; joint committees held for monitoring implementation of laws and regulations; councils at local level to propose policies and programmes for Municipalities. In majority of these examples, CSOs are not natural and equal parties in decision-making, their engagement stays generally at advisory level and their participation is maintained via invitations from the relevant public body.

Graph 9: “Public authorities consult with all relevant CSOs at every stage of the policy/legislative process.”



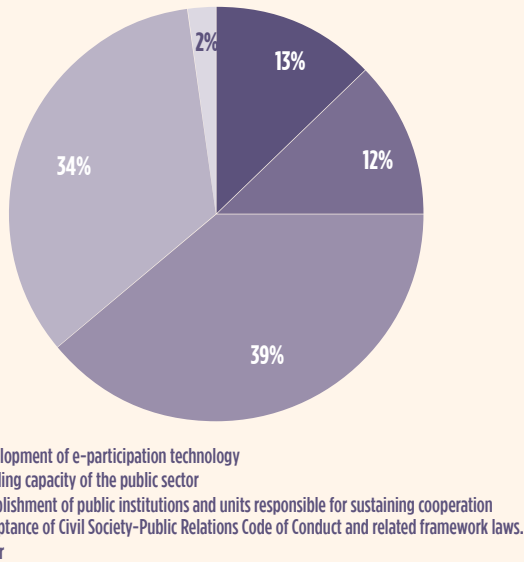
Source: Monitoring Matrix Survey 2016

Graph 10: “Public officials are knowledgeable and competent in carrying out the consultation process with CSOs.”



Source: Monitoring Matrix Survey 2016

Graph 11: Which of the following reform proposals should be prioritized to support civil society participation?



Source: Monitoring Matrix Survey 2016

Practice

Public-CSO relationships are not continuous and are left to the discretion of the public institutions' decision makers. There are no specific, egalitarian, continuous and accessible mechanisms that regulate CSO involvement in policy making. Public institutions may act differently on the same issue area since formalized procedures or frameworks of action to govern civil society-public sector cooperation are not convened.

In the absence of standards, guidelines and frameworks, dialogue between CSOs and public institutions are maintained and sustained via individual relations between civil servants and CSO representatives. Hence, civil society-public sector cooperation is often built via personal ties and hence especially rights-based CSOs, which do not enjoy some level of proximity to public institutions, are excluded from policy-making processes.

Findings from the Monitoring Matrix Survey 2016

- Almost half (49 percent) stated that they communicated "very often" with the relevant public authorities in their field during 2016. It has been widely reported that, in most of the cases CSOs initiates the dialogue. However, CSOs reported that such meetings are far from being the first stage of consultation that could result in fully fledged, structure cooperation/ projects etc.
- The vast majority (67 percent) of surveyed CSOs stated that public authorities never resorted to their views on draft policy / laws during 2016.

3.2.3. PUBLIC ACCESS TO DRAFT POLICIES AND LAWS

Legislation

According to the Regulation on the Procedures and Principles of Legislation Preparation, policy drafts can be publicized by a ministry through printed or visual media to inform the public and to ask for feedback only if the draft concerns the general public.

The Right to Information Law (No. 4982, 9/10/2003) lays down some limitations to access to information. The most important problems in the existing legislation is that it gives the public institutions the right not to disclose information if the information requested (1) necessitates additional research and work, (2) is accepted as a "state secret", (3) would challenge the "national security" or "economic benefits of the country" or (4) is related with the internal operations of the public institution having no public concern dimension. The concepts such as state secret, national security or economic benefits of the country are not defined in the legal framework and hence public institutions are given interpretation authority and discretionary power.

Practice

The publication of the draft laws remains at the discretion of the Ministries. There is an increase in the number of published drafts, although not all of them are being published.

Problems regarding applications made in accordance with the Right to Information Law continue to arise in practice. Common problems that are reported include differences in application procedures; instances where no response is provided within the time period prescribed under the law and questions left unanswered or insufficiently answered on the grounds that additional research is required to respond.

The Grand National Assembly of Turkey published a comprehensive report on the requests for information were placed in 2015. Out of 1,190,325 requests, 85.6% (1,019,466) of them were accepted and only 7% (84,115) were rejected. 4,750 (0.3%) requests were provided with necessary information and documents after removal of confidential information. This report states, comparing to 2014 and previous years, there is a sharp decrease in the total number of requests for information was by 36 percent.⁹⁸ In 2014, 3,298,465 requests for information reported.⁹⁹

In the preparation of The MM 2016 report, TUSEV made 38 separate requests for information to clarify the amount of public funding allocated to CSOs from the state budget and to assess the level of civil society participation in policy making processes. In the first round of applications, it was not possible to make requests online for 2 Ministries due to server problems of their websites. Out of 17 applications, 4 Ministries have not responded to the request for information entirely and 1 Ministry declined to provide information on the grounds that more research was needed (invoking their rights under Articles 7 and 12 of the Law on the Right to Information).

In total 12 state bodies provided data for the request of information applications. However, almost half of those provided extensive data by relying on a data collection process in coordination with other agencies within the Ministry. Rest of the answers were not satisfactory. Same observations were also replicated in the second phase of the application process. There have been problems encountered in placing the application online, 3 Ministry websites were not accessible so the application could not be made. Out of 16 applications, 4 Ministries have not responded entirely. Quality of the answers provided by 6 Ministries was assessed unsatisfactory.

Turkey was made inactive in the Open Government Partnership on September, 2016 since the government failed to deliver its National Action Plan for two consecutive cycles dating back to 2014.¹⁰⁰ Turkey has committed to publicize all draft legislations on a web platform to enable a wide scale consultation. The action plan of Turkey includes setting up websites including; transparency.gov.tr, spending.gov.tr, regulation.gov.tr and electronic public procurement platform.

⁹⁸ Evaluation report on the use of right of Access to information in 2015. Turkish Grand National Assembly. Access date: December 9, 2016. https://www.tbmm.gov.tr/bilgiedinme/2015_raporu_baskanlik_aciklamasi.pdf

⁹⁹ Evaluation report on the use of right of Access to information in 2014. Turkish Grand National Assembly. Access date: December 9, 2016. https://www.tbmm.gov.tr/bilgiedinme/2014_yili_degerlendirme_raporu.pdf

¹⁰⁰ Turkey made inactive in the Open Government Partnership. Open Government Partnership. Access date: September 30, 2016. <http://www.opengovpartnership.org/blog/open-government-partnership/2016/09/21/turkey-made-inactive-open-government-partnership>

Findings from the Monitoring Matrix Survey 2016

- Majority of surveyed CSOs (59 percent) stated that they follow up working plans of public institutions (e.g. draft laws, draft strategy plans, plans for reforms) from the media (printed, visual and social media). The second most selected source of information is websites of the Ministries (45 percent). 28 percent of surveyed CSOs check the regulation.gov.tr web portal. 43 percent of CSOs use other CSOs as their information sources. There is more than 10 percent decrease comparing to previous year (MM Survey 2015 data: 55.8 percent). Only 13 percent stated that they were informed by the relevant public authority via email or courier post.
- Majority (51 percent) of surveyed CSOs stated that they have never been informed by public authorities about work programs, law drafts, policy documents or new data during 2016.
- Only 3 CSOs found “very easy”, 26 CSOs found “easy” out of 100 to access draft laws and policy documents that are in the agenda of public institutions during 2016. Similar to results of previous year, respondents stated that accessing to the documents prepared in the parliamentary committees are very limited. A respondent claimed that the process is almost not traceable, the responsible public institutions for the legislation changes remain unknown and the coordination among public institutions is lacking. One of those highlighted the importance of working with a lawyer in their organizations.
- Among those saying, “access to draft laws and policy documents is quite hard” explained their experiences broadly: *“Most of the time we cannot follow up the agenda of the government. When we hear about any legislative work, strategy plan, etc. by chance, we do not have enough time to report our feedback on the draft documents.”* It is because the working plans and timelines are not accessible beforehand: *“For example, when we make requests to access draft laws [of the Ministries]; in most of the cases we learn that it is not possible since draft law is already submitted to the Prime Ministry.”*
- 43 CSOs have demanded a request for access to information at least once. 33 of those applications were accepted by the public authorities. CSOs in general found the online application process easy to follow. One of those stated that they found the requirements

to make applications on the behalf of their legal entity harder, but then they contacted the authority and found a solution. However, more than half of applicants (25 CSOs) declared that they were not satisfied with the quality of the information provided by the public authorities.

- Some of surveyed CSOs stated that access to information requests is their only way of relation to a public authority. These are rights-based CSOs and they rely on the data from public authorities in preparing their monitoring reports. One of those claimed that they could easily access data on women and refugees.

Some of the critical comments from CSOs that make such requests frequently summarized below:

“The information provided by the state authorities is generally inadequate. The number of applications rejected due to the need for a separate study is increasing.”

“We never receive satisfactory answers. Often, we send our objections to the Information Appraisal Board and in many instances the board accepted and provided necessary information. The authorities are doing their best to keep even the simplest information and documents confidential. It is not acceptable, if we don't have an access to right information we cannot work. We make at least 10 applications in a month. Some of them are left unanswered and others are replied with shallow answers. Because we cannot follow all of these applications and we do not have such a human power, we can also avoid objections and have no results.”

“We are making applications to obtain information from following public institutions: the Ministry of Family and Social Policy and the Ministry of Health. However, the return rate is 50 percent. Qualified data reporting remains at 30 percent. Our applications are being rejected on the grounds of ‘detailed analysis and evaluations are required for the data requested’.”

It is almost impossible to get results with access to information applications. Public authorities refrain from disclosing information on the grounds of ‘state secrets, trade secrets, personal information, and additional work needed’. Besides information accessible to the public is not in a format that can be easily transferred to computer analysis programmes”

3.2.4. CSOS' REPRESENTATION IN CROSS-SECTOR BODIES [CORE STANDARD]

Legislation

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

Each municipality in Turkey is obliged to establish a City Council, which allows CSOs' participation. City Councils, which are unique to the Turkish context, have a potential to constitute an effective example of "governance" that manages to bring together central government, local government and civil society within a collaborative framework of partnerships. According to the Law on Municipalities, City Councils should also include representatives from CSOs. Therefore, at local level, maintaining CSOs participation in these Councils is held mandatory for municipalities. In addition, the municipalities are held responsible to support (also financially) the activities of the City Councils. Last, but not least, the Law makes it mandatory for Municipalities to place opinions adopted by Councils on the agenda of the elected Municipal Council. However, problems in implementation are observed.

Practice

The City Councils, although important critique has been made by CSOs regarding the selection of CSOs to take part and the Council decisions to be effectively integrated in policy processes, are generally sited as positive examples of CSO participation.

There are some initiatives to support functioning of the City Councils that already set up by some of the municipalities. Women Friendly Cities United Nations Joint Programme was

implemented in 12 provinces with the partnership of Ministry of Interior, United Nations Population Fund (UNFPA) and United Nations Development Programme (UNDP) and with the financial contribution of the SIDA (Sweden International Development Cooperation Agency).¹⁰¹ Local Equality Action Plans implemented in several cities in Turkey continue to present effective institutional mechanisms in planning, implementing and monitoring prioritized actions towards gender equality. These plans are monitored via a coordination committee consisting of representatives of public institutions, municipalities and CSOs. "Gender Equality at Local Level International Conference" held in June 2016 in Ankara and marked the closure of the second phase of the Women Friendly Cities United Nations Joint Program initiated in 2011.¹⁰² In the session of "National Examples from the Women Friendly Cities UN Joint Programme", local government representatives and CSO representatives shared best practices and their experiences. Representative of Samsun Governorship Equality Commission spoke about the comprehensive process in Samsun starting with the research called Status of Women in Samsun and concluding to Local Equality Action Plan monitoring and evaluating endeavors. Departmental Manager of Women's Studies of İzmir Metropolitan Municipality demonstrated the institutionalization journey in the municipality since 2006. Head of Equality Commission of Municipal Council of Gaziantep Metropolitan Municipality listed the accomplishments recorded in the process of strategic plan and budget, all of which were achieved, thanks to the efforts of Equality Commission, Municipality units and NGOs. Representative of Cappadocia Women Solidarity Association and Nevşehir Association for Ecology and Development of Social Life briefed the participants about their monitoring model established for monitoring the works of Municipal Council and Provincial Assembly that helped women CSOs take an active role in the local decision making processes and monitoring of the local council.

On the other hand, this project facilitated formation of "Societal Equality Departments" within the institutional structures of the municipalities that were recipients of "Women Friendly Cities" described above. Moreover, many

¹⁰¹ Please find more information on Women Friendly Cities United Nations Joint Programme from: www.kadindostukentler.org

¹⁰² *Best practices on Women Friendly Cities from all over the world met in Ankara*. United Nations Turkey Newsletter. Access date: November 17, 2016. <http://www.bmdergi.org/en/best-practices-on-women-friendly-cities-from-all-over-the-world-met-in-ankara/>

other cities replicated such institutional restructuring. In April 2016, a two day workshop was organized by Şişli Municipality of Istanbul and attended by 17 municipalities that formed similar structures from 11 cities. At the end of this workshop, a declaration was circulated summarizing the concrete recommendations to be taken into account in order to make such departments more functional and their work more encompassing.¹⁰³

The current problems that officials working in these departments facing can be summarized as follows: 1) Lack of coordination within the municipal structures. 2) Centralized decision making processes within Municipalities 3) Lack of consensus on the functions of Societal Equality Departments. Under these circumstances, the strength and competences of these departments depend on to the extent of the support of the mayor that is the sole source of the political ownership of their agenda.¹⁰⁴

These examples present that at local level, although still not systematic, relatively better and more cases of consultation and dialogue with CSOs exist. CSOs mentioned cases of best practices of City Councils in Nilüfer, Canakkale, Diyarbakir, Batman and Alanya municipalities where CSO participation were ensured in relatively more standardized and efficient processes.

Land Protection Commissions, disability centers of governorships, city councils and thematic committees under these councils are cited by CSOs as relatively good examples.

Findings from the Monitoring Matrix Survey 2016

- The vast majority (69 percent) of surveyed CSOs did not involve in working groups/ commissions for the preparation of draft policy/law.
- Several of surveyed CSOs indicated that their relations with the bodies of local administrations are much stronger. For instance, one of those stated that participation in planning of the budget at the local level and access to information is much more convenient compared to the national level.

EU Civil Society Guidelines assessment

Sub area 3.2., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.

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

The relevant law and regulations do not define objective mechanisms, procedures and criteria with respect to the selection processes of CSOs that are to be involved in policy processes (e.g. consultation, dialogue). Thereby, the process of selection process is not transparent and accountable.

The knowledge level of the civil servants about civil society, means, ways, and methods of involvement of CSOs in policy processes becomes crucially important in the absence of standards, guidelines and frameworks.

CSOs are seldom able to participate in legislation and when they do engage in law making processes, they are only able to do so in a limited/ one-way consultation. There is no data on the percentage of laws/ bylaws, strategies and policy reforms effectively consulted with CSOs.

CSOs that are consulted prior to or during legislation are not provided regular updates on the progress of the legislative process and are excluded from the further or final steps of the process. There is no objective mechanism that sets out the feedback, negotiation and cooperation methods regarding the consultation process.

¹⁰³ Societal Equality Departments Conference Declaration [in Turkish]. Şişli Municipality. Access date: November 21, 2016. <http://www.sisli.bel.tr/icerik/1-esitlik-birimleri-calistayi-sonuc-bildirgesi>

¹⁰⁴ Societal Equality Departments in Municipalities: Case of Şişli Municipality [in Turkish]. Third Sector Foundation of Turkey. Access date: November 21, 2016. http://www.tusev.org.tr/usfiles/images/belgeler/Yerel_Yonetimlerde_Esitlik_Birimleri-Sisli_Belediyesi_Ornegi.pdf

SUB-AREA 3.3.: COLLABORATION IN SOCIAL PROVISION

3.3.1. CSO ENGAGEMENT IN SERVICE PROVISION AND COMPETITION FOR STATE CONTRACTS [CORE STANDARD]

Legislation

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

Practice

Although there are no barriers on CSO competition, as there is no practice of promoting such competition either, examples of service provision by the civil society are very limited.

Findings from the Monitoring Matrix Survey 2016

- The vast majority of surveyed CSOs (69 percent) reported they have not established strategic partnerships (pilot applications, joint projects) for the implementation of policies even at once.

USED RESOURCES AND USEFUL LINKS

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3. USEFUL LINKS

- Civil Society Development Centre (STGM) <http://www.stgm.org.tr/>
- Civil Society Index Project in Turkey. <http://www.step.org.tr/>
- Civil Society Public Sector Cooperation Project. <http://www.siviltoplum-kamu.org/en>
- Engelli Web [Database on blocked Websites in Turkey] <https://engelliweb.com/>
- Human Rights Joint Platform (IHOP) <http://www.ihop.org.tr/enihop/>
- The International Center for Non-Profit Law (ICNL) Civic Freedom Monitor Project. <http://www.icnl.org/research/monitor/turkey.html>
- Istanbul Bilgi University. NGO Training and Research Center. <http://stk.bilgi.edu.tr/>
- Transparency International Turkey. http://www.seffaflik.org/index_tr.asp
- Third Sector Foundation of Turkey. <http://www.tusev.org.tr/en>
- Turkey and Facts. <https://turkeyandfacts.com/>
- Technical Assistance to Civil Society Organizations Project (TACSO) <http://www.tacso.org/>
- Turkey Blocks [Mapping internet freedom project] <https://turkeyblocks.org>

4. LIST OF INTERVIEWS

- Interview with public officials (3 experts) from societal equality department of Şişli Municipality- 21 April 2016.
- Phone interview with a CSO representatives on service provision of CSOs – 12 December 2016
- Interview with a CSO representative from an organization conducting projects on monitoring of exercise of basic rights and freedoms – 9 November 2016.

5. LIST OF CONSULTATION MEETINGS

- “Consultation on the Local Equality Plan of Şişli Municipality”, organized by the Societal Equality Department of Şişli Municipality of Istanbul, attended by 17 CSO representatives on 7 January 2016.
- “TACSO Turkey Fourth Local Advisory Group Meeting”, Local consultation meeting with 11 participants on 28 January 2016, in Ankara, Turkey
- “Martı Associations’ project meeting advocating towards change in the Law on Collection of Aids”, organized by TUSEV and attended by 16 CSO representatives from 7 organizations on 24 February 2016, in Istanbul, Turkey
- “64th governments’ Civil Society Law Reform agenda – strategic outlook meeting”, organized by TACSO and TUSEV with participation of 13 CSO representatives on 2 March 2016, in Istanbul, Turkey.
- “National Volunteering Committee meeting”, organized by TUSEV and attended by 21 CSO representatives from 14 organizations on 15 April 2016, in Istanbul, Turkey.
- “TACSO Turkey 6th Local Advisory Group Meeting” with 19 participants on 12-13 October 2016, in Ankara, Turkey.
- “National Volunteering Committee meeting” on 31 October 2016, in Istanbul, Turkey.
- “Interim evaluation of IPA II 2014-2020 country strategy paper, civil society sub-sector consultation meeting” with 12 participants on 17 November 2016, in Ankara, Turkey.
- “Checks and Balances Network Consultation meeting on the freedom of association and shrinking civic space”, with 26 CSO representatives on 22 November 2016, in Istanbul, Turkey.

6. SUPPLEMENTARY TUSEV RESEARCH

CIVIL SOCIETY- PUBLIC SECTOR COOPERATION PROJECT

- Within the context of the project, in 2012-2014, TUSEV has initiated 11 local consultation meetings conducted with 150 participants from 118 different NGOs from 12 cities in Turkey. One of the concrete and important expected outputs of the project is the drafting of a Code of Conduct for CSO-Public Sector relations and Monitoring Methodology for Monitoring the implementation of the Code of Conduct for Civil Society and Public Sector Dialogue in Turkey. Following preparation of these documents, TUSEV made further consultations and engaged in informative meetings in the local level for the implementation of code of the conduct.
- Another significant output is the publication of TUSEV entitled “Active Participation In Civil Society: International Standards, Obstacles in National Legislation,
- Recommendations” conducted by legal scholars (Ayata & Karan, 2014). This report presents legal obstacles against the enabling environment for civil society in Turkey and introduces proposals for amendments.

Additional information about the project is available at <http://www.tusev.org.tr/en/civil-society-law-reform/civil-society-public-cooperation-project>.

CIVIL SOCIETY MONITORING REPORT PROJECT

- TUSEV has been analyzing the state of civil society in Turkey through the Civil Society Monitoring Project annually since 2011 under the following headlines: Legislative Framework, Institutional Capacity, International Relations and Research. TUSEV shares important analyses report on current developments in the civil society through cases analyses via its website and social media channels (@TUSEV and @stkizleme).

The Civil Society Monitoring Report 2013-2014 (in Turkish) is available online:

<http://www.tusev.org.tr/tr/arastirma-ve-yayinlar/sivil-toplum-izleme-raporu-1/sivil-toplum-izleme-raporu-2013-2014>

Some of case studies (in Turkish) are available at <http://www.tusev.org.tr/tr/arastirma-ve-yayinlar/sivil-toplum-izleme-raporu-1/sivil-toplum-izleme-raporu-2013-2014-vaka-analizleri>

consultation meetings were widely elaborated in different sections of MM 2016 Report.

The full report, executive summary and infographics prepared by TUSEV can be reached from: <http://www.tusev.org.tr/en/news/individual-giving-and-philanthropy-in-turkey-report-is-published-1#.WTafCmiLSM8>

TUSEV ATÖLYE [ATELIER]

- TÜSEV Atölye [Atelier] was launched to raise awareness of the civil society organizations, public institutions, universities, funding institutions, media and all other related stakeholders on the state of civil society in Turkey and to contribute to the discussions on issues related to enabling environment. In this reporting period, TUSEV published the info notes presented below:
- Registration Processes of Foreign CSOs in Turkey under Freedom of Association.
http://www.tusev.org.tr/usrfiles/images/belgeler/Registration_Processes_of_Foreign_CSOs_in_Turkey_under_Freedom_of_Association_0808206.pdf
- Volunteerism: Legislation and practices.
<http://www.tusev.org.tr/usrfiles/images/GonullulukBilgiNotuENG.15.01.16.rev1.pdf>
- The limits on interference on the rights of freedom of association (in Turkish).
http://www.tusev.org.tr/usrfiles/images/yayinlar/TUSEV_Atolye_Orgutlenme_Ozgurlugu_Hakkinin_Sinirlendirilmesi_Bilgi_Notu.pdf

INDIVIDUAL GIVING AND PHILANTHROPY IN TURKEY REPORT

TUSEV published the Individual Giving and Philanthropy in Turkey Report which presents comprehensive and up to date data on perception on philanthropy, trends and motivations in individual giving as well as providing a comparison on the change in the understanding of philanthropy and giving practices. This Report, which presents the most up-to-date data in the field of individual giving, is a contributing resource to TUSEV's ongoing efforts to encourage the culture of giving and promote strategic giving in Turkey. The data presented in this report and conclusions of follow up activities and

ANNEX 1 TURKEY: ECONOMIC, SOCIAL, POLITICAL INDICATORS

2015 WORLD BANK DATA	
Capital	Ankara
Official Language	Turkish
Population, 2013	78.665 million
GDP	728.21 billion dollars
GNI per capita, Atlas method (current US\$)	\$9.950
Life expectancy at birth, total (years)	75
Poverty headcount ratio at national poverty line (% of population)	1.6%

UN Humanitarian Development Report 2015	<p>Score: 0.761/1 Rank:72 (Among 188 countries)</p>
Freedom House Freedom in the World Report 2016	<p>Status: Partly Free (↓ score decline) Freedom ranking: 3,5/7 Civil liberties: 3/7 Political rights: 4/7 (1 = BEST, 7 = WORST) Aggregate score: 53 /100</p>
Freedom House Freedom on the Net Report 2016	<p>Status: Not Free (↓ score decline) Score: 61 (0 = BEST, 100 = WORST) Obstacles to Access (0-25): 13 Limits on Content (0-35): 21 Violations of User Rights (0-40): 27</p>
Freedom House Freedom of the Press Report 2016	<p>Status: Not Free (↓ score decline) Rank: 142 (Among 199 countries) Score: 71 (0 = Best, 100 = Worst) Legal Environment: 26 (0 = Best, 30 = Worst) Political Environment: 30 (0 = Best, 40 = Worst) Economic Environment: 15 (0 = Best, 30 = Worst)</p>
Reporters without Borders - World Press Freedom Index 2015	<p>Rank: 151 (Among 180 countries) (↓ -2 ranking decline, 149 in 2015) Score: 50.76 (↓ score decline -6.60, 44.16 in 2015)</p>
International Transparency Organization - Corruption Perceptions Index 2015	<p>Rank: 66 (Among 168 countries) Score: 42 / 100</p>
Charities Aid Foundation - World Giving Index 2014	<p>Rank:128 (Among 135 countries) Donating Money:% 12 Volunteering time rate:% 5 Helping a stranger rate:% 38</p>
Hudson Institute Philanthropic Freedom Index 2015	<p>Rank: 47 (Among 64 countries) Score: 3.1 (1= Best 5= Worst) CSO score: 3.3 (1= Best 5= Worst) Tax score: 3.0 (1= Best 5= Worst) Cross-border score: 3.0 (1= Best 5= Worst)</p>
Bertelsmann Stiftung's Transformation Index (BTI) 2014	<p>Status Index (1-10): 7.51 Rank: 20 Political Transformation (1-10): 7.55 Rank: 26 Economic Transformation (1-10): 7.46 Rank: 22 Management Index (1-10): 6.66 Rank: 14 (Among 129 countries)</p>

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



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