

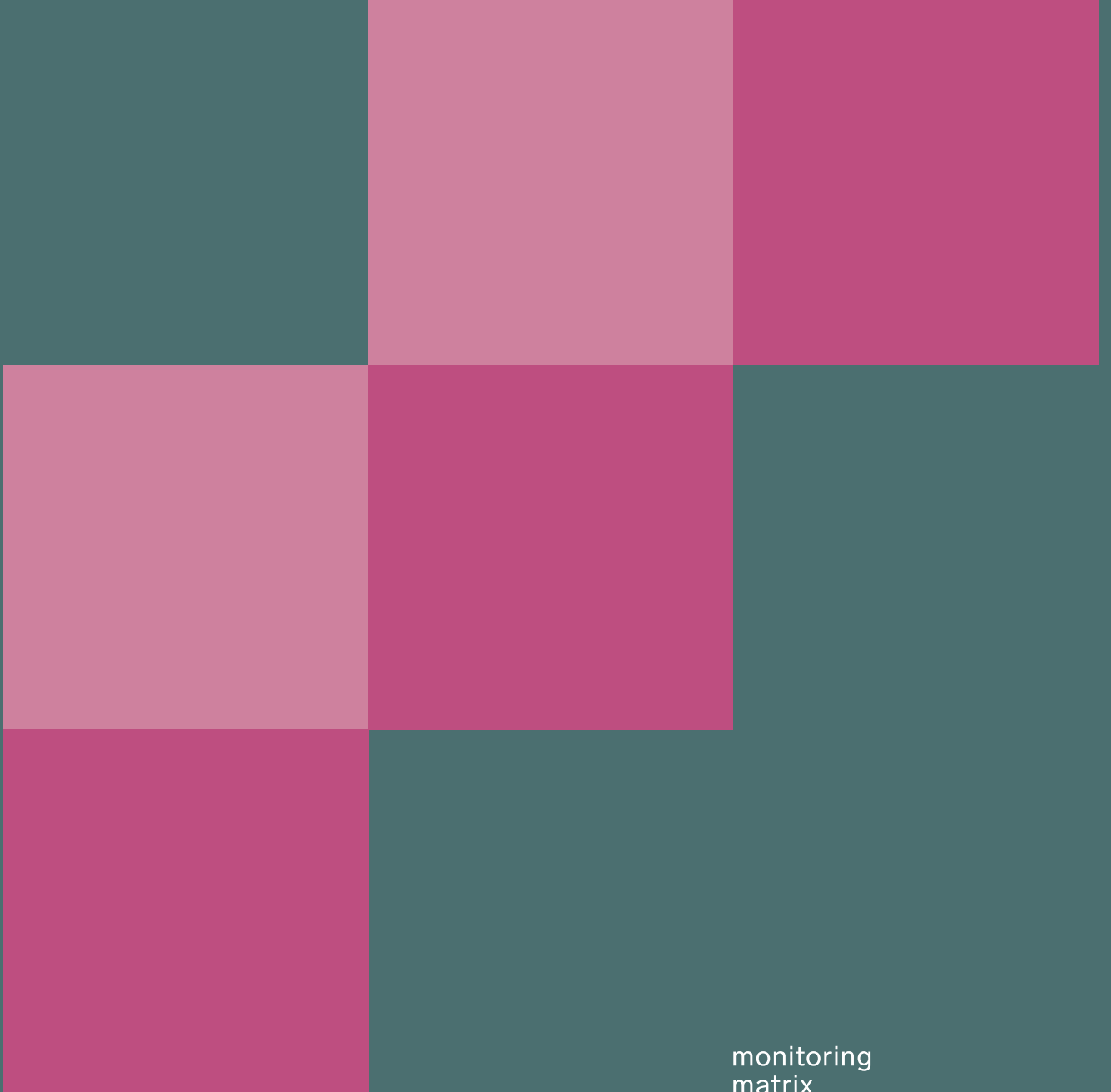


Funded by  
the European Union



# Monitoring Matrix on Enabling Environment for Civil Society Development

Country Report:  
Türkiye  
2020-2021



monitoring  
matrix





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monitoring  
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**MONITORING MATRIX ON ENABLING ENVIRONMENT FOR  
CIVIL SOCIETY DEVELOPMENT  
2020-2021 TÜRKİYE REPORT**

TÜSEV Publications, July 2023

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# About Us

The Third Sector Foundation of Turkey (TÜSEV) was established in 1993 with the aim of enhancing the legal, financial, and operational infrastructure of civil society. TÜSEV continues its work with the support of its Board of Trustees to create a more enabling environment for civil society to operate in and provide solutions to common challenges.

TÜSEV is dedicated to fostering a stronger, more participatory, and reputable civil society in Türkiye by pursuing the following objectives:

- Creating an enabling and supportive legal and financial environment for civil society organizations (CSOs),
- Promoting strategic and effective giving practices,
- Facilitating dialogue and collaboration among the government, private sector, and civil society,
- Showcasing the civil society in Türkiye internationally and establishing collaborations.
- Enhancing the reputation of civil society,
- Conducting research activities pertaining to civil society.

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# Abbreviations

**AFAD** Disaster and Emergency Management Presidency

**BCSDN** Balkan Civil Society Development Network

**BTK** Information Technologies and Communications Authority

**CIMER** Presidency's Communication Center

**CSO** Civil Society Organization

**DERBİS** Information System of Associations

**DGoF** Directorate General of Foundations

**DGRCS** Directorate General for Relations with Civil Society

**ECNL** European Center for Not-for-Profit Law

**ECHR** European Convention on Human Rights

**ECtHR** European Court of Human Rights

**EU** European Union

**FATF** Financial Action Task Force

**GNAT** Grand National Assembly of Türkiye

**HRA** Human Rights Association

**HRFT** Human Rights Foundation of Turkey

**ICNL** International Center for Not-for-Profit Law

**IPA** The Instrument for Pre-accession Assistance

**MASAK** Financial Crimes Investigation Board

**MEB** The Ministry of National Education

**OHAL** State of Emergency

**OSCE** Organization for Security and Cooperation in Europe

**PRODES** Project Support System

**RTÜK** Radio and Television Supreme Council

**STGM** Association of Civil Society Development Center

**TGYK** Law on Meetings and Demonstrations

**TİHEK** Human Rights and Equality Institution of Türkiye

**TÜİK** Turkish Statistical Institute

**TÜSEV** Third Sector Foundation of Turkey

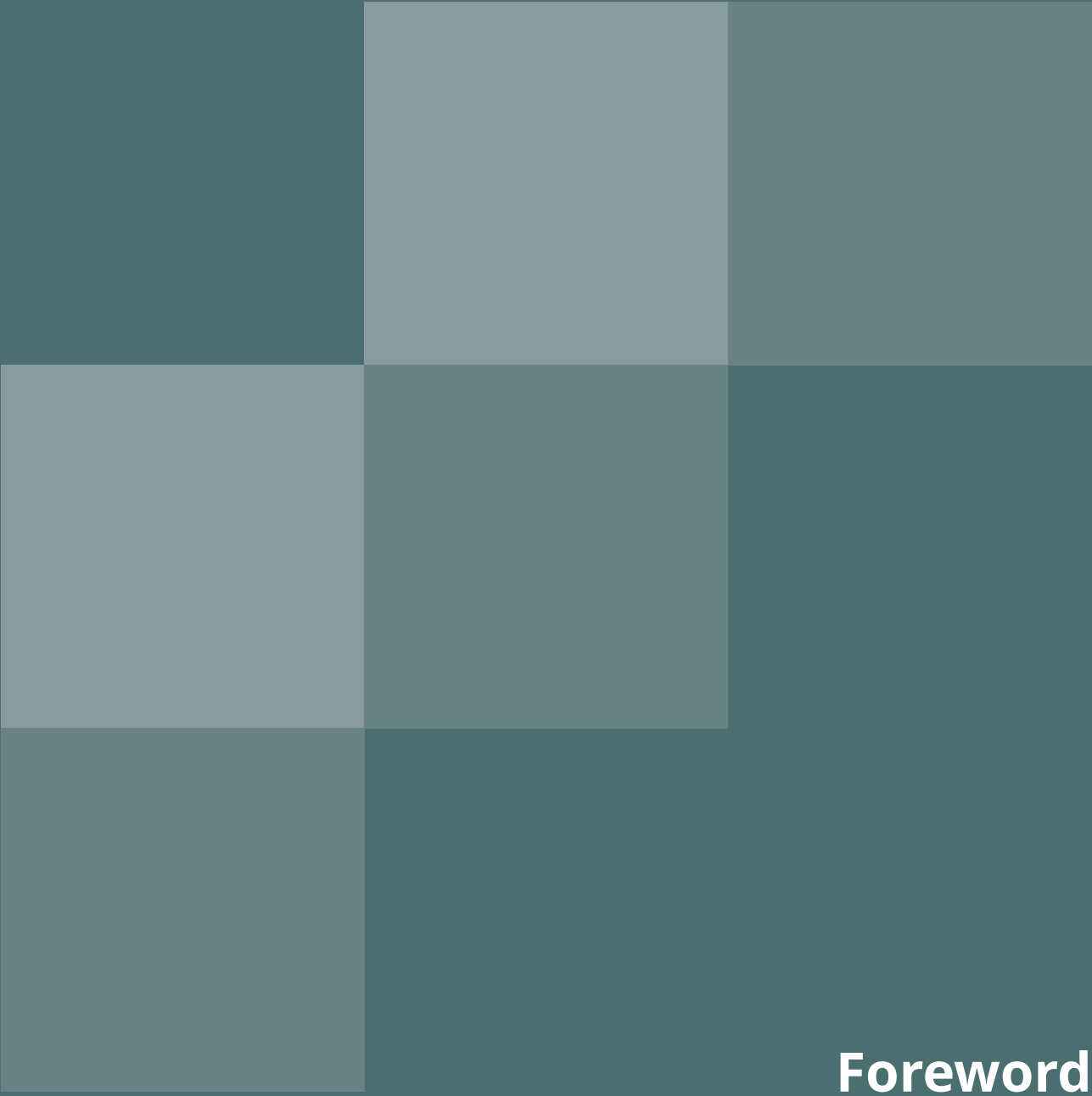
**UGK** National Volunteering Committee

**UNSC** United Nations Security Council

**VAT** Value Added Tax







**Foreword**

As the Third Sector Foundation of Turkey (TÜSEV), we have been diligently striving since 1993 to enhance the legal, financial, and operational infrastructure of civil society.

We aim to contribute to the existence of a stronger, more participatory, and reputable civil society in Türkiye by implementing activities that address the challenges faced by civil society organizations (CSOs) and by providing support for their work in a more enabling environment.

Under our Civil Society Law Reform program, in collaboration with the Association of Civil Society Development Center (STGM), we launched the **Monitoring Freedom of Association Project** in October 2021. This project, financed by the Delegation of the European Union to Türkiye, aims to create awareness about legal and financial regulations relevant to CSOs, monitor and enhance an enabling environment for civil society, and strengthen public sector-CSO collaboration.

Monitoring Matrix on Enabling Environment for Civil Society Development 2020-2021 Report for Türkiye has been prepared based on the "Monitoring Matrix" methodology developed by expert organizations, including TÜSEV, with the aim of providing a contribution to the advancement of civil society and monitoring-advocacy initiatives. The enabling environment for civil society has been evaluated within the framework of the standards and indicators determined under the areas of **Basic Legal Guarantees of Freedoms, Framework for CSO Financial Viability and Sustainability**, and **Public Sector-CSO Relationship**, as included in the Monitoring Matrix methodology. In addition to examining the existing legal framework and practices, this report aims to guide CSOs, government, international organizations, and donors by identifying priority areas for reform and providing policy recommendations. The challenges in the areas covered by the Monitoring Matrix are experienced more frequently by organizations operating in certain fields, especially those that follow a rights-based approach. Therefore, the field research, which constitutes one of the fundamental pillars of the Report, focuses not only on analyzing the overall situation of the civil society in Türkiye but also specifically about organizations within the civil society that adopt a rights-based approach.

As TÜSEV, we will continue to share our knowledge and experience with our stakeholders, create collaborative spaces, and produce information resources to contribute to a stronger, more participatory, and reputable civil society. We would like to express our gratitude to all individuals, institutions, and organizations who contributed to and provided valuable insights for the preparation of this report.

Kind regards, TÜSEV

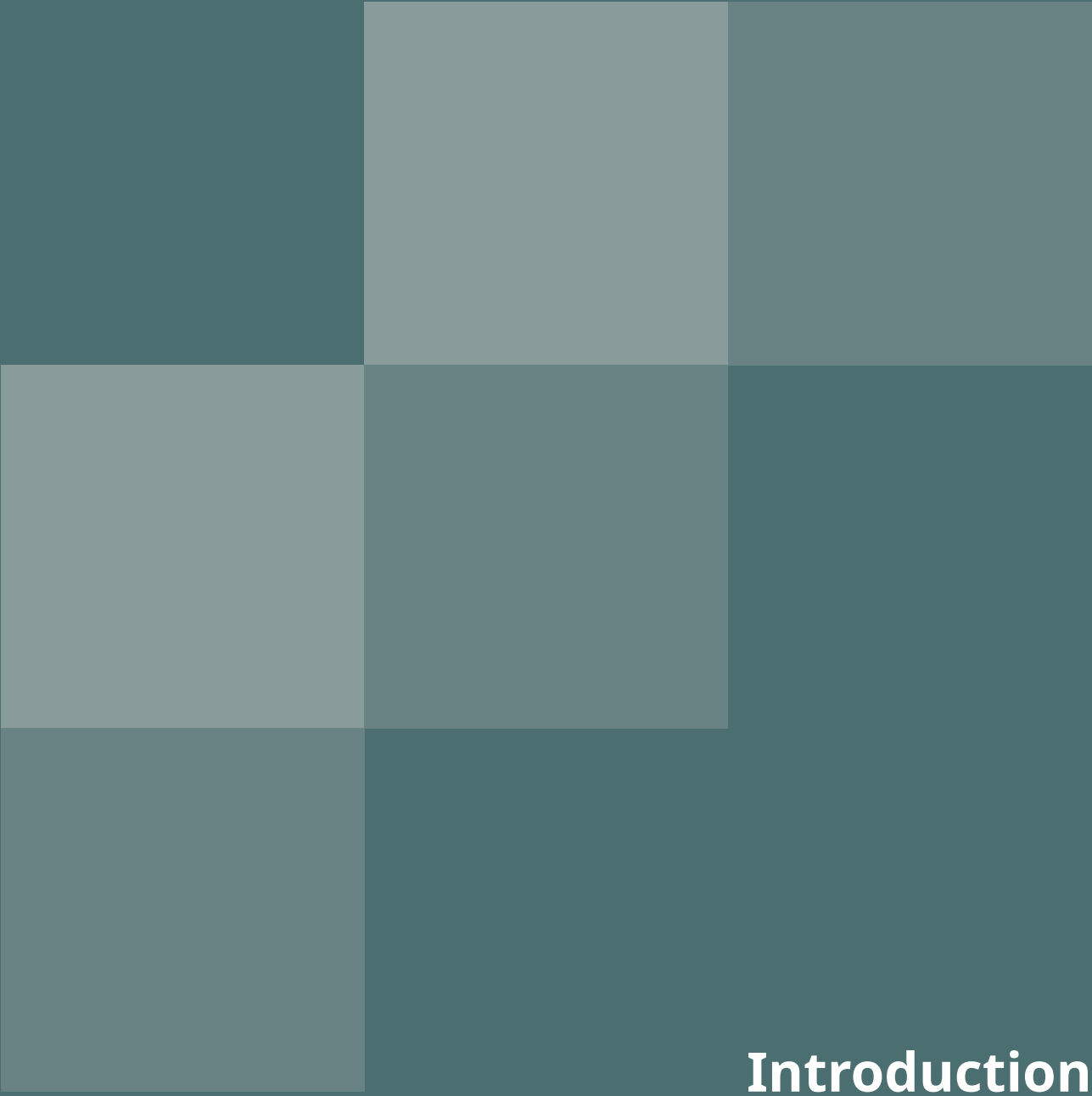
## **About the Monitoring Freedom of Association Project**

TÜSEV's Monitoring Freedom of Association Project, conducted in collaboration with Association of the Civil Society Development Center (STGM) under the Civil Society Law Reform Program, is financed by the Delegation of the European Union to Türkiye.

Within the scope of the project, which will be implemented in three years between October 2021 and 2024, we aim to:

- Enhance awareness and generate necessary demand for improvements by systematically monitoring the legal framework related to freedom of association,
- Contribute to the development of capacities of CSOs to effectively utilize existing participation mechanisms in public administration and engage in rights-based advocacy,
- Strengthen collaboration between the public sector and CSOs.

In line with this purpose, reports and information resources are prepared regarding the legal and financial regulations that concern civil society organizations, and policy recommendations are formulated.



# Introduction

TÜSEV and the Balkan Civil Society Development Network (BCSDN) are pleased to announce the publication of the seventh edition of the Monitoring Matrix on Enabling Environment for Civil Society Development in Türkiye, focusing on the years 2020-2021. This report is part of a series of country reports covering six countries in the Western Balkans and Türkiye: Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Montenegro, and Serbia. A Regional Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country at [www.monitoringmatrix.net](http://www.monitoringmatrix.net).

The Monitoring Matrix on Enabling Environment for Civil Society Development, as a monitoring tool, was developed by the Balkan Civil Society Development Network, consisting of members from Türkiye and Western Balkan countries, in 2012 and has been updated over the years in response to evolving needs. The Monitoring Matrix primarily sets forth the fundamental principles and standards that are vital for the legal frameworks to be supportive and enabling for the activities of civil society organizations. The common standards deemed necessary for the development of civil society have been determined taking into account internationally recognized rights, European Union (EU) criteria, principles of the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE), as well as regulatory best practices in European countries. The Monitoring Matrix aims to focus on the areas that experts consider a priority, rather than attempting to encompass all aspects related to an enabling environment. The standards and indicators have been prepared based on the experiences of civil society organizations in countries regarding legal frameworks, practices, and challenges in implementation.

The Monitoring Matrix, developed in 2013 by BCSDN with support of its members, partners, ICNL and ECNL, presents the main principles and standards that have been identified as crucial to exist 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:

- Basic Legal Guarantees of Freedoms
- Framework for CSOs' Financial Viability and Sustainability
- Public Sector – CSO Relationship.

In each of the three main sections, fundamental principles related to the respective section are presented. Each fundamental principle has been expanded with standards, and detailed indicators have been developed for each standard. The principles, standards, and indicators included in the Monitoring Matrix provide a concrete framework to define an enabling environment, allowing public institutions, civil society organizations, international organizations, grantmakers, donors, and other stakeholders to review legal frameworks and practices, and conduct monitoring and evaluation. Moreover, this methodology enables the evaluation of legal and political environment within the framework of international standards, providing relevant stakeholders (such as CSOs, governments, international organizations, grantmakers, etc.) with guidance on prioritizing reforms. Furthermore, the application of a similar methodology by seven countries contributes significantly to the civil sector by enabling a comparative analysis. Per the methodology of the Monitoring Matrix, the findings of the 2020 Report prepared in line with the EU Guidelines by the Technical Assistance for Civil Society Organizations (TACSO) are summarized.<sup>1</sup>

The Turkish version of the Civil Society Monitoring Matrix Development Tool-Kit, which contains detailed information about the methodology of the Monitoring Matrix, has been published by TÜSEV to facilitate the monitoring and evaluation of the civil society sector by CSOs and other stakeholders.<sup>2</sup> The next section provides a detailed explanation of the mixed methodology employed, consisting of qualitative and quantitative tools used to monitor the principles, standards, and indicators established within the Monitoring Matrix methodology for the Monitoring Matrix on Enabling Environment for Civil Society Development 2020-2021 Türkiye Report.

1 Technical Assistance to Civil Society Organizations (EU TACSO 3). *Final Report: Assessment of the State of the Enabling Environment and Capacities of Civil Society Against the 2014-2020 Guidelines for EU Support to Civil Society in the Enlargement region for the year 2020*.

2 Third Sector Foundation of Turkey (TÜSEV). *Monitoring Matrix on Enabling Environment for Civil Society Development Tool-Kit*.

## Methodology

In the preparation of the Monitoring Matrix on Enabling Environment for Civil Society Development 2020-2021 Türkiye Report (hereinafter referred to as the Monitoring Matrix), a comprehensive study based on desk and field research was carried out to determine the current situation regarding the legal and financial legislation concerning associations and foundations, as well as their implementation. The primary factual data and secondary data were gathered through desktop research. Primary sources such as legislation (laws, regulations, bylaws, directives, decrees, decisions, and circulars), draft legislation, Official Gazette, activity reports of the Presidency and ministries, financial reports, annual programs, performance reports, national development plans, and specialized commission reports related to the field of civil society, vision documents, strategy documents, action plans or drafts, official websites, announcements published on websites, news articles, publicly released statistics, minutes of the Grand National Assembly of Türkiye (GNAT) minutes, and budget presentations by ministers have been extensively examined and analyzed in detail. In this way, a detailed screening and analysis of the resources related to the civil sector issued by public institutions are conducted.

In the Monitoring Matrix methodology, in addition to desk research, another primary data source is the information obtained through information requests made to public institutions. TÜSEV made information requests to 22 public institutions regarding issues relevant to civil society in June, July, and August of 2022. Over 100 questions were directed in total. Although the relevant institutions responded to the information requests, nearly all questions remained unanswered. Public institutions have often cited Article 7 of the Law on the Right to Information No. 4982 as the reason for not responding to inquiries, as stated in their generic responses. This article states that “Public institutions and organizations may provide negative responses to requests for information or documents that could be generated as a result of separate or special work, research, investigation, or analysis.” Furthermore, despite the absence of interpretive questions and the potential for providing specific, data-driven responses, some institutions have responded by referencing Article 27 of the law, stating that “requests for recommendations and opinions fall outside the scope of this Law.” The purpose of the information requests was to create a repository of information regarding the civil sector and to incorporate reliable information provided by public institutions into the relevant sections of the Monitoring Matrix. However, it has been observed that in applications made in the field of civil society, generic responses are provided to information requests, and it is evident that this right could not effectively be exercised in a functional manner.

**Table I. Requests for information within the scope of the Monitoring Matrix**

| Institution  | Has the request for information been answered? | Nature of responses  |
|--|--|--|
| The Ministry of Justice  | +  | Information and documents requested were not shared, citing Article 7 of the Law on the Right to Information   |
| The Ministry of Family and Social Services   | +  | A partial disclosure has been made in response to the information request.   |
| The Board of Review for Access to Information (The Ministry of Justice)                              | +  | The requested information was not disclosed.   |
| Information and Communications Technologies Authority (The Ministry of Transport and Infrastructure) | +  | A source where the information can be accessed has been indicated. However, only a limited portion of the requested information is available from this source.                           |
| The Presidency of Türkiye, Presidency of Strategy and Budget   | +  | Information and documents requested were not shared, citing Article 7 of the Law on the Right to Information   |
| The Ministry of Labor and Social Security  | +  | Information and documents requested were not shared, citing Article 7 of the Law on the Right to Information   |
| General Directorate of Security  | +  | The requested information and documents have not been shared, citing Article 16 of the Regulation on the Implementation Principles and Procedures of the Law on the Right to Information |

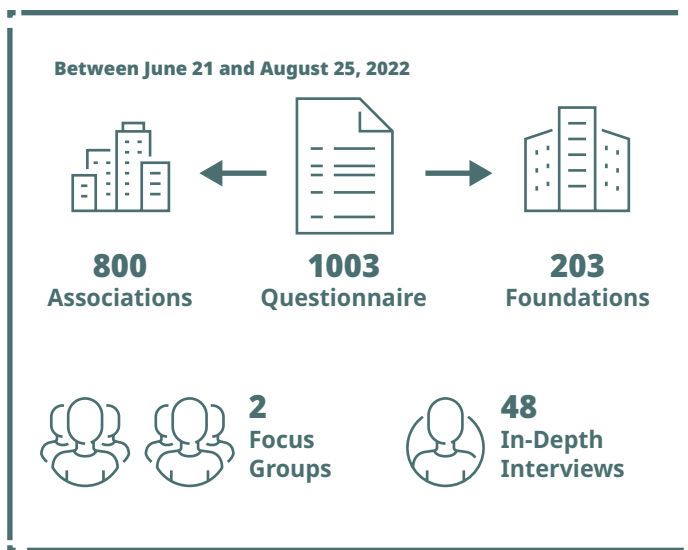
| Institution   | Has the request for information been answered? | Nature of responses   |
|---|--|---|
| The Ministry of Youth and Sports  | +  | Information and documents requested were not shared, citing Article 27 of the Law on the Right to Information.  |
| The Ministry of Treasury and Finance (including inquiries directed towards the Financial Crimes Investigation Board and the Revenue Administration) | +  | Information and documents requested were not shared, citing Article 7 of the Law on the Right to Information  |
| Turkish Employment Agency (İŞKUR)   | +  | A source where the information can be accessed has been indicated. However, only a limited portion of the requested information is available from this source. Furthermore, they advised applying to another institution.   |
| Ombudsman Institution   | +  | A source where the information can be accessed has been indicated. However, the requested information is not available from this source.  |
| The Ministry of National Education  | +  | A limited portion of the requested information is available.  |
| The Ministry of Industry and Technology   | +  | Information and documents requested were not shared, citing Article 7 of the Law on the Right to Information  |
| Directorate General for Relations with Civil Society (The Ministry of Interior)   | +  | Information and documents requested were not shared, citing Article 7 of the Law on the Right to Information  |
| Social Security Institution   | +  | A source where the information can be accessed has been indicated. Only a limited portion of the requested information is available in these resources. Certain questions, however, have not been answered citing Article 7 of the Law on the Right to Information. |
| The Ministry of Agriculture and Forestry  | +  | Information and documents requested were not shared, citing Article 7 of the Law on the Right to Information  |
| Grand National Assembly of Türkiye  | -  | No response given.  |
| Directorate General of Foundations (The Ministry of Culture and Tourism)  | -  | No response given.  |
| Council of Higher Education   | +  | A source where the information can be accessed has been indicated. Only a limited portion of the requested information is available in these resources.   |

The most significant challenge related to desk research is the inability to access quality data. Insufficient data published by public institutions in the field of civil society, the lack of regular and comparable data collection, and the non-disclosure of certain data to the public or stakeholders make it challenging to base research findings on data. Although the 2019-2023 Strategic Plan of The Turkish Statistical Institute (TÜİK) includes the goal of finalizing the efforts to establish a CSO database in line with international standards and collecting and publishing secure and regular data in the field of civil society, referencing the 11<sup>th</sup> Development Plan, no concrete steps have been taken towards achieving this goal. TÜİK does not collect internationally comparable data in this field within the national statistical system.

On the other hand, due to the lack of coordination and a unified approach regarding public funds and mechanisms for public sector-CSO collaboration, as well as the absence of a transparent and accountable public policy, it is challenging to track the implementation processes and identify the CSOs receiving funding and engaging in collaboration. While data has been collected separately for each institution by reviewing the above-mentioned sources in desk research, the limited nature of the published information and the differences in approach between institutions have often made it challenging to conduct a comparative analysis.

In addition to primary sources, secondary sources such as publications by TÜSEV, EU Progress Reports, international reports on the development of civil society, monitoring reports prepared by CSOs, newspaper and journal articles, and academic publications have also been utilized. The findings and recommendations emerging from numerous studies conducted within TÜSEV's Civil Society Law Reform program, as well as the insights gained from organized meetings and participation in advisory meetings, have contributed to the preparation of the Monitoring Matrix. The views expressed in the meetings and consultation processes of the National Volunteering Committee (UGK), of which TÜSEV is a member, during the period of 2020-2021, have provided an opportunity to integrate the current status and recommendations regarding the volunteering policy to the Monitoring Matrix. The information obtained through TÜSEV's visits to public institutions and international organizations, as well as advocacy activities, regarding the law amendments carried out at the end of 2020 within the framework of the efforts of the Financial Action Task Force (FATF) and the United Nations Security Council to prevent money laundering and the financing of terrorism, along with the unintended consequences of these changes, have been included in the Monitoring Matrix. TÜSEV's opinions and recommendations prepared based on the Draft Civil Society Strategy Document and Action Plan, as well as the Draft Legislation Concerning Civil Society, published during the preparation of the 12 Development Plan, have provided guidance in relevant sections. The meetings organized within the framework of the Monitoring Freedom of Association Project have facilitated the identification of concrete policy recommendations regarding priority areas that require solutions in terms of the right to freedom of association and public sector-CSO collaboration.

In the second phase of the research, within the scope of quantitative research, a "questionnaire" prepared by TÜSEV and STGM was administered to 1,003 CSO representatives operating in Türkiye between June 21 and August 25, 2022. Additionally, as part of the qualitative research, in-depth interviews were conducted with 48 CSO representatives, and two focus group discussions were held.



As part of the project, SAM Research and Consulting was contracted to carry out the field research in collaboration with TÜSEV and STGM. The interviews were conducted under the guidance of TÜSEV and STGM, with SAM Research and Consulting responsible for their execution. The quantitative and qualitative research process was designed and conducted under the guidance of Prof. Dr. Mehmet Ali Eryurt and Dr. Derya Göçer. During the reporting phase, the opinions and recommendations of Assoc. Prof. Dr. Ulaş Karan were consulted.

For the quantitative research, interviews were conducted with a sample of 1,003 randomly selected organizations from the Information System of Associations (DERBİS) and the Directorate General of Foundations (DGoF) database. The research results, theoretically, include a margin of error of  $\pm 2.7\%$  for association interviews,  $\pm 6.5\%$  for foundation interviews, and  $\pm 2.3\%$  for overall interviews, with a confidence level of 95%, assuming the worst-case scenario of maximum population variance.

Stratified multistage random sampling method was used in the sampling process. To achieve this, a sample was created that would ensure proportional representation from the main population based on the location of organizations' registration and the areas of work of associations. The regional distribution of the main population was based on the published distribution numbers of associations registered in DERBİS, which is the database of the Directorate General for Relations with Civil Society (DGRCS), and new foundations registered with DGoF based on the provinces.<sup>3</sup>

<sup>3</sup> The sample for the quantitative research was constituted in the last week of April 2022.

As the second stratification criterion, the associations were classified according to their primary areas of work, taking into account the distinction in DERBİS. As of April 2022, there are 122,098 records of associations as headquarters and branches in DERBİS. In the research, initially, the branches of associations, associations established by laws or officially under the auspices of the Presidency (such as Türk Kızılay, Green Crescent, etc.), and associations engaged in activities outside of the scope of the research, such as “providing religious services,” “activities for public institutions and their personnel,” “solidarity with Turks overseas,” and “associations for the families of martyrs and veterans” were excluded from the scope of the study. Furthermore, based on detailed areas of work, “Hometown Associations,” “Youth,” “Youth and Sports,” as well as “Sports Associations” aside from “Sports for the Disabled” were excluded from the sample. 58,388 associations were included in the study population. Although the DGRCS database grouped CSOs according to 17 areas area of work, in the scope of research it was decided to merge categories with small numbers, such as “thought-based associations,” “associations involved in food, agriculture, and livestock,” “international organizations and collaboration associations,” and “associations for the elderly and children.” Consequently, the distribution was ultimately based on 13 main areas of work. To ensure that analysis could be conducted even in the area of work with a small number of associations, a minimum of 30 interviews were planned for each area of work. The dataset was weighted taking into account the proportional distribution. By doing so, the aim was to obtain sufficient information both in terms of area of work specific to associations and in terms of country representation.

Among the 5,655 newly registered foundations, the foundations established by Social Aid and Solidarity Foundations, Public Institutions and Organizations, and Semi-Public Institutions (such as Chambers of Commerce, Unions, etc.) which target employees of public institutions or those performing public duties, are not included in the sampling. Due to the unavailability of data to categorize the foundations based on their main areas of work, the regional distribution of the 3,771 new foundations included in the study population has been taken into account.

The research was conducted using the Computer-Assisted Personal Interviewing (CAPI) method, which involved face-to-face interviews with the assistance of a tablet device. In order to accommodate participants who were unwilling to conduct face-to-face interviews and in-depth discussions in their offices due to the Covid-19 outbreak or summer holidays, online in-depth interviews and surveys were conducted. Participants who did not have the necessary online means were engaged through computer-assisted telephone surveys.

Some challenges were encountered in the field of quantitative research as well. The study population is extensive, and the CSOs comprising the population exhibit significant differences in profile characteristics such as size, capacity, financial viability, and activities. The majority of CSOs are organizations with poor institutional capacity, with no fixed premises and employees. A significant number of CSOs showed reluctance in participation due to factors such as a lack of full awareness regarding the importance of data generation and advocacy based on data in the civic space, hesitations in expressing opinions on freedom of association, and a lack of experience/knowledge regarding the questions in organizations who, despite being registered, are not actively functioning. Furthermore, inconsistencies were found in the classification of main area of work within DERBİS. It was observed that CSOs engaged in similar activities were grouped under different main areas of work. The data shared in DERBİS is based on the declarations made by CSOs to official institutions. Although it may not provide complete and reliable information about their areas of work, the existing classification has been used despite its shortcomings, as detailed and labor-intensive research required to determine the areas of work of all associations<sup>4</sup> and foundations in a more consistent manner.

The data collected during the quantitative phase of the study was analyzed and interpreted through various analytical methodologies. One of the most significant methodologies among these is descriptive analysis. In descriptive analysis, participants’ responses to each question were evaluated numerically and as percentages. Another method employed is cross-tabulation analysis. In this analysis method, the responses to the research questions were disaggregated at various levels and examined comparatively. For example, the responses from foundations and associations or those from organizations with different target audiences were handled comparatively, and statistically significant results were included in the Monitoring Matrix.

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<sup>4</sup> Within the scope of the Monitoring Freedom of Association Project, a mapping and reporting study on civil society statistics is planned by TÜSEV and STGM. The study will be implemented in 2023.



Quantitative data were finally analyzed using factor analysis. Factor analysis is one of the multivariate analysis techniques commonly used in various fields, particularly in social research. The primary objective of factor analysis is to reduce a large number of variables that are believed to be interrelated into a smaller set of meaningful and independent factors to facilitate the understanding and interpretation of the relationships among variables. By reducing the number of variables in this manner, the aim is to classify variables with similar characteristics and generate new concepts (variables) by leveraging the relationships between variables. During the analysis of the field research findings, six factors emerged as prominent. These factors are freedom of expression/association, financial viability, rights-based approach, capacity, participation, and perception of participation.

#### ***Freedom of Expression/Association Factor***

The factor of “freedom of expression/association” encompasses the habits of organizations in utilizing freedom of expression and association, the challenges they encounter in doing so, the direct or indirect pressure exerted by national public institutions or non-governmental actors on CSOs, and the extent to which CSOs demonstrate “resistance” to such pressures.

Within this framework, the factor analysis has revealed a distinction between the two groups. To facilitate readability, the first group has been named “Organizations facing challenges in freedom of association/expression,” while the second group has been labeled as “Organizations not facing challenges.” The primary purpose of these labels in factor analysis is to facilitate reading and comprehension, and it should be noted that the differentiation between groups is not always as clear-cut. This nomenclature should rather be interpreted as fundamental differences that emerge after smooth transitions within a color scale.

“Organizations facing challenges in freedom of association/expression” are more prone to facing pressure, undergoing increased scrutiny, and experiencing a greater sense of the public’s “presence” from various aspects. Nevertheless, it is observed that this group actively participates in and organizes social demonstrations to a greater extent. “Organizations not facing challenges” primarily consist of CSOs with limited interaction with the public sector and no identified issues in their relations with the public institutions.

**Factor Analysis/Method-Table 2: Freedom of Association/Expression of the Association/Foundation**

|  | Number       | Percentage   |
|--|--------------|--------------|
| Organizations facing challenges in freedom of association/expression | 133          | 13.3         |
| Organizations not facing challenges                                  | 870          | 86.7         |
| <b>Total</b>   | <b>1,003</b> | <b>100.0</b> |

#### ***Financial Viability Factor***

A factor analysis was also conducted to examine how organizations differ based on their financial viability, revealing the existence of three distinct groups based on their financial capacities. These groups were categorized as “very weak,” “weak,” and “relatively strong” in reference to their financial viability/sustainability/diversity.

The organizations characterized as “very weak” in terms of financial viability largely lack regular income and rely to a certain extent on the efforts of the management/members or individual giving to sustain themselves. These organizations have very limited income diversity. The organizations categorized as “weak” in terms of financial viability may collect membership fees in addition to relying on individual giving, which contributes to slightly better sustainability. However, these organizations still have limited income diversity. The organizations in the “relatively strong” group have a more diverse income base compared to others. A significant portion of these organizations receive corporate donations or grants from abroad. They occasionally engage in fundraising campaigns and may have economic enterprises as well.

**Factor Analysis/Method-Table 3 Financial viability of the Association/Foundation**

|                 | Number       | Percentage   |
|-----------------|--------------|--------------|
| Very weak       | 193          | 19.3         |
| Weak            | 520          | 51.8         |
| Relatively good | 290          | 28.9         |
| <b>Total</b>    | <b>1,003</b> | <b>100.0</b> |

***Rights-Based Approach Factor***

A series of questions were used to develop the “rights-based approach” factor, which measures whether an organization has a rights-based approach documented in its written documents. Three distinct groups emerged based on the factor analysis. These groups were categorized as “weak,” “moderate” or “strong” based on their levels of rights-based approach.

The group with a “weak” rights-based approach does not have any declarations in their written documents regarding the protection and promotion of fundamental rights and freedoms, therefore, they do not have any advocacy plans or reform demands in this regard. These organizations also lack any explicit value statements that condemn and demonstrate intolerance towards any form of discrimination. This group is the largest of the three groups.

The organizations categorized as having a “moderate level” of rights-based approach all include statements in their written documents regarding the protection and promotion of fundamental rights and freedoms. However, only a few of them have developed an advocacy plan in this regard, and none of them have any reform demands on this issue. The number of organizations that have a value statement against discrimination is higher compared to the “weak” group but lower compared to the “strong” group.

All organizations categorized as having a “strong” rights-based approach include statements in their written documents regarding the protection and promotion of fundamental rights and freedoms. Additionally, each of them has developed an advocacy plan in this regard, and the majority of them have reform demands as well. Again, the vast majority of these organizations also have a value statement against discrimination.

**Factor Analysis/Method-Table 4 Rights-Based Approach of the Association/Foundation**

|              | Number       | Percentage   |
|--------------|--------------|--------------|
| Weak         | 638          | 63.6         |
| Moderate     | 136          | 13.6         |
| Strong       | 229          | 22.9         |
| <b>Total</b> | <b>1,003</b> | <b>100.0</b> |

### Capacity Factor

In order to examine the organizational capacities of the organizations, a “capacity” factor was developed using various variables. This factor has indicated three distinct groups that exhibit relative coherence among themselves and differentiate from the other two groups. These organizations have been categorized as “low-capacity”, “moderate-capacity” and “high-capacity” based on their organizational capacities.

Organizations grouped as “low” capacity are those with the fewest employees and volunteers. They also have the lowest income. Only a few of these organizations are members of an umbrella organization within the country, and they are not members of unincorporated associations or international networks. Almost none of them have any economic enterprises as well. They do not receive grants from abroad. Only a few of them are involved in advisory, consultative, or working groups established by public authorities.

The “moderate-capacity” organizations have, compared to the “low-capacity” organizations, a slightly higher number of employees and volunteers, although the difference is still relatively small. Their revenues are low, but they are better off than “low-capacity” organizations. Although some are members of umbrella organizations and unincorporated associations within the country, they constitute a minority. None of them are members of international networks. Those that have economic enterprises are relatively fewer than “high-capacity” organizations. Almost none of them receive grants from abroad. They participate in advisory, consultation, or working groups established by public authorities to a slightly greater extent than the low-capacity group, but much less compared to the high-capacity group. They mostly participate in consultation processes or initiatives led by municipalities.

High-capacity organizations have a larger number of employees and volunteers. They also tend to engage more in outsourcing services for which they provide compensation. This is the group with the highest income. While not the majority, a significant portion of high-capacity organizations have membership in domestic umbrella organizations. Additionally, over half of them are members of unincorporated associations. Although not in the majority, some organizations within the high-capacity group are members of international networks. A significant number of high-capacity organizations have economic enterprises, and those in this group benefit more from grants from international sources compared to others. Just over half of these organizations participate in advisory, consultative, or working groups, and they attend meetings not only organized by municipalities but also by city councils.

### Factor Analysis/Table 5 Capacity of the Association/Foundation

|              | Number       | Percentage   |
|--------------|--------------|--------------|
| Low          | 462          | 46.1         |
| Moderate     | 420          | 41.9         |
| High         | 121          | 12.0         |
| <b>Total</b> | <b>1,003</b> | <b>100.0</b> |

**Participation Factor**

A “participation factor” was devised to discern the extent to which organizations engage in collaboration with the public sector and participate in decision-making processes, while also elucidating how they differentiate in this regard. The analysis revealed three distinct groups. These groups were categorized as “low,” “moderate” and “high” to indicate participation levels.

Organizations with a “low” level of participation have, for the most part, not received any in-kind or monetary assistance from local or national authorities, nor have they engaged in collaboration with public institutions. Furthermore, hardly any of them have participated in consultation meetings held during the legislative and policy development processes, nor have they conveyed their opinions in writing during these consultation processes. In parallel, none of the organizations in this group have been part of advisory, consultative, or working groups established by public authorities. There are also no organizations in this group that are party to collaboration protocols with ministries or municipalities. The groups categorized as having a “moderate” level of participation, as the name implies, fall relatively in the middle between the “low” and “high” groups in terms of participation. In this group as well, only a minority of organizations receive in-kind or monetary support from the public sector, making them closer to the “low” group in this regard. Although the number of organizations collaborating with public institutions is relatively small within this group, it is still of significance and should not be disregarded. While the majority of organizations in this group do not actively participate in meetings during legislative and policy development processes or express their views, the proportion of those who do should be taken into account. However, their representation within advisory, consultative, and working groups established by public authorities is significantly low. Similarly, a small portion of organizations in this group have made collaboration protocols with public institutions in the years 2020 or 2021.

Although not the majority, the organizations categorized as having a “high” level of participation are significantly ahead of the other two groups in terms of receiving in-kind and monetary support from public authorities. A substantial majority of organizations in this group have engaged in collaborations with public institutions such as ministries or municipalities. Furthermore, this group has shown a fifty percent participation rate in consultative meetings during legislative and policy development processes, and although to a slightly lesser extent, they have also conveyed their opinions in writing during these processes. The majority of organizations in this group directly participate in advisory, consultative, and working groups during these processes. The organizations in this group are considerably ahead of the other groups in terms of entering into collaboration protocols with public institutions, with a majority of them engaging in such partnerships.

**Factor Analysis/Method-Table 6 Participation Level of the Association/Foundation**

|              | Number       | Percentage   |
|--------------|--------------|--------------|
| Low          | 573          | 57.2         |
| Moderate     | 306          | 30.5         |
| High         | 123          | 12.3         |
| <b>Total</b> | <b>1,003</b> | <b>100.0</b> |

**Perception of Participation Factor**

In addition to examining the actual participation of organizations in decision-making processes, their perception of these processes was investigated. To understand which organizations are acting together and diverging, a participation perception factor was developed. Through factor analysis, three distinct groups were identified, each exhibiting cohesive internal dynamics and differentiation from the other groups. These groups have been categorized as “negative,” “neutral,” and “positive” in terms of their perception of participation. This factor was created based on the responses to questions in the survey that aimed to gather participants’ opinions on topics such as collaboration between CSOs and public sector, participation in decision-making mechanisms, and influencing public policies that affect civil society. As the perception of participation shifts from negative to positive, a decline in the institutional and financial capacities of CSOs is observed, as well as a decrease in their participation experiences in decision-making processes through public sector-CSO collaborations.

### Factor Analysis/Method-Table 7 Perception of Participation of the Association/Foundation

|              | Number       | Percentage   |
|--------------|--------------|--------------|
| Negative     | 113          | 11.3         |
| Neutral      | 468          | 46.6         |
| Positive     | 422          | 42.1         |
| <b>Total</b> | <b>1,003</b> | <b>100.0</b> |

The findings of the field research were analyzed with the factor variables derived from factor analysis. The report at hand includes the profiles of the segmented groups based on these factor variables, as well as their responses to other questions. Thus, in a population of CSOs with diverse characteristics, the aim was to measure their experiences and tendencies in a more consistent manner through qualitative methods.

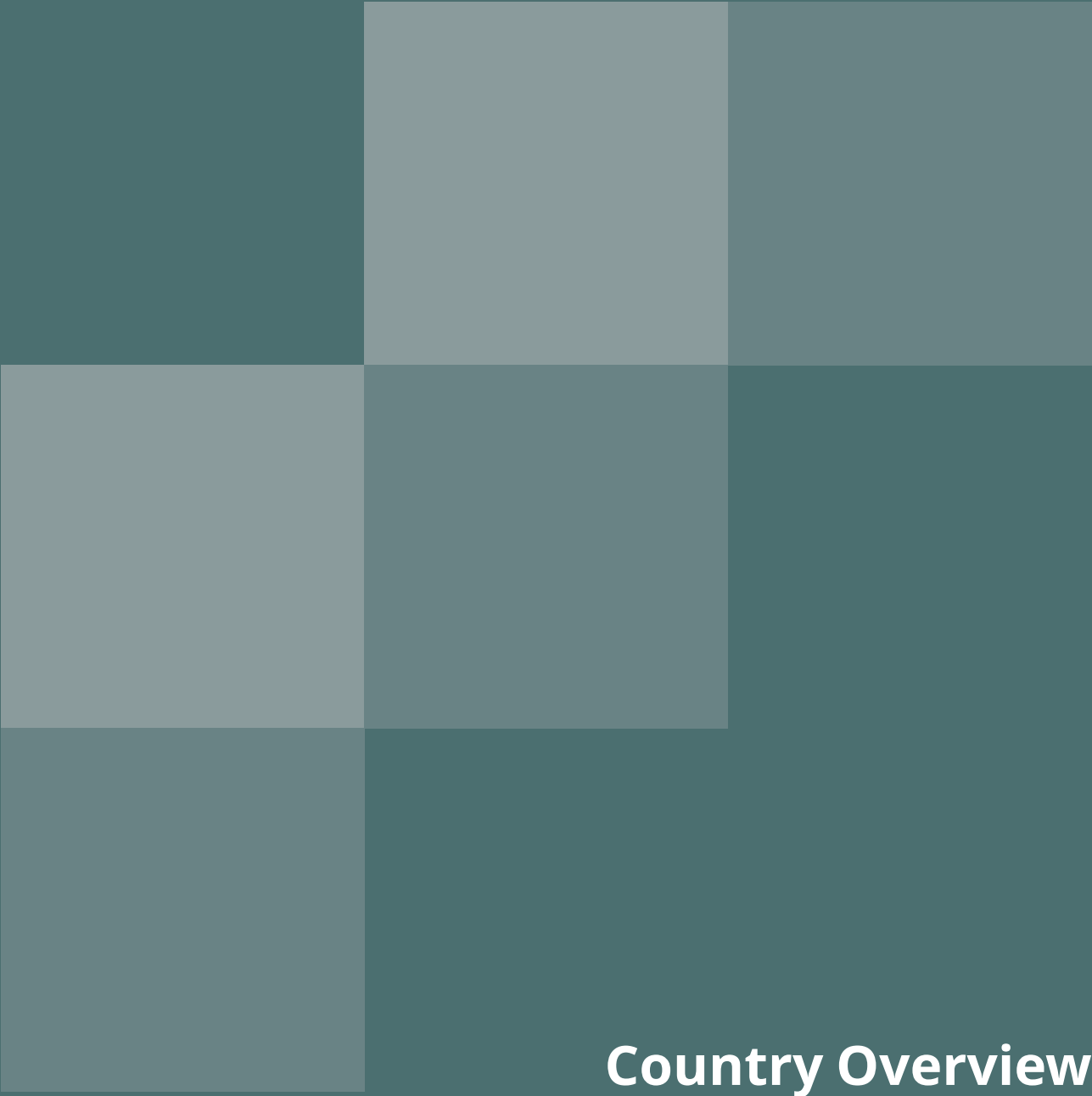
During the qualitative phase of the Field Research on Freedom of Association in Türkiye, 48 in-depth interviews and two focus group discussions were conducted between June 23<sup>rd</sup> and September 16<sup>th</sup>. Not every organization in the population of the qualitative method necessarily possesses experience in the areas of focus such as freedom of association, right to participation, and relationships with public institutions. Moreover, the sample may include participants who are not directly relevant to the research question. Undoubtedly, this situation may lead to challenges pertaining to the reliability and validity of the sample in addressing the research questions. This issue was overcome by leveraging the potential of qualitative research to create a sample that was suitable for the purpose of research. In the realm of qualitative research, participants with experience in areas such as freedom of association, the right to participation, and who have witnessed and experienced the transformations brought about in the last two years were selected using a purposive sampling technique.

In-depth interviews were conducted with rights-based CSOs, focusing on the general characteristics of these CSOs, their membership and volunteer structures, financial viability and sustainability, oversight mechanisms, advocacy efforts, freedom of expression, legal regulations and their impact on CSOs, relationships with other CSOs and public institutions, participation and monitoring, as well as the effectiveness, needs, and limitations of civil society in Türkiye. The interviews were conducted with representatives from six different cities (Istanbul, Ankara, Izmir, Adana, Diyarbakir, and Trabzon) and thirteen distinct areas of work (human rights and democracy, women's rights, children's rights, environment, law, advocacy, and policy, LGBTI+ rights, right to the city, press, youth rights, refugee rights, humanitarian aid, and elderly rights). Thus, the aim was to comprehend both regional differences and the situation, limitations, and expectations in different areas of activity concerning freedoms of association and expression. Additionally, specific conditions were investigated in interviews conducted with non-officially registered networks/platforms and umbrella organizations in the media sector.

The findings that emerged from the in-depth interviews and focus group meetings were further examined in greater detail under two separate headings. The first focus group session delved into the financial sustainability of organizations engaged in rights-based work, their use of funds, related problems, and potential solutions. In the second session, the impact of restrictions on freedom of association on the advocacy activities of CSOs was discussed, along with exploring strategies for CSOs to overcome these limitations.

During the reporting stage, the solutions were processed using the descriptive analysis method. For this purpose, they were initially subjected to thematic classification. Thematic classification was conducted by referring to the interview guide, which served as the basis for identifying parent and sub-categories. Subsequently, the content of each solution was divided into relevant categories. Within these categories, further grouping was performed. At the end of the thematic classification, the findings for each category were presented and interpreted, accompanied by relevant discussions. When necessary, comparisons were made between different categories.





# Country Overview

The ability of civil society to sustain its activities in an enabling environment, characterized by freedom and independence, is heavily influenced by the political and overall situation of the country in which it operates. Additionally, significant events and transformations occurring within the country, such as natural disasters, pandemics, elections, polarization, and EU negotiations, also play a crucial role in shaping the conditions under which civil society operates. Therefore, a brief overview of the impact of developments in Türkiye on civil society before sharing the research findings will provide a meaningful context for the data to be shared. In Türkiye, during the years 2020-2021, the most significant factors determining the conditions under which civil society operates were the Covid-19 pandemic, increased economic vulnerability, legislative changes including the adoption of Law No. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction, and political developments that led to the narrowing of the civic space.

As in many other parts of the world, Türkiye also witnessed the implementation of lockdowns and restrictive measures during the years 2020-2021 in response to the Covid-19 pandemic. These measures unavoidably caused disruptions in the social and economic order of the country. The pandemic restrictions were gradually lifted during the summer of 2021, bringing an end to the lockdowns that had brought social and economic life to a standstill. In response to the adverse effects of the Covid-19 pandemic on the social and economic order, economic stimulus packages were introduced to help commercial enterprises maintain their human resource capacities, such as the short-time work allowance. However, most CSOs were unable to benefit from these supports due to their classification in specific area of work, thereby being excluded from such incentives. The 2021 Presidential Annual Program also emphasizes the challenges faced by CSOs in accessing resources, employment capacity, project development, grant utilization, and fundraising, alongside the Covid-19 pandemic. The 11<sup>th</sup> Development Plan, covering the years 2019-2023, puts forward regulations to be implemented in the financial domain that are relevant to CSOs. However, due to the lack of concrete measures defined in these policy documents, necessary steps have not been taken for the allocation of public funds to CSOs. As a result, CSOs have encountered significant economic challenges, and many organizations have been forced to restrict their activities due to the decrease in volunteer engagement.

According to the Impact of Covid-19 Outbreak on Civil Society Organizations Operating in Turkey Survey - II conducted by TÜSEV in August 2020, 78% of the participating organizations stated that the pandemic had affected their events such as seminars, conferences, and demonstrations, while 60% reported an impact on their training activities. Additionally, 39% of the participants indicated that their resource development activities were affected, 38% reported the suspension of fieldwork and closure of service centers, and 16% mentioned the impact on advocacy activities. The percentage of CSOs that reported a complete cessation of all activities was 16%.<sup>5</sup> The Outlook of Freedom of Association in Turkey - II report, prepared by STGM, reveals that CSOs working in certain fields of activity or with certain groups have been more severely affected by the pandemic. Organizations working with the Roma, LGBTI+, Syrian refugees, poverty-stricken individuals, people with disabilities, women, and children, expressed that the intersecting problems of discrimination, gender-based violence, and poverty have deepened for these groups. While the needs for these organizations' work have increased, the working conditions have become more challenging.<sup>6</sup>

On the other hand, in response to the adverse effects of the pandemic, CSOs placed a strong emphasis on utilizing digital tools to continue their activities. They developed new methods to reach their beneficiaries and volunteers, find resources, and established collaborations with new stakeholders. An increase in donations and assistance has been observed towards a significant number of CSOs striving to continue their activities, particularly in mitigating the effects of the pandemic. According to the Individual Giving and Philanthropy in Turkey 2021 Report, the average annual donation and contribution per person to individuals or organizations in 2021 was estimated to be approximately 983 TL. The report highlights a significant increase in the amount of donations and contributions, even when adjusted for inflation, compared to the year 2019. It emphasizes that this increase was influenced by major disasters such as the pandemic, earthquakes, floods, and forest fires that occurred in Türkiye.<sup>7</sup>

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5 Third Sector Foundation of Turkey (TÜSEV). *The Impact of Covid-19 Outbreak on Civil Society Organizations Operating in Turkey Survey - II Report*, September 2020

6 Association of Civil Society Development Center (STGM). *Outlook of Freedom of Association in Turkey - II*.

7 Third Sector Foundation of Turkey (TÜSEV). *Individual Giving and Philanthropy in Turkey 2021*.



The measures taken to prevent the Covid-19 pandemic also imposed limitations on the exercise of rights and freedoms. The prohibition of indoor meetings and similar events for approximately one and a half years led to the postponement of not only workshops, conferences, and training activities of CSOs, but also their administratively necessary gatherings such as general assemblies. During this period, a significant decrease has been observed in the number of meetings and demonstrations organized or attended by CSOs. Since the onset of the Covid-19 pandemic, the most commonly encountered justification for the prohibition of meetings and demonstrations, or the dispersal of an ongoing gathering or protest, was the pandemic itself.

In the years 2020-2021, obstacles stemming from legislation and practices persisted in the civil sector. In the first decade of the 2000s, there were improvements in civil society legislation, leading to a reduction in issues stemming from the legal framework and a relative ease in administrative matters. However, since then, there has been a lack of comprehensive reform in the civic space. In addition to the Law on Associations and Foundations, there are numerous deterrent and restrictive provisions within various laws such as the Turkish Civil Code, Penal Code, Law on Collection of Aid, and tax regulations, which pose obstacles to the activities of CSOs. In 2020-2021, despite the recommendations and suggestions of civil society, various regulations limiting civic space have been enacted. In 2020, a requirement was introduced for associations to report their members. Subsequently, significant changes were made to the primary legislation affecting civil society, including the Law on Associations and the Law on Collection of Aid, through the Law No. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction. Significant consultations with CSOs were not conducted during the drafting of these amendments, and the regulations were promptly enacted without due consideration of the criticisms and objections raised by the CSOs. The recommendations of the Financial Action Task Force (FATF) to prevent the misuse of not-for-profit organizations for the financing of terrorism were utilized by the government in Türkiye, as well as in many other countries, to increase public scrutiny over CSOs. As a consequence of these developments, the barriers to the functioning, growth, and empowerment of civil society intensified, simultaneously fostering a deepening sense of distrust between the public and civil society, thus impeding the creation of an enabling environment. The regulations and practices that arise as a result of a security-oriented approach towards civil society create restrictive and deterrent effects in terms of the exercise of freedom of association.

Although a Human Rights Action Plan, announced by the government in March 2021, outlined reforms in various areas, including the rights to freedom and security, fair trial, and freedom of expression, there has been a continued regression observed in the field of fundamental rights and freedoms in recent years. Freedom of the press and media pluralism are being restricted through administrative, political, and judicial means. Numerous incidents have been encountered where alternative media organizations and journalists, as well as human rights organizations, professional associations, and their representatives, have been targeted by political authorities and the media. As a result of the broad and restrictive interpretation of penal laws pertaining to national security, public order, and counterterrorism, a significant number of cases have been filed against individuals from various sectors of society, including media and civil society organizations, human rights defenders, students, artists, lawyers, and writers. Some of these cases have resulted in convictions.<sup>8</sup> According to the reports of the European Court of Human Rights (ECtHR), Türkiye ranked as the second most complained-about country in the ECtHR after Russia during the years 2020-2021. Among the 78 cases decided in 2021, 31 violations of freedom of expression, 29 violations of liberty and security, and 22 violations of the right to a fair trial were identified. The failure to implement certain ECtHR judgments has also damaged Türkiye's stance as a part of the international system based on human rights and has sparked debates.<sup>9</sup> In this context, another development that sparked controversy is Türkiye's withdrawal from the Istanbul Convention, also known as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, through a presidential decree. The Istanbul Convention imposes comprehensive obligations on member states to protect women and LGBTI+ individuals against all forms of violence, and prevent, prosecute, and eliminate violence.

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<sup>8</sup> Hafıza Merkezi. *Keep the Volume Up: For Rights Defenders in Turkey, 2015-2021*.

<sup>9</sup> European Court of Human Rights. *Selahattin Demirtaş v. Türkiye*, 14305/17, 22.12.2020; *Kavala v. Türkiye*, 28749/18, 10.12.2019.

The monitoring reports of both international organizations and civil society organizations in Türkiye indicate a concerning contraction of the civic space within the country. In the 2022 Bertelsmann Transformation Index (BTI), Türkiye ranks 63<sup>rd</sup> out of 137 countries, highlighting the decisive role of issues related to the rule of law, institutional reliability, freedom of expression, and the exercise of other fundamental rights in Türkiye's transformation. Security-oriented policies aimed at restricting freedom of expression, as well as the right to assembly and peaceful protest, manifested through legislative changes and practices, impeding civil society activities.<sup>10</sup> The Türkiye 2022 Report by the European Commission underlines an ongoing and significant regression in matters concerning civil society. According to the findings of the report, "Civil society faced continuous pressure and their space to operate freely continued to reduce, limiting their freedom of expression, association and assembly. (...) The implementation of the law on preventing financing of proliferation of weapons of mass destruction added further restrictions and pressure on civil society organisations, including with regard to restrictions on the activities of human rights defenders and civil society."<sup>11</sup> According to the CIVICUS Monitor, Türkiye is ranked among countries where civil society faces repression, highlighting serious obstacles to the exercise of freedom of expression, assembly, and association stemming from political authorities.<sup>12</sup>

During this period, one of the significant developments shaping the political and social agenda was Türkiye's transformation into a transit and host country for migration over the past decade, positioning itself among the countries with the highest population of migrants, refugees, and asylum seekers worldwide. Unlike previous years when migration management, issues related to humanitarian aid, access to fundamental rights, and the integration of migrants were discussed, there has been a noticeable shift, especially since the 2019 local elections. Discriminatory rhetoric towards migrant groups has become increasingly prevalent in politics, everyday social life, and the media. This situation has directly impacted the government's migration management, leading to restrictions on the residence and movement of migrants within the country. This has been followed by the closure of camps and campaigns for deportations and returns.<sup>13</sup> The discrediting campaigns that fuel anti-immigrant sentiment have led to an increasingly discriminatory approach towards the issue of migration in politics. This, in turn, has resulted in attacks on neighborhoods where migrants reside. Additionally, the perception of migration management has shifted from being solely an international relations matter to being seen as a security issue.

The lack of a public strategy that supports the participation of CSOs in democratic decision-making processes and the development of public policies and services remains one of the key obstacles to creating an enabling environment for CSOs. The established participation mechanisms also fail to adequately represent the pluralistic structure of the civil society in Türkiye and fulfill their mission of incorporating the diverse demands and needs for the development of the civic space into public policies. The Türkiye 2022 Report by the European Commission highlights the observation that independent civil society organizations are often excluded from consultations that should be part of policy-making processes and monitoring activities.

In terms of creating an enabling environment for the development of civil society, it is not only the absence of legal and financial reforms but also the lack of a favorable sociocultural context that needs to be addressed. While a tendency to donate is observed in Türkiye, donations to organizations are relatively limited in scope. According to the World Giving Index 2021 Report<sup>14</sup>, Türkiye ranked 48<sup>th</sup> out of 114 countries in terms of helping a stranger with a rate of 59%, 75<sup>th</sup> in donations to civil society organizations with a rate of 25%, and 99<sup>th</sup> in volunteering time with a rate of 10%. According to the Individual Giving and Philanthropy in Turkey 2021 Report<sup>15</sup>, while the majority of citizens still have a tendency to directly deliver their donations and aid to those in need rather than going through an intermediary organization, there has been an increase in the percentage of individuals who prefer making their donations through an organization compared to previous years. As observed in the 2015 and 2019 reports, there has been a continued

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10 Bertelsmann Stiftung. *BTI 2022 Country Report — Turkey*.

11 European Commission. *Türkiye 2022 Report*.

12 CIVICUS. *CIVICUS Monitor: Tracking Civic Space - TÜRKİYE [interactive map]*.

13 The Association for Migration Research *Civil Society in the 10<sup>th</sup> Year of Syrian Migration: Actors, Processes, and Insights*.

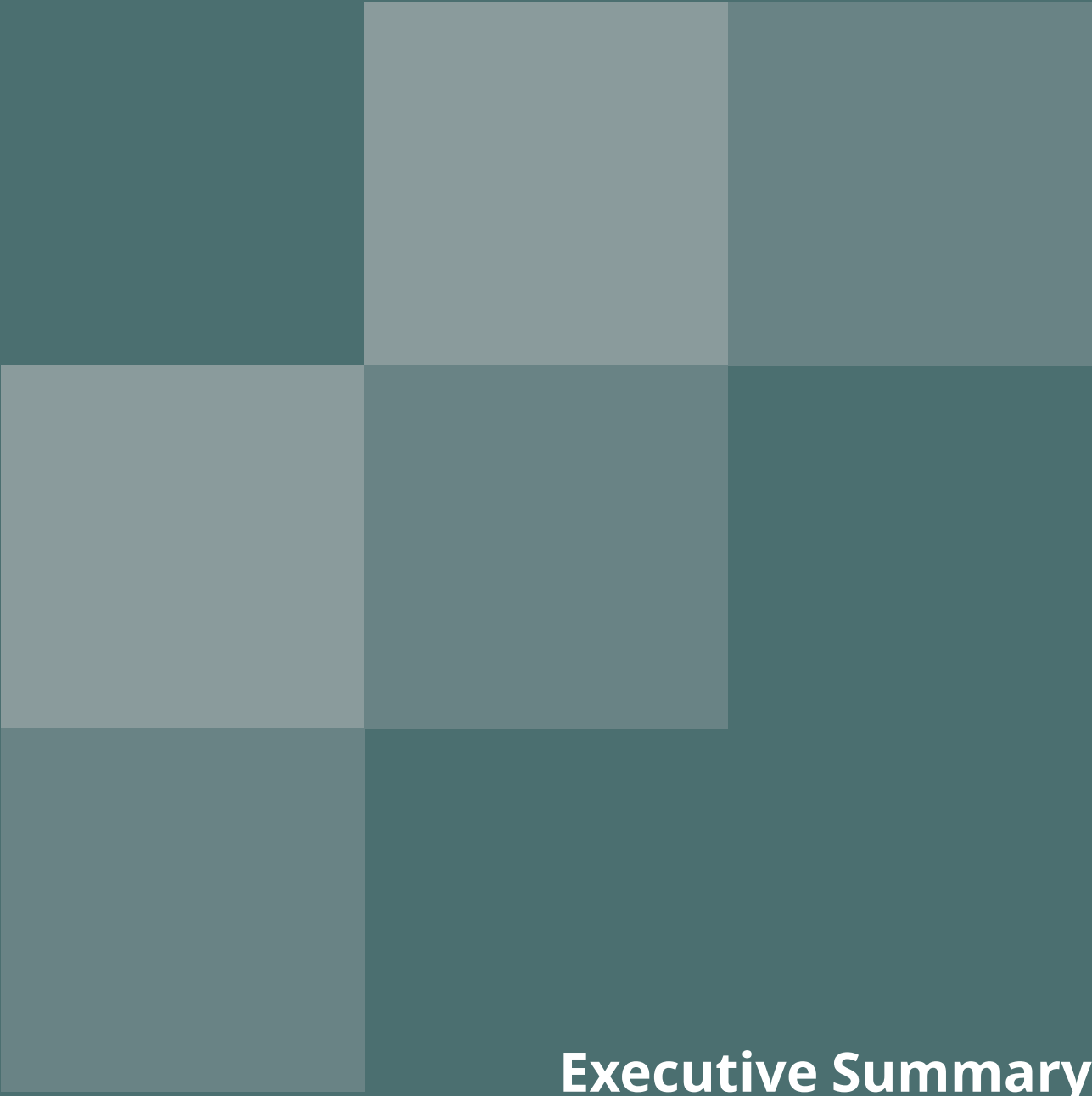
14 Charities Aid Foundation. *World Giving Index 2021*.

15 Third Sector Foundation of Turkey (TÜSEV). *Individual Giving and Philanthropy in Turkey 2021*.

increase in the percentage of individuals who prefer civil society organizations as intermediaries for their donations, while the proportion of those who choose a public institution to facilitate their donations has decreased. Furthermore, it has been observed that one of the most common reasons for donations to be made directly rather than through organizations is the irregularity of giving, often occurring on an ad-hoc basis when encountering someone in need. In addition, it has been revealed that the perceived transparency and reliability of CSOs also play a significant role in individuals' preferences for donating to and engaging in volunteer activities with these organizations. Among the criteria that define transparency and reliability for individuals, it is essential for CSOs to provide information about the use of donations and activities, as well as establish regular communication channels with donors and volunteers. In this regard, although the lack of sufficient recognition of CSOs, similar to previous years, is among the reasons for the reputation and trust issues individuals have towards CSOs, it is important to carefully monitor whether the consistent increase in the proportion of those who express distrust despite being familiar with CSOs signifies a change in society's attitude towards civil society.

In conclusion, the pandemic in 2020-2021, along with economic challenges, a restrictive and punitive approach towards human rights defenders, and legislative amendments that curtail civil society activities by emphasizing greater scrutiny, continue to endure as noteworthy factors that warrant careful consideration when monitoring the civic space. However, CSOs, through their monitoring and advocacy efforts in this field, make significant observations regarding the root causes of these problems and provide recommendations for their resolution. Clearly identifying the current situation and developing recommendations is the initial step towards actively participating in finding solutions. Establishing a transparent and participatory dialogue between the public and civil society can create an enabling environment for the civic space by facilitating collaborative problem-solving and generating joint solutions in the face of challenges.





# Executive Summary

# Civil Society Overview

|   | 2020  | 2021   |
|---|---|--|
| <b>Number of registered organizations (per type) (+ how many have registered in 2020 ad 2021)</b> | <p>121,501 associations (21.11.2021)<sup>16</sup></p> <p>The exact number of newly established associations is unknown.</p> <p>5,423 foundations</p> <p>123 new foundations were established.</p>   | <p>121,987 associations (30.11.2021)<sup>17</sup></p> <p>The exact number of newly established associations is unknown.</p> <p>5,586 foundations</p> <p>205 new foundations were established.</p>  |
| <b>Main civil society laws</b>  | <p>The relevant articles of the Constitution (No 2789, 18/10/1982)</p> <p>The relevant articles of the Turkish Civil Code (No 4721, 22/11/2001)</p> <p>Law on Associations (No 5253, 04/11/2004)</p> <p>Law on Foundations (No 5737, 20/02/2008),</p> <p>Law on Collection of Aid (No 2860, 23/06/1983)</p> <p>Law on Meetings and Demonstrations (No 2911, 06/10/1983)</p> <p>Penal Code (No 5237, 26/09/2004)</p> <p>Misdemeanors Law (No 5326, 30/03/2005)</p> <p>Law on the Right to Information (No 4982, 09/10/2003)</p> <p>Law on Amendment to Certain Laws and Granting Tax Exemption to Foundations (No 4962, 30/07/2003)</p> <p>Turkish Commercial Code (No 6102, 13/01/2011)</p> <p>Income Tax Law (No 193, 31/12/1960)</p> <p>Corporate Tax Law (No 5520, 13/06/2006)</p> <p>Tax Procedure Law (No 213, 04/01/1961)</p> <p>Property Tax Law (No 1319, 29/07/1970)</p> <p>Stamp Duty Law (No 488, 01/07/1964)</p> <p>Value Added Tax Law (No 3065, 25/10/1984)</p> <p>Law on Exemption of Certain Associations and Institutions from Certain Taxes, All Fees, and Duties (No 1606, 11/07/1972)</p> <p>Law on the Relations of Associations and Foundations with Public Institutions and Authorities (No 5072, 22/01/2004)</p> <p>Law on the Establishment, Working Principles, and Methods of the Economic and Social Council (No 4641, 11/04/2001)</p> <p>Law on Establishment of International Organizations (No 3335, 26/03/1987)</p> <p>Public Financial Management and Control Law (No 5018, 10/12/2003)</p> <p>Anti-Terror Law (No 3713, 12/04/1991)</p> <p>Personal Data Protection Law (No 6698, 24/03/2016)</p> <p>Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction (No 7262, 27/12/2020)</p> | <p>The relevant articles of the Constitution (No 2789, 18/10/1982)</p> <p>The relevant articles of the Turkish Civil Code (No 4721, 22/11/2001)</p> <p>Law on Associations (No 5253, 04/11/2004)</p> <p>Law on Foundations (No 5737, 20/02/2008)</p> <p>Law on Collection of Aid (No 2860, 23/06/1983)</p> <p>Law on Meetings and Demonstrations (No 2911, 06/10/1983)</p> <p>Penal Code (No 5237, 26/09/2004)</p> <p>Misdemeanors Law (No 5326, 30/03/2005)</p> <p>Law on the Right to Information (No 4982, 09/10/2003)</p> <p>Law on Amendment to Certain Laws and Granting Tax Exemption to Foundations (No 4962, 30/07/2003)</p> <p>Turkish Commercial Code (No 6102, 13/01/2011)</p> <p>Income Tax Law (No 193, 31/12/1960)</p> <p>Corporate Tax Law (No 5520, 13/06/2006)</p> <p>Tax Procedure Law (No 213, 04/01/1961)</p> <p>Property Tax Law (No 1319, 29/07/1970)</p> <p>Stamp Duty Law (No 488, 01/07/1964)</p> <p>Value Added Tax Law (No 3065, 25/10/1984)</p> <p>Law on Exemption of Certain Associations and Institutions from Certain Taxes, All Fees, and Duties (No 1606, 11/07/1972)</p> <p>Law on the Relations of Associations and Foundations with Public Institutions and Authorities (No 5072, 22/01/2004)</p> <p>Law on the Establishment, Working Principles, and Methods of the Economic and Social Council (No 4641, 11/04/2001)</p> <p>Law on Establishment of International Organizations (No 3335, 26/03/1987)</p> <p>Public Financial Management and Control Law (No 5018, 10/12/2003)</p> <p>Anti-Terror Law (No 3713, 12/04/1991)</p> <p>Personal Data Protection Law (No 6698, 24/03/2016)</p> <p>Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction (No 7262, 27/12/2020)</p> |

<sup>16</sup> Ministry of Interior. *2021 Budget Presentation*, p. 332.

<sup>17</sup> Ministry of Interior. *2022 Budget Presentation*, p. 366.

|  | 2020  | 2021   |
|--|---|--|
| <b>Relevant changes in legal framework</b> | <p>The amendment to Article 23 of the Law on Associations, made by Law No. 7226 on Amending Certain Laws, entered into force on March 26, 2020. The name, surname, date of birth and TR ID number of those who have been accepted as members of the association and those whose membership has expired have been made compulsory to be notified to the relevant public institution within forty-five days from the date of acceptance and termination.</p> <p>On April 1, 2020, the Ministry of Culture and Tourism made improvements to the monitoring and evaluation procedures for the use of financial support provided in exchange for projects through amendments to the Regulation on Aid to Projects of Local Administrations, Associations, and Foundations.</p> <p>Regulations regarding the documents related to the establishment notification of associations were made with the amendment to the Regulation on Associations on July 9, 2020.</p> <p>Regulations regarding educational assistance and the termination of assistance were made with the amendment to the Regulation on Foundations on September 12, 2020.</p> <p>Comprehensive changes were made in six different laws, including the Law on Associations and the Law on Collection of Aid, with the Law No. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction, which was adopted on December 27, 2020. Fundraising activities conducted on the internet have been included within the scope of the Law on Collection of Aid. The amount of fines for violations of the Law on Collection of Aid and the Law on Associations has been increased. Prior notification is now mandatory for overseas donations made by associations. The authority to request information and documents of those assigned to control aid collection activities has been enhanced. The scope of audits targeting associations has also been expanded, and audits are now required to be conducted annually, not exceeding three years, based on risk assessments. Associations and foundations operating in Türkiye with headquarters abroad, as well as not-for-profit organizations, have been subjected to the provisions of the Law on Associations and the Turkish Civil Code. Under the Law on the Prevention of the Financing of Terrorism, individuals convicted of crimes covered by the law, as well as drug trafficking and money laundering offenses, are prohibited from holding positions in the organs of associations other than the general assembly, even if they were granted pardon. In cases where prosecution is initiated against individuals serving in the organs other than the general assembly of an association and the employees of the association for the offenses listed above, a temporary measure is granted to the Minister of Interior to suspend them from duty as a precautionary measure. Furthermore, the Minister of Interior has been granted the authority to temporarily suspend the activities of an association and to apply to the competent civil court for approval of this decision and closure of the respective association.</p> | <p>On January 27, 2021, a notification was issued by the Directorate General of Foundations, stipulating the obligation for new, annexed, community and artisans' foundations to submit annual statements, branch opening/closing statements, internal audit reports, and notifications regarding receiving/providing foreign assistance and acquiring/disposing of immovable properties, as well as establishment/dissolution of commercial enterprises, per the Law No. 5737 on Foundations and the Regulation on Foundations.</p> <p>A comprehensive amendment was made to the Regulation on Associations on October 21, 2021. Details have been regulated regarding holding general assemblies on electronic platforms, conducting foreign aid transactions through banking systems, and reporting them to relevant public institutions, as well as the format of reporting to be used. Details were determined regarding the conduct of association audits by DGRCS based on risk analysis, as mandated by Law No. 7262, which was enacted at the end of 2020. Accordingly, the risk analysis conducted by DGRCS is made essential for association audits, and it is stated that the risk analysis and evaluation criteria will be reviewed annually. Associations are expected to be categorized as low, medium, and high-risk based on the assessment of the risks of their assets that are proceeds of crime being used for money laundering and financing terrorism. Associations in the medium and high-risk categories are subject to audits as deemed necessary based on annual evaluations, while associations in the low-risk category are audited based on requests from judicial and administrative authorities, other complaints, or administrative obligations. These changes have made the legal framework governing audits more restrictive and ambiguous for CSOs.</p> <p>On November 10, 2021, amendments were made to the Regulation on Principles and Procedures for Collection of Aid. Concepts such as donation, assistance, and aid collection activities were redefined, and changes were made to the documents that individuals and legal entities must submit in their permit applications. Fundraising activities on the internet were included within the scope of the Regulation, and a permission procedure was defined.</p> |

|   | 2020   | 2021   |
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| <b>State funding (key bodies and amounts)</b>                                 | <p>Financial or in-kind aid can be provided to CSOs from the public budget. However, there is no specific budget item allocated solely to the civil society sector in the budgets of the central government and local administrations. It is not possible to accurately ascertain the exact amount of the public resources planned to be transferred to CSOs in the Central Government Budget Law Proposals annually and actually transferred to CSOs at the end of the year. Nevertheless, the budget classification items, including current transfers and capital transfers made to non-profit organizations, within the sub-categories of associations, unions, institutions, foundations, funds, and similar organizations, also encompass the resources allocated to civil society. While these transfers provide some guidance, they do not provide a definitive conclusion. The total amount of transfers made under this budget category in 2020 is 1,097,514,000 TL.</p> <p>The only program established for the development of civil society and support for CSOs is implemented by the Directorate General for Relations with Civil Society under the Ministry of Interior. A total of 30,000,000 TL was allocated to 341 association projects in 2020 under the Project Support System (PRODES).</p>                  | <p>Financial or in-kind aid can be provided to CSOs from the public budget. However, there is no specific budget item allocated solely to the civil society sector in the budgets of the central government and local administrations. It is not possible to accurately ascertain the exact amount of the public resources planned to be transferred to CSOs in the Central Government Budget Law Proposals annually and actually transferred to CSOs at the end of the year. Nevertheless, the budget classification items, including current transfers and capital transfers made to non-profit organizations, within the sub-categories of associations, unions, institutions, foundations, funds, and similar organizations, also encompass the resources allocated to civil society. While these transfers provide some guidance, they do not provide a definitive conclusion. The total amount of transfers made under this budget category in 2020 is 866,037,000 TL.</p> <p>The only program established for the development of civil society and support for CSOs is implemented by the Directorate General for Relations with Civil Society under the Ministry of Interior. A total of 42,000,000 TL was allocated to 328 association projects in 2021 under the Project Support System (PRODES).</p>                    |
| <b>Human resources (employees and volunteers)</b>                             | <p>41,567 association employees<br/>17,278 foundation employees<br/>36,303 association volunteers<br/>The number of foundation volunteers is unknown.</p>  | <p>42,784 association employees<br/>The number of foundation employees is unknown.<br/>33,981 association volunteers<br/>1,345,559 foundation volunteers (DGoF data dated 13.08.2021)</p>  |
| <b>CSO-Public Cooperation (relevant and new body: consultation mechanism)</b> | <p>There is no agency or cooperation department at the national level that engages in dialogue with stakeholders and addresses the issues and advancements of civil society, while possessing adequate resources. However, some ministries have units at the level of general directorate or department for relations with civil society.</p> <p>The Directorate General for Relations with Civil Society (DGRCS) was established within the Ministry of Interior on July 10, 2018, through Presidential Decree No 1. According to the regulation issued regarding its organizational structure and responsibilities, it has been tasked with determining and enhancing strategies related to civil society relations, ensuring, and strengthening coordination and collaboration between the public and civil society organizations.</p> <p>The administrative, regulatory, and supervisory activities of the Directorate General for Relations with Civil Society primarily focus on associations, with certain exceptions. The responsible public institution for foundations is the Directorate General of Foundations (DGoF).</p> <p>Apart from these two public institutions, there may be units responsible for civil society relations under ministries, but there is no standard approach or practice in this regard.</p> | <p>There is no agency or cooperation department at the national level that engages in dialogue with stakeholders and addresses the issues and advancements of civil society, while possessing adequate resources. However, some ministries have units at the level of general directorate or department for relations with civil society.</p> <p>The Directorate General for Relations with Civil Society (DGRCS) was established within the Ministry of Interior on July 10, 2018, through Presidential Decree No 1. According to the regulation issued regarding its organizational structure and responsibilities, it has been tasked with determining and enhancing strategies related to civil society relations, ensuring, and strengthening coordination and collaboration between the public and civil society organizations.</p> <p>The administrative, regulatory, and supervisory activities of the Directorate General for Relations with Civil Society primarily focus on associations, with certain exceptions. The responsible public institution for foundations is the Directorate General of Foundations (DGoF).</p> <p>Apart from these two public institutions, there may be units responsible for civil society relations under ministries, but there is no standard approach or practice in this regard.</p> |
| <b>Other key challenges</b>   | <p>In the field of civil society, data and statistics are often incomplete, inadequate, or not readily available to CSOs. The data published on the websites of the Directorate General for Relations with Civil Society and the Directorate General of Foundations regarding associations and foundations are often not standardized, comparable, or user-friendly. As a result, it can be challenging to measure the economic and social contributions and impact of CSOs based on these data. As of now, a civil society database in line with the United Nations International Classification of Nonprofit Organizations (ICNPO) has not been established.</p>   | <p>In the field of civil society, data and statistics are often incomplete, inadequate, or not readily available to CSOs. The data published on the websites of the Directorate General for Relations with Civil Society and the Directorate General of Foundations regarding associations and foundations are often not standardized, comparable, or user-friendly. As a result, it can be challenging to measure the economic and social contributions and impact of CSOs based on these data. As of now, a civil society database in line with the United Nations International Classification of Nonprofit Organizations (ICNPO) has not been established.</p>   |



# Key findings

## Key findings of the report

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| 1 | There are obstacles arising from legislation and practice that prevent exercising freely the freedom of association. Not all CSOs are affected in the same way; rights-based organizations, associations and foundations working with specific groups or in specific regions face more severe and frequent obstacles. According to the findings of the quantitative research, although the ratio of CSOs stating that they face obstacles is not very high, the factor analysis shows that a significant portion of these CSOs are organizations with a “strong rights-based approach” and “facing challenges in freedom of association/ expression”, and the results of the qualitative research also support this finding.  |
| 2 | While the right to establish associations/foundations, which is the basis of freedom of association, should be easily and without burden exercised by everyone, according to the findings of the quantitative research, a significant portion of CSOs established after 2016 stated that they faced various problems during the establishment. 20.8% of CSOs state that impartial and non-political criteria were not followed during the registration process. 16.8% experience difficulties due to legal regulations, and 11.5% mentioned that additional documents were requested beyond what is stipulated by the law.  |
| 3 | There is no general definition of civil society and civil society organisations in the legislation. Establishing not-for-profit company or any CSO in forms other than associations and foundations is not possible.  |
| 4 | The institutional capacity, financial viability and human resources of the majority of CSOs in Türkiye are quite limited. This situation leads CSOs to carry out their basic activities, and the work of the umbrella organisation cannot find enough space on the agenda of CSOs. Another restrictive factor is the fact that the number of members required to establish federations and confederations is high and that organisations working for the same purpose must come together. Although CSOs develop various solidarity relationships around different networks, when necessary, these structures are often not permanent. In the quantitative research, 79.4% of the participating CSOs stated that they are not members of any network, while 17.9% mentioned that they are members of only one organization.  |
| 5 | Foreign CSOs face significant bureaucratic obstacles when applying for permission to open representative offices or branches in Türkiye due to the lack of clear definitions of procedures and criteria for the registration process. While 143 foreign CSOs had permission to operate in Türkiye in 2020, according to the list published by DGRCS, as of October 2021, this number has decreased to 132.  |
| 6 | The Covid-19 pandemic prevented many administrative procedures, including the establishment of CSOs, from being completed within the planned or required timeframe. During a period of one and a half years, the Ministry of Interior has issued circulars to postpone or restrict broad-based activities of CSOs, including administrative meetings such as general assemblies. As the necessary infrastructure is not in place for administrative obligations such as general assembly meetings to take place through electronic means, such activities of CSOs have been hampered.   |
| 7 | The legal framework on audits of CSOs is restrictive, bureaucratic and ambiguous. It focuses on restrictions instead of freedoms, and punishments and sanctions do not comply with the principle of proportionality.  |
| 8 | According to quantitative research findings, 15% of audited organizations believe that these audits are conducted for purposes other than determining the compliance of the organization's activities, records, and transactions with legal regulations. The percentage of those who perceive the audits conducted as excessive and disproportionate is also 15%. 12% of the organizations believe that the audits were conducted with the intention of obstructing and exhausting the organization. The rate of organizations where members or administrators resigned as a result of audits is 8%. Although a relatively limited number of organizations indicated that they were negatively affected by audits, it should be noted that the research was conducted with a representative sample of Türkiye, and most of the organizations interviewed were not active and therefore did not undergo detailed audits. For example, as their financial situation improves or their capacity increases, the percentage of organizations finding their audits excessive and disproportionate also increases. On the other hand, organizations facing challenges in freedom of association/expression are subject to more frequent audits. While 79% of these organizations were audited during the years 2020-2021, only 28% of the organizations that faced no challenges were audited. Similarly, organizations facing challenges with freedom of association/ expression, organizations with a strong rights-based approach, and organizations with high-capacity face more frequent and detailed audits, often considering them as excessive and disproportionate. |

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| 9  | During in-depth interviews conducted as part of qualitative research, CSOs have highlighted several issues related to audits. These include a lack of information regarding the justifications for audits, facing multiple and extensive audits that can last for several days or even up to a month within a year, extending the audited period up to ten years, demanding a significant amount of information and documents covering long periods, assignment of auditors from different public institutions who may not be familiar with the civil society field and its legislation, biased attitudes from auditors, and the impact of the audit process on CSOs' workforce and time, leading to disruptions in their routine activities.   |
| 10 | With the amendment that came into effect on March 26, 2020, associations are obliged to register all their members as well as the members of the executive board with the local authority and the Associations Information System (DERBIS). 16.6% of the associations participating in the quantitative field research indicate that they have encountered situations such as members resigning, difficulties in finding new members, termination of membership due to inability to reach certain existing members and facing sanctions for non-compliance with the mandatory notification requirement.   |
| 11 | The amendments made by Law No. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction make the audits and legal framework for fundraising more restrictive for CSOs. The regulations increase penalties and introduce new sanctions for individuals working in associations. The regulations regarding the suspension of associations' activities and the filing of closure cases expand the limits of interference with the freedom of association.   |
| 12 | With Law No. 7262, it is envisaged that associations will be categorized as low, medium, or high-risk based on the assessment of the risks associated with the money laundering and the financing of terrorism, and they will be subject to different frequencies of audits depending on their risk status. The failure to collaborate with CSOs in determining the risk analysis method and evaluation criteria, as well as the inadequacy of information and guidance to address uncertainties regarding the new implementation, has raised concerns among CSOs that audits will be utilized in a manner that restricts freedom of association. While there have been no cases of large fines or removal of association executives in audits following the enforcement of Law No. 7262, audits are believed to have turned into a tool of repression. |
| 13 | In the quantitative research, 72 CSOs stated that they have been threatened or targeted by politicians and/or public officials, while 71 CSOs reported facing defamation campaigns carried out by non-governmental actors (such as media organizations and companies). 16 CSOs have reported encountering interventions such as police/gendarmerie raids and searches conducted, for example, based on a prosecutor's order. There are also organizations that face pressure in the online environment. 43 of the CSOs have reported experiencing harassment or restrictions targeting social media groups, email addresses, and websites, while 27 of them have indicated partial encounters with such issues.   |
| 14 | Regulating aid collection by law and subjecting CSOs to getting permits by imposing numerous conditions make it difficult for CSOs to maintain their financial sustainability and access financial resources. The Law on Collection of Aid falls short of meeting today's needs.  |
| 15 | The relevant provision of the Law on Collection of Aid, which mandates the transfer of all collected aids or any excess amount to the approved organizations in the event that the desired amount of aid is not reached or exceeded, disregards the will of donors and the autonomy of CSOs. Furthermore, it violates both the right to property and freedom of association.  |
| 16 | Some CSOs receiving funding from abroad face smear campaigns. Lists of CSOs are being published on social media or certain media outlets using accusatory and stigmatizing language, targeting both funding organizations and the CSOs themselves, as well as their managers and employees, with allegations such as "supporting terrorism" or "espionage." Almost all of these CSOs focus on issues such as human rights, women's rights, or work in areas such as violations and discrimination against LGBTI+, ethnic groups, and migrants. In-depth interviews revealed that some CSOs that were targeted after smear campaigns have undergone audits. As a result of these practices, concerns about accessing foreign sources of funding are increasing, and foreign funds have the potential to become a pressure factor on CSOs.                |
| 17 | Law No. 2911 on Meetings and Demonstrations and related secondary legislation impose restrictions on the location and duration of demonstrations and marches and give wide discretion to the administrative and security forces. In practice, the requirement of prior notification by law leads to considering spontaneous, unplanned demonstrations as illegal, and prohibiting them. Law enforcement forces use disproportionate force to intervene in numerous peaceful demonstrations. In many provinces in Türkiye, all kinds of actions and activities are indefinitely prohibited by the decisions taken one after another by local authorities.  |
| 18 | Many individuals who seek to exercise their right to assembly and demonstration face administrative fines under the Misdemeanors Law for allegedly participating in or organizing gatherings/ demonstrations deemed unlawful. Moreover, investigations and legal proceedings can be initiated against individuals for violating the law regulating assembly and demonstrations.   |

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| 19 | Since the onset of the Covid-19 pandemic, the most commonly encountered justification for the prohibition of meetings and demonstrations, or the dispersal of an ongoing gathering or protest, was the pandemic itself. There have been numerous incidents in which demonstrations, meetings, and marches were obstructed during the years 2020-2021.  |
| 20 | Regulations have been put in place to obstruct freedom of press. In the qualitative research, two issues highlighted by the interviewees were the denial of press cards to journalists working for independent media organizations and the prevention of capturing footage of law enforcement officers.  |
| 21 | Reports prepared by international organisations such as the European Commission Report on Türkiye 2022 and the desk and field research conducted for the Monitoring Matrix reveal that CSOs are increasingly under pressure and that the civic space continues to shrink. The implementation of penal laws related to national security and the fight against terrorism, increasing repression and restrictive measures have adversely affected freedom of association and expression. Criminal cases and convictions against journalists, human rights defenders, lawyers, writers, opposition politicians, students, artists and social media users continued.   |
| 22 | Freedom of expression is limited by the arbitrary and restrictive interpretation of legislation and lawsuits against persons exercising the right to criticize/protest. This leads to self-censorship and prevents individuals from joining CSOs and playing an active role in civil society. On the other hand, in the quantitative research, only 3.5% of the organisations stated that they faced pressure that targeted any of their statements, expressions or reports. The percentage of organisations that think they practice self-censorship was 6.5%. It should be taken into consideration that most of the organizations interviewed as part of the quantitative research do not have statements, expressions, and reports that could be subject to oppression or self-censorship. As a matter of fact, in-depth interviews and focus group discussions with rights-based organizations reveal a tendency in the opposite direction to the survey findings on censorship.. The fact that the rate of those who think that they have been subjected to censorship is higher in rights-based organizations than in the general sample reveals that rights-based organizations working with certain groups or in certain regions are more intensely affected by more explicit and direct rights violations such as repression, targeting and self-censorship. |
| 23 | According to qualitative research findings, a significant portion of rights-based organizations practice self-censorship at least at some stage of their activities. The political climate, changes in laws, and repression faced by other rights-based organizations have been cited as reasons for self-censorship. Factors that lead CSOs to engage in self-censorship include prioritizing the protection of their organization, members, and board of directors.  |
| 24 | The organisations working on rights violations caused by public institutions and private companies, and CSOs operating in LGBTI+ rights and women's rights, and in the east and southeast regions, are more targeted by public officials. According to the qualitative research findings, the situations faced by CSOs affect all organisations. Most CSOs carry out their activities in a more controlled fashion, focusing on monitoring and reporting instead of street actions. There is a tendency to apply self-censorship in social media posts.  |
| 25 | Law No. 5651 on the Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications gives the administration and judicial bodies broad powers of restriction regarding the content published on the internet and does not clearly define what type of contents are to be removed or the access to what type of contents to be blocked. This situation leads to arbitrary practices and adversely affects freedom of expression.  |
| 26 | Tax incentives are extremely limited, making it difficult for CSOs to engage in economic activities and grow. All income-generating activities of CSOs are taxed; the economic enterprises of associations and foundations are subject to the same tax regime as commercial companies. The field research shows that low and medium-capacity CSOs are not interested in establishing economic enterprises due to tax obligations. In contrast, most of those with economic enterprises leave them dormant since they cannot make a profit. Only a small number of CSOs with a public benefit and tax-exempt status benefit from the vast majority of tax incentives. Only half of the organisations participating in the field research are aware of the tax incentives provided to CSOs. Only 14% of those who are aware have benefited from any incentive within two years.  |
| 27 | The requirements for earning public benefit and tax-exempt statuses differ for associations and foundations, and they are restrictive. These statutes are granted by the decision of the Presidential decree to a limited number of CSOs without regulating the decision-making process in line with clear procedure and objective criteria. This situation leads to inequality among CSOs. The research results indicate that a significant number of CSOs do not meet the required criteria, and many CSOs that meet the criteria do not consider the process of granting these statuses as objective and therefore choose not to apply, believing that they will not be granted.  |

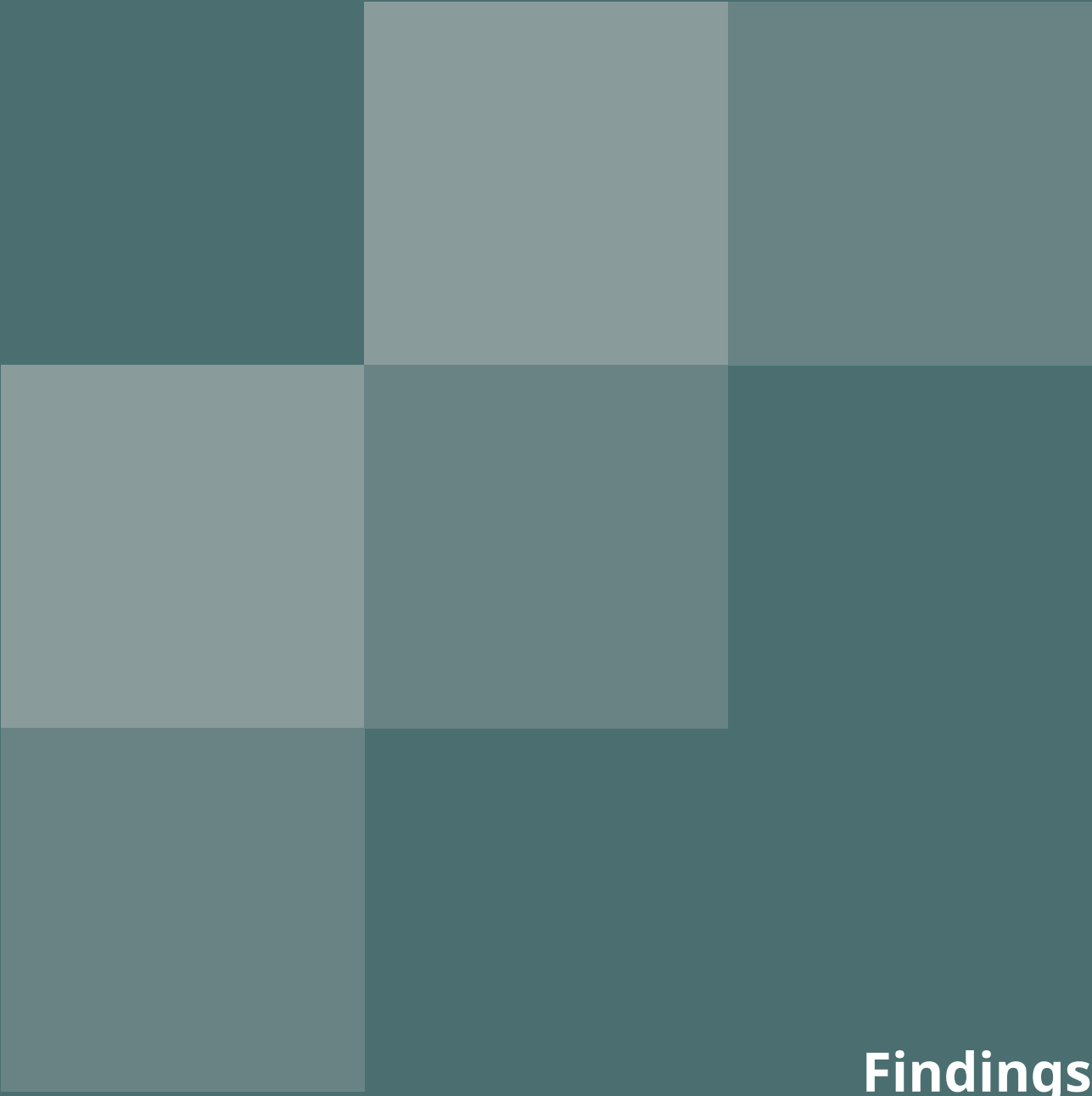
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| 28 | There are no regulations promoting effective and strategic giving. The procedure envisaged for individual and corporate donors to benefit from tax deductions is not functional and convenient. The tax regime, which allows tax deductions only for donations and contributions made to CSOs with tax-exempt or public benefit status, results in only a few organizations that work on specific areas benefiting from state support through tax incentives.   |
| 29 | There is no concrete and sustained public funding mechanism that is strategically planned for the sector's development and supports the organizational infrastructure and activities of CSOs. There is no common approach and practice in planning, distributing and monitoring funds due to a lack of coordination between ministries. Clear, transparent and accountable norms do not regulate the processes. The total public funding allocated to CSOs and provided to CSOs during the year cannot be determined.   |
| 30 | Public funds do not meet the diversified needs of civil society. While certain fields of activity, projects and CSOs are supported more, other fields of activity and CSOs are not supported at all. Of the CSOs participating in the quantitative research, the percentage of organisations receiving in-kind or financial support from central or local public administrations was only 6% in 2020 – 2021.  |
| 31 | The majority of CSOs are unable to employ full-time staff. 77% of the CSOs participating in the field research do not have full-time employees. The public sector does not have a practice that encourages working in CSOs. The field research reveals that CSOs that do not have full-time employees have difficulty carrying out even the most basic activities such as economic activities, seeking funds, and administrative affairs.   |
| 32 | No regulation can be characterized as a legal framework for volunteering, voluntary activity or service. Comparable data in accordance with international standards on employment and volunteering in CSOs are not collected. Public policies encourage volunteering in limited areas such as disaster and emergency response, social aid etc.  |
| 33 | There is currently no specific legal framework or binding policy document dedicated to regulating public sector-CSO relations or contributing to the institutionalization of these relationships, aimed at enhancing the development of civil society. The preparation work for the Civil Society Strategy Document and Action Plan is still ongoing. However, the published draft document does not contain concrete decisions to fulfill this mission and does not respond adequately to the needs and demands of civil society.  |
| 34 | Developing and strengthening civil society is defined among the goals of the Directorate General of Foundations (DGoF) and the Directorate General for Relations with Civil Society (DGRCS). Some ministries also create strategy documents and establish advisory or consultation units to improve cooperation with CSOs working in the fields of activity they are responsible for. However, none of these mechanisms entirely fulfills the objective of conducting public sector-CSO collaboration and promoting civil society participation, solving and developing the problems of civil society in dialogue with CSOs.  |
| 35 | Three out of four of CSOs participating in the quantitative research do not make any efforts to collaborate with central or local public institutions, and 9% of organizations, even if they wish to collaborate, are unable to do so. The percentage of those who collaborated with an official institution in 2020 or 2021 is 16%. Field research indicates that collaborations between public sector and CSOs are generally ad hoc, while structured collaborations are rare and mostly established at the local level. Local administrations' cooperation mechanisms are more well-known and accessible to CSOs than mechanisms under central administration.   |
| 36 | Another prominent finding is the increasing difficulty in entering into service-based protocols with the public authorities compared to previous years. It is seen that there is an increasing tendency among public institutions to reject the cooperation offers of CSOs for the provision of public services on the grounds that the public sector already provides these services.  |
| 37 | The qualitative research revealed that while many CSOs operating in various fields were able to work in cooperation with the public sector in previous years, they have not been able to establish similar collaborations in recent years. In in-depth interviews, interviewees mentioned the following reasons as the most prominent reasons for this situation: being wide of the mark of EU accession goals, the lack of legislation and mechanisms to establish permanent and sustainable channels of dialogue with CSOs, maintaining relations with public sector based on specific contacts and acquaintanceship, the dominance of security-oriented policies in the field of civil society, the fact that some areas of work and CSOs are seen as 'problematic' by the state and that the government prefers to work with organizations close to its own stance. |
| 38 | No policy or strategy in place recognizes the importance of CSOs' involvement in decision-making processes and defines or encourages participation processes. The legislation has left it largely to the administration's discretion to include CSOs in these processes. The research has revealed that CSOs, not the public sector, strive to ensure civil society's participation in the public sector-CSO collaboration and decision-making processes and take responsibility.   |
| 39 | There is a tendency to identify CSOs for collaboration based on their status of public benefit or tax-exemption, rather than their expertise and competence in the respective subjects. As has been the case with various monitoring reports, the field research findings also determine that independent and rights-based CSOs are excluded from these processes. There are no measures to provide enabling conditions for CSO representatives to freely express their views on advisory bodies. Since there are no formal procedures and criteria governing civil society-public sector cooperation, CSOs are not guaranteed to be involved in advisory and consultation processes regardless of their political orientation.   |

# Key recommendations

## Key Recommendations of the Report

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| 1  | Regulations that create a restrictive and bureaucratic burden to exercise freely the freedom of association by all (such as the minimum number of founders of the association, the shortness of the period for the obligation to hold the first general assembly, the number of members determined for the executive and auditing boards, the prohibition of establishing an association on vague grounds, etc.) should be reviewed. Legislation must be implemented in line with impartial, arbitrary and non-political criteria. The definition of civil society should be expanded to include various models such as platforms, initiatives, social enterprises, and grant-giving foundations, instead of being limited to associations and foundations; and should be included as such in policy papers and legislation. The definition should also not exclude new social movements. The government should adopt a liberal approach towards the freedom of association instead of a restrictive and supervisory one. |
| 2  | Legislation and practices that enable the intervention of the administration in civil society need to be reassessed, the legal framework of public oversight should be clarified, and as a result, audits should be conducted in an objective manner that does not lead to discrimination. Measures should be taken to prevent discrimination faced by rights-based organizations or those working with specific groups during audits.  |
| 3  | Restrictive and harsh audit procedures and penalties against CSOs should be eliminated. The frequency, duration and framework of the powers granted to auditors should be clearly added to the legislation to ensure that audits are carried out on equal terms for all CSOs.   |
| 4  | The information requested from CSOs should be simplified in a way that does not create bureaucratic obstacles and is not restrictive.   |
| 5  | The criteria that can be invoked as grounds for the closure and temporary suspension of operation for foundations and associations should be proportionate, and the sanctions should be gradual. The ambiguities in the Civil Code regarding the purposes of establishing foundations should be eliminated. The discretionary power in the closure of foundations due to prohibited purposes should be restricted. The measure of closure should be employed as a last resort for foundations and associations, with efforts focused on ensuring compliance with international standards by aligning the legislation accordingly.   |
| 6  | The regulation that obliges associations to register all their members, in addition to the members of the executive board, to local authorities and DERBIS should be repealed.  |
| 7  | Law No. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction adopted in 2020 and related regulation amendments should be repealed as they restrict freedom of association. As the national legislation is being aligned with international standards, it is imperative to engage in negotiations with civil society.   |
| 8  | CSOs should be able to carry out their activities freely without being targeted or subjected to defamation campaigns by politicians, public officials, or non-governmental actors. For this purpose, legal and administrative measures should be taken to protect CSOs.   |
| 9  | Associations and foundations should be facilitated and encouraged to carry out economic activities.   |
| 10 | The fundraising activities of CSOs should be excluded from the scope of the Law on Collection of Aid. If it is deemed necessary to have a special law on collection of aid that also concerns CSOs, the requirement for permission should be waived, and notification should be considered sufficient.  |
| 11 | Aid collection activities should be tracked through the official statements of associations and foundations. The requirement for CSOs to separately report each donation received from abroad should be abolished, and additional audit procedures should be abandoned. If a separate monitoring mechanism is deemed necessary, methods that comply with international standards and uphold the freedom of association should be established rather than violating the freedom of association.  |
| 12 | The relevant article of the Law on Collection of Aid, which regulates the transfer of all the collected aid or the leftover to the organisations approved by the permitting authority if the collected aid does not reach the required amount or there is leftover, should be repealed.   |
| 13 | Instead of categorizing support for CSOs as donations or aid, a single concept should be used in line with international standards, and legal regulations should be amended accordingly.  |

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| 14 | Since the Law on Meetings and Demonstrations contains numerous articles that are not compatible with international standards, it should be repealed. A new law on the freedom of assembly based on the principle of freedom with restrictions being the exception, should be enacted. This law should guarantee the freedom of assembly and demonstration without restrictions in terms of time and place and without arbitrary limitations imposed by the authorities.  |
| 15 | The disproportionate intervention by law enforcement forces against those participating in meetings and demonstrations should be prevented. Effective investigations should be carried out about incidents involving disproportionate use of force and impunity should be eliminated.  |
| 16 | Penal laws related to national security and the fight against terrorism should not be used to prevent civil society's activities, and repressive measures that adversely affect freedom of association and expression should be eliminated. Criminal cases and convictions against journalists, human rights defenders, lawyers, writers, opposition politicians, students, artists and social media users must end.   |
| 17 | In order for CSOs to be able to carry out their activities and publications without self-censorship and without feeling threatened by investigations or the imposition of administrative and criminal sanctions, the restrictive legislation should be brought in line with international standards, and arbitrary practices should be eliminated.   |
| 18 | The Law No. 5651 on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications (Internet Law) and related legislation allowing the blocking and removal of online content without a court order should be reviewed and brought into compliance with international standards. Measures should be taken to prevent obstacles in practice arising from individual decisions made by judges.  |
| 19 | The entire tax legislation relevant to CSOs should be comprehensively reviewed, and incentives should be put in place to promote the financial sustainability of CSOs.   |
| 20 | The public benefit and tax exemption statuses should be linked to clear and objective criteria, their definitions should be kept as broad and flexible as possible. The distinctions in criteria required for foundations and associations should be reviewed and minimized, and the requirements and procedures for these statuses need to be reorganized. The status of public benefit and tax exemption should be granted to organizations that meet certain criteria by an independent mechanism that is easily accessible to all organizations.   |
| 21 | A concrete and sustained public funding mechanism should be established to support the organizational infrastructures and activities of CSOs and the financial sustainability of civil society.  |
| 22 | Clear and predictable procedures should be established to ensure transparency and accountability for the planning, distribution and monitoring of state support for CSOs. Changes should be made to this end in legislation, and a national strategy should be developed. CSOs should be involved in all of these processes.   |
| 23 | Detailed information on the annual budget allocated to CSOs, which CSOs and activities are supported, and how the provided resources are utilized should be disclosed by public institutions annually.   |
| 24 | For the institutional and financial development of CSOs, the public sector and other donor organisations should review and diversify their grant programs to strengthen human resource capacity in civil society.  |
| 25 | A volunteering status should be established, primarily consisting of protective measures, which clearly delineate the distinction between paid labor and volunteering, encompassing various forms of volunteering. Rather than regulating the relationship between volunteers and CSOs, a legal framework should be implemented with the aim of safeguarding the rights of both parties, ensuring their protection, and promoting volunteerism. Measures that could lead to hesitation in volunteering, such as mandatory notification or registration of volunteers, should be avoided, as they may contradict the principle of CSO autonomy. |
| 26 | Framework legislation and relevant policy documents regulating the relationship between public institutions and CSOs, including agreed-upon principles, mechanisms, and mutual responsibilities should be prepared in a participatory manner.  |
| 27 | At the national level, an institution or mechanism (such as a collaboration department/unit, contact points in ministries, etc.) should be established to carry out public sector-CSO collaboration and promote CSO participation.   |
| 28 | The necessary amendments should be made to the Regulation on the Procedures and Principles of Legislation Preparation and taking CSOs' opinions should be made binding. The feedback mechanisms for the opinions given should be regulated in the Regulation.  |
| 29 | Public institutions should regularly share detailed and up-to-date information and documents related to work plans and draft laws or policies on their websites. Necessary mechanisms should be developed for civil society to express its views and a reasonable time should be granted.  |
| 30 | Improvements should be made to the legislation by amending the provisions that limit the exercise of the right to information to ensure that CSOs have access to comprehensive and up-to-date information on the issues they need.   |
| 31 | The procedure for determining the CSOs to be represented in decision-making and advisory boards should be made concrete and objective, and amendments should be made in this direction in other laws that include such provisions.   |
| 32 | Data and statistics on civil society should be collected in a reliable and comparable manner in line with international standards and shared with the public on a regular basis.   |



**Findings**

# Area 1: Basic Legal Guarantees of Freedoms

This first section titled “Basic Legal Guarantees of Freedoms” refers to the basic freedoms that constitute the existence of civil society, such as the freedom of association, which allows individuals to come together, improve their lives, and work towards common goals. The freedom of association is directly related to the ability of CSOs to carry out their work without any hindrance, find financial resources to support their activities, and enable individuals or groups to express their thoughts, as well as effectively exercise their rights to assembly and peaceful demonstration. In this regard, the Monitoring Matrix emphasizes the importance of safeguarding and ensuring the exercise of three fundamental freedoms: freedom of association, freedom of assembly, and freedom of expression, which should be guaranteed and freely enjoyed by everyone.

## Sub area 1.1. Freedom of Association

### 1.1.1. Establishment of and Participation in CSOs

#### Legislation

Article 33 of the Constitution regarding associations and foundations, guarantees the freedom of association. Pursuant to this article, everyone has the right to form associations, or become a member of an association, or withdraw from membership without prior permission. No one shall be compelled to become or remain a member of an association.

In Türkiye, real persons and legal entities with legal capacity have the right to establish CSOs. Certain restrictions exist in the special laws that apply to members of the Turkish Armed Forces, police, gendarmerie, coast guard, and public officials. Children who have reached the age of 15 and have the mental capacity are granted the right to establish CSOs as defined in the law, subject to special provisions and the written consent of their legal guardians. There are restrictions in the laws concerning non-citizens.

The legislation does not contain a general definition of civil society and civil society organizations. The establishment of unincorporated associations that have come together through a different form of organization, apart from associations and foundations, has been limited within a specific framework. The possibility of establishing not-for-profit companies has not been enabled. Other than associations and foundations, the only forms of organizing that are exceptionally recognized as legal entities are federations and confederations. Platforms are also recognized by law but not accepted as legal entities. Although they do not possess legal personality, individuals and CSOs can come together under a platform structure using terms such as initiative, movement, or similar names to pursue a common goal.

Registration procedures of associations and foundations are regulated by the Turkish Civil Code, the Law on Associations, and the Law on Foundations. In order to establish an association, seven citizens and/or foreigners with residence permits in Türkiye must apply to the Directorate General for Relations with Civil Society, along with the necessary documents. There is no registration fee. Upon making the official application for the association, the association is considered established and can commence its activities. DGRCS has 60 days to review the application. If the administration determines that the documents are incomplete or that the application is contrary to laws and regulations in effect, the association is given a period of 30 days to rectify the deficiencies. However, newly established associations are required to form their mandatory bodies (board of directors, internal audit board, and general assembly) within six months following the written notification made in accordance with Article 62 of the Law on Associations, by reaching a minimum of 16 members. The necessity to reach the minimum number of members and establish the organizational structure within a short period of time poses a challenge in terms of exercising the freedom of association.



The registration process for foundations is more complex compared to associations. In order to establish a foundation, there must be dedicated endowments (including cash, securities, immovable and movable properties, as well as rights with economic value) allocated to the purpose of the foundation, as determined by the founders. The Foundations Council, which is the highest decision-making body of the Directorate General of Foundations, annually determines the minimum endowment value to be applied in the establishment of a foundation. For the years 2020-2021, the minimum value was determined as 90,000 TL. Foundations are established with a by-law approved by the court. The by-law should encompass comprehensive details regarding the foundation's name, headquarters, purpose, activities, authorized actions to fulfill its objectives, initial endowment, organizational structure, as well as administrative and financial procedures governing its functioning. Once the foundation is registered by the court, it acquires legal personality.

CSOs are required to clearly articulate their goals and the activities they intend to pursue in official documents such as statutes of associations and by-laws of foundations. CSOs that decide to modify the scope of their activities are obliged to fulfill a series of formalities and bureaucratic steps.

The legislation gives freedom to associations and foundations to establish domestic and international cooperation. Within the country, associations and foundations can organize under the umbrella of a federation or confederation without requiring permission. According to the Law on Associations, a federation can be formed with a minimum of five organizations, while a confederation can be established with a minimum of three organizations. However, the requirement for member organizations to have the "same purpose" is problematic and poses challenges in forming an umbrella organization.

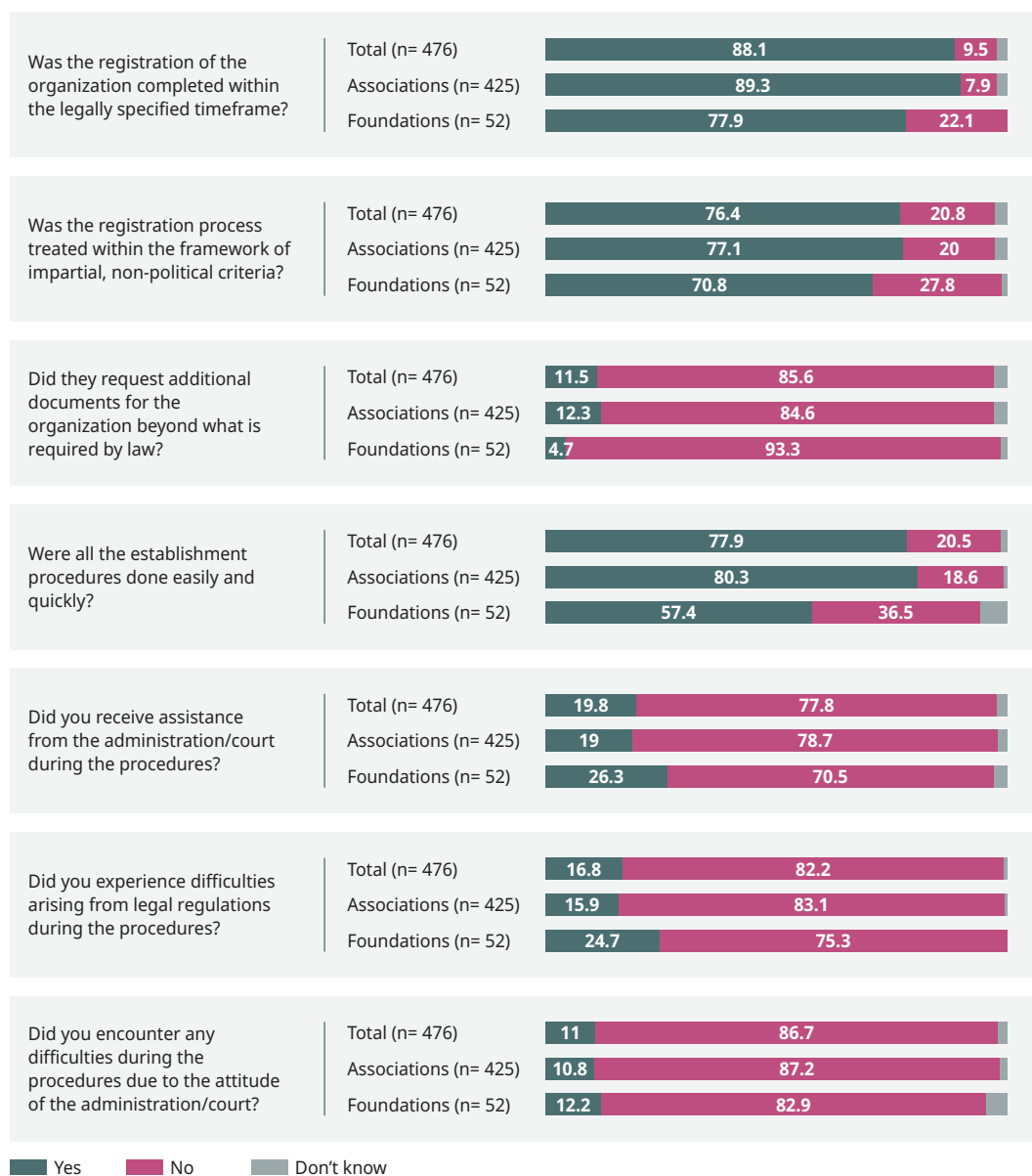
For foreign organizations to open branches or conduct activities in Türkiye, the opinion of the Ministry of Foreign Affairs is obtained, and permission is granted by the Ministry of Interior. The legislation does not impose a time limit for the Ministry of Interior to respond to activity permit applications. According to the guide published by DGRCS, the processing time for applications from foreign CSOs varies based on criteria such as the CSO's field of work, the region where the activities will be conducted, the country where the headquarters is located, and international recognition. Although there is no such restriction in the Law on Associations, according to Article 22 of the Regulation on Associations, foreign foundations opening branches and representative offices in Türkiye are subject to the reciprocity requirement and are limited to situations deemed suitable for international cooperation.

## Practice

Establishing CSOs through the internet is not allowed by the legislation in Türkiye. CSOs are required to register by applying to the relevant authorities in order to operate. As of the end of 2021, membership applications to associations cannot be made online, but starting from 2022, membership application, membership inquiry, and resignation from membership can be carried out through the internet (e-government system). Although regulations were made in 2021 to enable board of directors and general assembly meetings to be held online, implementation has not been enforced until the end of 2022. In the period of restrictive measures due to the Covid-19 pandemic, administrative obligations such as general assembly meetings were disrupted for CSOs because of the lack of necessary infrastructure for conducting such activities electronically.

Associations acquire legal personality by submitting their establishment notification and attachments to the local administrative authority. Foundations, on the other hand, are registered through a court decision. The duration for establishing a foundation varies depending on the workload of the courts. In the field research, questions regarding the establishment process were directed to CSOs established after 2016. 20.8% of organizations stated that impartial and non-political criteria were not applied during the registration process, 20.5% indicated that registration procedures were not completed easily and quickly, and 16.8% experienced difficulties due to legal regulations. 11% of the participants stated that they encountered difficulties in registration due to administrative or judicial attitudes, while 11.5% mentioned that additional documents were requested beyond what is required by the law.

**Figure 1.1 Establishment process of CSOs in 2016 and beyond (%)**



The Outlook of Freedom of Association in Turkey- II Report of STGM states that at the stage of submitting founding declaration, there have been difficulties arising from the attitude of personnel involved in the process, and instances were encountered where the founding declarations were not accepted. However, it is noted that there is no available data regarding the identification of this situation.<sup>18</sup>

There are areas where foundations and associations differ during the establishment process, and foundations appear to face more challenges at this stage. For example, approximately 90% of associations complete their registration within the legal timeframe, whereas this rate drops to 78% for foundations. Similarly, while 80% of associations experience an easy and quick establishment process, this rate decreases to 57% for foundations.

There is a significant difference between CSOs in the group facing challenges in freedom of association/expression and others. Within this group, 19% could not complete their registration within the specified timeframe (8% for the remaining). 31% indicated that the processes were not conducted quickly and easily (19% for the remaining). Additionally, 26% stated that they needed assistance from the administration/court during the procedures (19% for the remaining).

<sup>18</sup> Association of Civil Society Development Center (STGM). *Outlook of Freedom of Association in Turkey - II*.

The fundamental data pertaining to the effective exercise of freedom of association, such as the annual number of applications made for the establishment of associations and foundations, the numbers of accepted and rejected applications, the average duration of registration for foundations, or the number of appeals against rejection decisions, is not disclosed by the relevant public institutions. Although there is no publicly available data on the number of associations established annually, according to data published by DGoF, 123 foundations were established in 2020 and 205 foundations in 2021. Since requests for statistical information were rejected in the responses to the requests for information made by TÜSEV to DGRCS and DGoF, the number of newly established associations in Türkiye in the years 2020-2021, as well as the number of associations and foundations whose registration applications were rejected, activities were suspended, or closed, and the number of individuals prevented from participating in the governing bodies of foundations or associations, remain unknown.

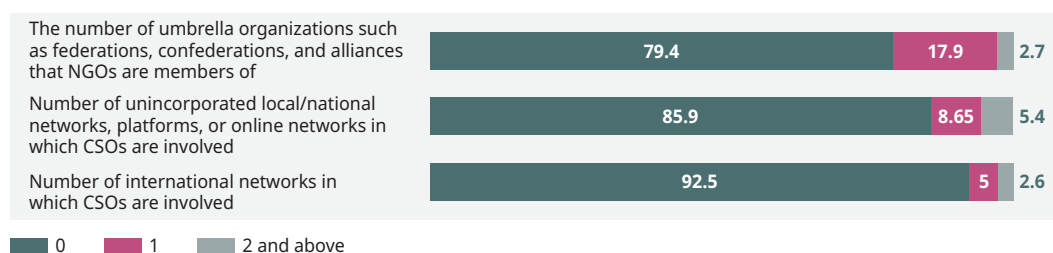
Although the legislation does not require associations seeking to open offices in residential buildings to obtain permission from all residents, such a requirement is being attempted to be imposed in practice.<sup>19</sup> Obtaining such permissions is generally not possible, which makes it difficult for associations to find office space. Additionally, associations are not allowed to share office space with another legal entity or individual. Although there is no legal basis for this restriction, associations are not allowed to share their offices with other individuals or entities due to the written opinion of the Legal Counsel of the Ministry of Interior, which was published in 2013, stating that it is not appropriate for an association to have the same address as another private or legal entity.<sup>20</sup> The challenges faced by those wishing to establish an independent office due to high rents constitute a significant obstacle to freedom of association.

According to the Constitution, "Freedom of association may be restricted only by law on the grounds of national security, public order, prevention of commission of crime, public morals, public health and protecting the freedoms of other individuals." The Law on Associations contains ambiguous limitations, particularly during the registration process, that allow state interference in the activities of CSOs (such as criteria like general morality and public order). According to Article 56 of the Turkish Civil Code, "no association may be formed for an object contrary to the laws and ethics.." Article 101 of the Turkish Civil Code restricts the establishment of foundations that are "contrary to the characteristics defined by the Constitution, Constitutional rules, laws, ethics, national integrity, and national interests, or with the aim of supporting a distinctive race or community." The statutes of associations and the official documents of foundations are subject to examination for compliance with the legislation.

There is no legal obstacle to the national or international communication and cooperation activities of CSOs. Due to the high number of members required for the establishment of federations and confederations, and the necessity for organizations for the same purpose to come together, the number of umbrella organizations remains low. The numbers of federations and confederations established in 2020-2021 are not disclosed to the public, and the response to the information request made by TÜSEV did not provide any information on the subject. Membership of CSOs in umbrella organizations such as platforms, coalition initiatives, and online networks without legal personality is relatively limited in Türkiye.

In the quantitative research, 79.4% of the participating CSOs stated that they are not members of any umbrella organization, while 17.9% mentioned that they are members of only one organization. Membership in unincorporated associations such as platforms, coalition, initiatives, and online networks at the local/national level appears to be relatively low: 86% of CSOs are not members of any network, while 8.6% are only members of one network. Out of 1,003 organizations that were asked about their membership in international networks, 928 stated that they were not members of any international network, while 50 organizations indicated that they were members of a single network.

**Figure 1.2 Participation in networks (%)**



<sup>19</sup> Ministry of Interior, Directorate General of Associations. *Circular on Association Headquarters (2007/83)*.

<sup>20</sup> Ministry of Interior, Legal Advisory Office. Opinion No. 97110469-045-4910, dated 10.04.2013.

The membership rates of the CSOs in the group of organizations that face challenges in freedom of association/expression, both to national organizations such as federations and confederations, to unincorporated associations, and to international networks, are slightly higher than those who do not face challenges (27% and 20%; 18% and 13%; 13% and 7% respectively). However, in general, the majority of CSOs in Türkiye have limited institutional capacity, financial resources, and human capital. This leads CSOs to focus on their core activities, and the work of umbrella organizations does not receive enough attention on their agendas. Although CSOs develop various solidarity relationships around networks, when necessary, these structures are often not permanent.

Foreign CSOs face significant bureaucratic obstacles when opening representative offices or branches in Türkiye due to the lack of clear definitions of procedures and criteria for the registration process. While 143 foreign CSOs had permission to operate in Türkiye in 2020, according to the list published by DGRCS, as of October 2021, this number has decreased to 132.

The Covid-19 pandemic that started in March 2020 has prevented many administrative procedures, including the establishment of CSMs, from being completed within the planned or required timeframe. During a period of one and a half years, the Ministry of Interior has issued circulars to postpone or restrict broad-based activities of CSOs, including administrative meetings such as general assemblies. In addition, the deadlines for CSOs to submit notifications, declarations, and internal audit reports have been extended multiple times and postponed.

## 1.1.2. State Interference

### Legislation

The legislation does not provide safeguards to prevent state interference. The administration has broad powers to conduct audits not only in cases that constitute a crime but also regarding institutional operations, such as determining whether associations and foundations are carrying out activities in line with the purposes specified in their statutes and by-laws.

Significant changes have been made to the primary legislation affecting civil society with the enactment of Law No. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction, adopted on December 27, 2020. The fundamental rationale of the law is to bring domestic legislation in line with international standards in combating terrorism financing and money laundering, based on the Financial Action Task Force's (FATF) 2019 report and United Nations Security Council (UNSC) resolutions. The scope of association audits has been expanded under Law No. 7262, specifying that they should be conducted annually for a period not exceeding three years, based on risk assessments. With the amendment made to the Regulation on Associations on October 10, 2021, the risk analysis conducted by DGRCS is made essential for association audits, and it is stated that the risk analysis and evaluation criteria will be reviewed annually. Associations are expected to be categorized as low, medium, and high-risk based on the assessment of the risks of their assets that are proceeds of crime being used for money laundering and financing terrorism. Accordingly, associations in the medium and high-risk categories are subject to audits as deemed necessary based on annual evaluations, while associations in the low-risk category are audited based on requests from judicial and administrative authorities, other complaints, or administrative obligations. These changes have made the legal framework governing audits a lot more restrictive and ambiguous for CSOs. The failure to collaborate with CSOs in determining the risk analysis method and evaluation criteria, as well as the inadequacy of information and guidance to address uncertainties regarding the new implementation, has raised concerns among CSOs that audits will be utilized in a manner that restricts freedom of association.

No preventive warning mechanism has been defined prior to the imposition of criminal and administrative fines for violations. However, for children's associations, there is a provision in the legislation that allows for sanctions to be imposed after a written warning has been issued and the violation is repeated. Furthermore, starting in 2021, Law No. 7262 introduced an increase in penalties that may be applied in certain cases.

There are specific provisions in the relevant laws with respect to liquidation and dissolution procedures that regulate automatic dissolution, temporary suspension of activities and termination of associations and foundations. In cases where statutes/by-laws and operations of associations and foundations contain elements threatening national security, public safety, public order and peace, public health and public morality or contain an element of crime, they may face a legal action for termination. Furthermore, the amendment made to Article 27 of the Law on Associations and Law No. 7262 grants temporary suspension authority to the Minister of Interior regarding the officials or employees of an association, other than the general assembly, in the event of prosecution for crimes related to financing terrorism, money laundering, and drug trafficking. The Minister of Interior can also apply to the court for the temporary suspension or closure of an association. The regulations introduced in 2021 stipulate that a fine of 1,500 TL<sup>21</sup> shall be imposed on association executives who fail to terminate the duties of individuals serving in the association's organs, despite receiving written warnings within seven days if those individuals have been convicted of specific crimes. Furthermore, if these individuals are not removed from their positions within thirty days, even after a second written warning issued by the local administrative authority, legal action may be taken to close the association.

The legislation gives the relevant authorities the power to introduce special accounting standards for associations and foundations, and there are only two basic accounting standards, one based on business accounts and the other based on balance sheet, that are applicable.

As stated in the guidelines of the European Court of Human Rights (ECtHR) regarding freedom of assembly and association, ensuring the effective exercise of the freedom of association is among the positive obligations of states under Article 11 of the European Convention on Human Rights (ECHR).<sup>22</sup> As a party to the agreement, the state has the obligation to take preventive measures and provide protection against interferences that restrict the freedom of association of third parties. However, there is no specific regulation in national legislation aimed at protecting civil society organizations from interventions such as defamation, threats, targeting, or judicial harassment by third parties. In such cases, CSOs can exercise their rights arising from the Criminal Code or the Civil Code.

## Practice

Although the applicable legislation for associations and foundations acknowledges internal auditing as fundamental practice, state inspection of CSOs covers both substantial (the purpose of activity) and procedural (keeping of mandatory books, etc.) aspects. The state inspection of associations is conducted to establish whether they are acting in line with their purpose stated in their statutes and keeping their books and records in accordance with the legislation. The inspection may be performed either by the Ministry of Interior or the highest ranking local administrative authority. According to the Activity Reports of the Ministry of Interior for the years 2020 and 2021, a total of 10,307 associations were audited by the ministry's association auditors or Provincial Directorates for Relations with Civil Society under the sub-program for Strengthening Civil Society Development and Civil Society–Public Sector Dialogue in 2020. In 2021, the number of associations audited increased to 18,747, exceeding the target of 8,295 audits set for that year.<sup>23</sup> According to the 2023 Budget Presentation of the Ministry of Interior, 393 associations were subject to judicial action and 1,012 associations faced administrative action as a result of audits conducted in 2020. In 2021, the number of associations subject to judicial action was 486, and administrative action was taken against 2,089 associations as a result of audits conducted.<sup>24</sup>

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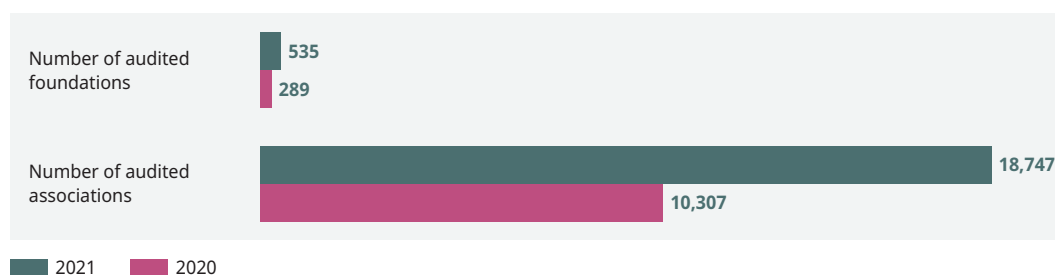
21 The penalty amounts imposed for non-compliance with the specified monetary thresholds and provisions of the law are adjusted annually based on the revaluation rate determined by the Ministry of Treasury and Finance. The report includes penalty amounts for 2021.

22 European Court of Human Rights. *Guide on Article 11 of the European Convention on Human Rights*.

23 Ministry of Interior. *2020 Activity Report*, p. 156. Ministry of Interior. *2021 Activity Report*, p. 199.

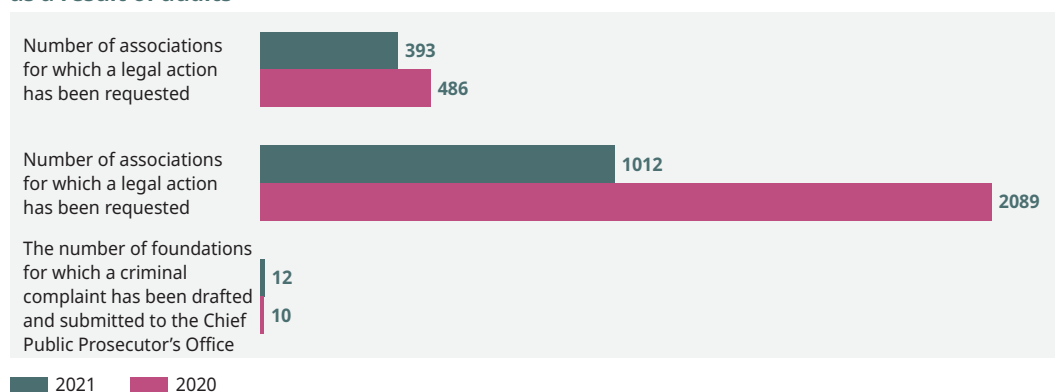
24 Ministry of Interior. *2023 Budget Presentation*, p. 457.

Figure 1.3a Number of audits



(Source: Directorate General of Foundations. 2021 Activity Report; Ministry of Interior. Activity Reports for 2020 and 2021)

Figure 1.3b Number of CSOs for which legal and administrative actions has been requested as a result of audits



(Source: Ministry of Interior. 2023 Budget Presentation; Directorate General of Foundations. 2021 Activity Report)

The compliance audits of foundations regarding their purpose and legality, as well as the audits of their economic enterprises' activities are carried out by DGoF. The annual report of the DGoF for 2021 shared the number of foundations audited in the last two years. In 2020, 289 foundations were audited (83 comprehensive audits, 206 annual work program audits). Twelve proposals for criminal complaints were drafted to be submitted to the Office of the Chief Public Prosecutor based on the audit reports. In 2021, 535 foundations were audited (120 comprehensive audits, 356 annual work program audits, and 59 opinions and evaluations). Ten proposals for criminal complaints were drafted to be submitted to the Office of the Chief Public Prosecutor based on the audit reports.<sup>25</sup>

About one out of every three associations or foundations participating in the field research stated that they were audited by various public institutions in 2020 or 2021. Three quarters of organizations were audited once in this process. The rate of those who were audited twice is 22%. Parallel to the sampling, the institutions that conducted these audits were primarily the Directorate General for Relations with Civil Society (DGRCS) /Provincial Directorates (62%), followed by the Directorate General of Foundations (19%). Besides these two institutions, the Ministry of Finance (12%) and governorates (12%) were the most frequent auditing bodies.

The amendment to the Law on Association made by Law No. 7262 stipulates that the audits of associations are to be conducted based on risk analysis, particularly related to the laundering of proceeds of crime and the prevention of the financing of terrorism. Failure to disclose the risk analysis criteria to CSOs<sup>26</sup>, and the lack of any clear standards for the powers granted to public administration in the regulations made by Law No. 7262, pose a risk of restricting the

<sup>25</sup> Directorate General of Foundations 2021 Activity Report, p. 71.

<sup>26</sup> In March 2022, a letter was sent by the governorships to some associations to self-regulate and report on the grounds that they are at risk of being abused in money laundering and financing of terrorism. The lack of sufficient information on the subject has caused concerns among CSOs. In response to this development, in June 2022, DGRCS initiated briefing sessions on recent legislative changes and risk analysis for civil society organizations. During these meetings, information was shared about some of the criteria used in the analysis.

freedom of association and activities.<sup>27</sup> Indeed, the enactment of Law No. 7262 in December 2020 without consulting CSOs and without considering societal criticism and suggestions has sparked reactions from CSOs. In the short period from the submission of the draft law to its enactment, many CSOs have shared their criticisms of the new law with the public in various forms, including information notes highlighting the drawbacks of the law and a joint statement titled “#CivilSocietyCannotBeSilenced”.<sup>28</sup> Following the acceptance of the proposal, TÜSEV published an information note examining the content of the regulation and its compliance with FATF standards, as well as studying the implementation of the Financial Action Task Force recommendations and the impact on civil society in Türkiye. TÜSEV drew attention to the restrictive nature of the Law on the functioning and activities of CSOs, which contradicts the principles of protecting fundamental rights and freedoms and the civic sphere, put forward by the good practices and experiences presented by FATF.<sup>29</sup>

During its general assembly meeting held on October 19-22, 2021, the Financial Action Task Force (FATF) placed Türkiye on the list of countries subject to stricter monitoring, known as the gray list, due to insufficient efforts in combating money laundering and the financing of terrorism. This decision was criticized in a written statement issued by the Ministry of Treasury and Finance, citing the amendments to Law No. 7262.<sup>30</sup> Marcus Pleyer, the President of the FATF, referred to Law No. 7262 and emphasized that while Türkiye should apply a genuine risk-based approach to not-for-profit organizations, it should avoid practices that deter civil society or hinder their legal activities.<sup>31</sup>

Following the amendment to the law, it is known that many rights-based CSOs and those receiving funding from abroad underwent audits by the Ministry of Interior multiple times in 2021.<sup>32</sup> Among the CSOs participating in the field research, 9.1% stated that they faced surprise audits during 2020-2021. However, the preparation period granted to CSOs before audits was already very short, as the relevant public institution was only required to notify the organization 24 hours prior to the audit, which was considered sufficient.

15% of the organizations that underwent audits believe that these audits were conducted for purposes other than assessing the legitimacy of their activities, records, and transactions. 46% of the organizations believe the audits are performed within the scope of Law No. 7262, while 15% consider the audits to be excessive and disproportionate. Additionally, 12% of the organizations believe that the audits were conducted with the intention of hindering, discouraging, intimidating, or exhausting the organization. The rate of organizations where members or administrators resigned as a result of audits is 8%. Similarly, there are organizations that have suffered financial losses in the medium and long term (9%). In addition, some of the issues highlighted by CSOs during in-depth interviews include the lack of information provided on the reasons for the audit, the possibility of facing multiple comprehensive audits within one year, which can last for a few days or even a month, the extension of the audited period up to ten years, and the requirement for auditors to request a large volume of information and documents covering long periods of time.

Organizations facing challenges in freedom of association/expression are subject to a significantly higher number of audits compared to those who do not face such challenges (79% vs 28%, respectively). In the audits, the rate of not detecting any errors in this group is higher than the group that do not face challenges (49% vs 37%, respectively). This result can be interpreted as

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27 Amnesty International. *Turkey: Terrorism Financing Law has Immediate 'Chilling Effect' on Civil Society - Impact of Law No. 7262 on Not-for-Profit Organizations.*

28 For more information, see. Joint statement dated 22 December 2021 signed by 694 CSOs, <https://siviltoplamsusturulamaz.org>; Third Sector Foundation of Turkey (TÜSEV). *Statement on the Proposal of the Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction*; Kaos GL Association. *What does the Proposal of the Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction bring for Associations?*; Human Rights Joint Platform. *Evaluation of the Proposal of the Law on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction.*

29 Third Sector Foundation of Turkey (TÜSEV). *An Analysis of the Application of Financial Action Task Force Recommendations and Its Implication on Civil Society in Turkey.*

30 Anadolu Agency. *Reaction to the 'grey list' decision of the Financial Action Task Force from the Ministry of Treasury and Finance.*

31 Independent Communication Network (Bianet). *Finance watchdog FATF 'grey lists' Turkey, Turkey denounces the decision.*

32 Hafıza Merkezi. *The Shrinking Democratic Space and the Covid-19 Pandemic in Turkey from the Perspective of 48 Rights-Based CSOs.*

organizations in this group being more prepared for audits and acting more cautiously to avoid any “vulnerabilities”. From another perspective, it can also be speculated that organizations in this group have stronger institutional capacities, resulting in fewer “errors.” The discussions within the focus group also confirmed this proposition. Rights-based CSOs stated during the focus group meeting that they are more meticulous in administrative and financial matters to protect their organizations from harm and that they prepare extensively for audits. While two groups have similar views on many aspects of the content and conduct of audits, organizations facing challenges in terms of freedom of association/expression are more inclined to believe that these audits are aimed at hindering, discouraging, intimidating, or frustrating their activities compared to the group that does not face challenges.

Organizations with relatively good financial means employ more people, operate in a wider region, and are relatively older. Among organizations with very weak financial status, almost none (2.1%) find the audits excessive and disproportionate, while 11.4% of organizations with relatively good financial status hold such a view. Two out of every ten organizations with relatively good financial status and one out of every ten organizations with weak financial status stated that audits were conducted with the intention of hindering the organization’s activities, discouraging, or demoralizing it. There are hardly any organizations with very weak financial status that hold such view. While 10% of financially viable organizations stated that audits of their organizations had become more frequent or their scope had expanded as a result of Law No. 7262, the proportion of financially very weak and weak organizations expressing such views was less than 3%.

Organizations with a strong rights-based approach have a negative experience with regard to audits compared to other organizations. These organizations, along with organizations with a moderate approach, were subjected to more audits in 2020 or 2021. While 28.5% of organizations with weak approach reported being audited, this rate is approximately 45% for moderate and strong rights-based organizations. Additionally, 8% of organizations with a strong rights-based approach expressed that their work was disrupted due to audits. This rate is less than 1% for organizations with a weak approach. Furthermore, 94% of organizations with a weak approach had infrequent and less detailed audits, while this rate is 87% for organizations with a strong approach.

#### Characteristics of CSOs Audited in 2020 or 2021 Based on Quantitative Research Findings

Figure 1.4a Audited CSOs (%)



Figure 1.4b Percentage of those whose work was disrupted due to audits (%)

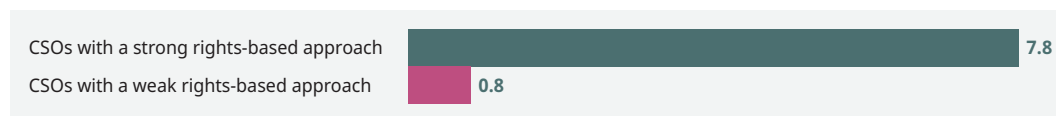


Figure 1.4c CSOs that have not experienced frequent and detailed audits (%)



In in-depth interviews with mostly rights-based CSOs and in the focus group discussion, incidents like unnecessarily detailed financial audits imposed more than once were shared. The audit process has not been the same for every CSO. Some CSOs evaluated the audits they underwent as routine and mentioned that they focused on financial matters. These types of audits mainly went smoothly. However, there are also cases where the purpose of the audit was not explained by the auditors. Some also stated that these audits fell under Law No. 7262. The most prominent characteristics of CSOs considered to be high-risk and therefore subject to audits are receiving funds from abroad. Additionally, it is understood that factors such as smear campaigns in the media, accepting



funds from organizations considered “dangerous,” and being reported to the Presidency Communication Center (CİMER) play a role in these audits. The audits carried out after the law amendment were long and difficult for some organizations. Some CSOs were audited more than once. In addition, administrative documents such as the minute book, as well as educational materials and project materials were requested during these audits. A CSO stated that they were sued due to decisions made during the general assembly. In in-depth discussions, rights-based CSOs expressed concerns that audits were being diverted from their intended purpose, aiming to repress and control the civic space, and they believed that the process was not fair and equal. As a result, it has been observed that CSOs have increased their internal audits, attempted to follow different methods in advocacy activities, and occasionally resorted to self-censorship.

When discussing the audit process with participants, it was found out that either two types of audits were performed or that participants evaluated audits in two different categories. These can be referred to as routine audits and audits related to Law No. 7262.

The audits of CSOs stating that they were subject to routine audits, as described by auditors, went relatively smoothly. In routine audits, financial documents, membership records, and other financial and administrative documents were audited to determine if there were any violations of regulations. CSOs with more frequent financial transactions had longer audits.

Some organizations mentioned that the information provided during the audit was later shared by various media outlets. For example, a CSO that previously published the information of the institutions from which it received funding, but removed it because they were targeted, stated that the amount of funds they received was published in the newspaper in full following an audit. Participants believe that this information was already declared and there is no harm in transparently sharing it with the public. However, it appears that these news articles were deliberately targeting CSOs and aiming to discredit them.

*“I said it doesn't actually affect our activities, but of course it does indirectly. Because after this funding issue came up, for example, we were audited twice. And undergoing a very bureaucratic process twice, of course, affected our activities. I mean, we already handed over everything to them, there is no need for it to be published specifically. We see it used in a news a few weeks later anyway. ... We are already transparent about funding sources, that is, we declare them. It's just the way it's done. That it's done in the form of harassment and that they depict it as a crime. Otherwise, of course, everyone declares their funding sources and how they carry out their activities. But I think the way it's done is grueling.” (Association-Press)*

In summary, the participants believe that civil society should be subject to financial and administrative scrutiny. However, they emphasize the need for these audits to have clear criteria, be conducted according to specific standards, and most importantly, be uniform for all civil society organizations. According to the participants, audits should be carried out for guidance purposes rather than to intimidate, suppress, or impose penalties. CSOs should be shown their mistakes, provided with the correct information, and given time to make corrections before any immediate penalties are imposed. However, there are instances where audit reports were not provided to CSOs despite written requests. Participants emphasize that audits should be conducted at predetermined intervals, without arbitrariness or political considerations, and that requested documents should be limited to financial and administrative matters, with prior knowledge of which documents will be required for the audit. One participant mentioned that auditors even requested documentation for rejected projects, which was seen as an arbitrary practice. A CSO focused on documenting human rights violations emphasized the need for audits to be conducted by an independent institution. Additionally, the auditor should have knowledge of the field in which the CSO operates, be familiar with the language used and have a good understanding of national and international legislation in that field.

Associations are required to keep at least six books. Associations often receive penalties due to the improper maintenance of these records and failure to submit timely notifications. The excessive bureaucratic approach regarding association records persists both in legislation and in practice.

The Regulation Amending the Association Regulation, enacted in October 2018, made it mandatory for associations to register not only their board members but also all their members with the local administrative authority and the Information System of Associations (DERBİS). The Human Rights Association (HRA) and the Mülkiyeliler Union filed annulment lawsuits, citing the arguments that the regulation amendment could only be carried out through a law, thus interfering with the freedom of association. They further contended that the purpose of utilizing the collected information was not explicitly stated, thereby violating the right to the protection of personal data. Although the Council of State annulled the relevant articles of the regulation in relation to these applications in October 2021, the obligation to notify members continues due to the amendment made to the Law on Associations with Law No. 7226 dated March 26, 2020. The name, surname, date of birth and TR ID number of those who have been accepted as members of the association and those whose membership has expired have been made compulsory to be notified to the relevant public institution within forty-five days from the date of acceptance and termination. It is mandatory for those who continue their membership to report their full name, date of birth, and National Identification Number to the local administrative authority within six months. Additionally, it is stated that administrative fines will be imposed on association managers who fail to fulfill their notification obligations.

The number of members publicly available in Türkiye until 2019 was removed from DGRCS's website after this regulation. Although the membership numbers for the years 2020-2021 are not known, as of the date when the data was last available, the Expert Council on CSO Law of the Conference of International Non-Governmental Organisations stated in its opinion on the amendment as: "According to official data, the total membership in associations has decreased precipitously from 11,239,693 members in 2017 to 7,374,281 members in 2019. While there might be various contributing reasons to explain this decline, the introduction of membership notification requirement in 2018 has probably made some contribution to this decline."<sup>33</sup>

16.6% of the associations participating in the quantitative field research indicate that they have encountered situations such as members resigning, expulsion from membership, difficulties in finding new members, termination of membership due to inability to reach certain existing members and facing sanctions for non-compliance with the mandatory notification requirement. High-capacity organizations have been the most affected group by the membership notification requirement. They also face the greatest challenge in finding new members. Based on the assumption that these organizations have a higher number of members and are considered to have the strongest institutional structure, it can be speculated that this result stems from a mutual hesitation due to both the organization and its members being more knowledgeable about legislation. A CSO representative mentioned that when those who want to sign up are informed about the notification obligation, some decide not to go through with the membership.

*"And these decrees etc. When many things happened, people wanted to work somehow, but being an active and officially disclosed member made some people a little uncomfortable. Because in people's eyes, CSOs became a tool for profiling, in a way. Because when you become a member, your membership or activism may come against you when you least expect it."* **(Association-Mental Support)**

In the interviews, it was shared that employees in public institutions, those considering employment, or young people starting their careers tend to prefer voluntary participation rather than joining rights-based CSOs. It has been reported that university students mostly work as interns. When young people are informed about the notification requirement, they are also reported to give up on becoming members. As a result, there appears to be an increasing trend towards volunteering instead of membership during this period.

Another participant mentioned that in order for membership dues to generate meaningful income, there needs to be a membership base, but people are afraid to join CSOs. The obligation to notify new members deters people from membership. Furthermore, the inclination not to become a member also has a negative impact on the sustainability of CSOs.

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<sup>33</sup> Expert Council on CSO Law of the Conference of International Non-Governmental Organisations. *Opinion on the Compatibility of Amendments to the Turkish Law on Associations with European Standards*, p. 34.

*“Membership in rights-based civil society organizations, in particular, has become something that scares people in Türkiye. I don’t remember when, but the Ministry of Interior introduced the obligation to notify new members. So, you tell the state... you are disclosing your political stance and demonstrating it by becoming a member of a specific association. People don’t want to do it out of the blue. ... And in order for membership fees to become a significant and credible source of income, it is necessary to have a larger membership base.” (Association-Press)*

Regional disparities and disproportionate administrative and judicial practices are observed when it comes to audits and penalties. Deficiencies in the definitions within the relevant legislation cause CSOs to face punitive measures. Among the 42 organizations that stated they faced sanctions for non-compliance with the legislation during the field research, half of them did not exercise their right to appeal through administrative or judicial means because they believed they would not achieve any results.

One of the essential conditions for freedom of association is that CSOs can operate without state interference. In the field research, 72 CSOs stated that they have been threatened or targeted by politicians and/or public officials, while 71 CSOs reported facing defamation campaigns carried out by non-governmental actors (such as media organizations and companies). Only 16.9% of CSOs targeted by actors other than the government stated that the state took measures to protect its institutions against smear campaigns. 16 CSOs have reported encountering interventions such as police/gendarmerie raids and searches conducted, for example, based on a prosecutor’s decision. There are also organizations that face pressure in the online environment. 43 of the CSOs have reported experiencing harassment or restrictions targeting social media groups, email addresses, and websites, while 27 of them have indicated partial encounters with such issues.

As a result of the legislative changes in 2020-2021, although widespread practices such as heavy fines or the appointment of trustees in place of management bodies or individuals are not commonly encountered, these changes have created a clear hesitation among CSOs. The prevailing view is that joining CSOs or serving on their boards carries risks. On the other hand, targeting of CSOs by politicians or media organizations and smear campaigns against CSOs working in specific areas lead to the narrowing of civic space.

Examples of state interference against civil society and social movements that occurred in 2020-2021 include:

- On April 24, 2020, during the Friday Prayer by the President of Religious Affairs, homosexuality and “adultery” were associated with the pandemic, prompting many CSOs and professional organizations to react against discrimination and hate speech targeting the LGBTI+ community. A “defamation” lawsuit was filed against the President of the Ankara Bar Association and the members of the Board of Directors, who made a press statement together with the HRA Ankara Branch upon the statements of the President of Religious Affairs targeting LGBTI+ and HIV+ individuals. An investigation was launched against Diyarbakır Bar Association, following a criminal complaint filed regarding the statement.
- The event titled “How to Protect LGBTI+ Students from the Grip of Family and School” planned by Tarlabası Community Center, which works to empower individuals fighting deprivation caused by poverty and migration, in collaboration with Kaos GL Association on June 27, 2021, was targeted through news coverage with headlines that read “LGBTI and terrorism education at the heart of society” in Milat Newspaper and A Haber television channels. Following various inspections between June and September 2021, separate lawsuits have been filed against Tarlabası Community Support Association for “determining absence” and “dissolution.” The cases are still ongoing.
- The detention of human rights activist and businessman Osman Kavala continues despite the decisions of the European Court of Human Rights and the Committee of Ministers of the Council of Europe calling for his release.<sup>34</sup> Anadolu Kültür A.Ş., a civil society organization established through the efforts of Osman Kavala and working in the field of culture and arts, was also subject to a closure lawsuit filed in February 2021.

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<sup>34</sup> Despite previous acquittal and a definitive ruling of violation by the European Court of Human Rights, Osman Kavala was sentenced to aggravated life imprisonment under Article 312 of the Turkish Penal Code for the alleged attempt to overthrow or hinder the functioning of the Government of the Republic of Türkiye in the “Gezi Park Case,” by a majority decision.

## 1.1.3. Securing Financial Resources

### Legislation

The Turkish Commercial Code, Law on Associations, and Law on Foundations regulate the economic activities of CSOs. CSOs are not allowed to engage in direct economic activities. CSOs can establish economic enterprises to generate additional income or to carry out ongoing activities beyond their revenue sources such as donations, assistance, rent, and grants.

Associations and foundations can receive in-kind and cash assistance from individuals, institutions, and organizations abroad, subject to notification. Foundations are obliged to report funds or assistance received from abroad through bank transfers within one month. Associations and foreign CSOs operating in Türkiye with a permit are obliged to report the funds or assistance received through bank transfers from abroad before they are spent. Regardless of the amount, each aid/fund received must be reported separately, and the notification form must be filled out and submitted with accompanying documents such as contracts/protocols that specify the purpose of the aid. However, due to the lack of a clear definition of “in-kind and cash donations received from abroad” in the legislation, even membership fees or individual donations received from abroad are subject to reporting.

The obligation to notify foreign donation and aid was introduced under Law No. 7262. According to this regulation, CSOs are required to notify the donation and aid they will send abroad before sending it. Furthermore, as a result of the amendment made in October 2021 in the Regulation on Associations, an activity outcome report must be submitted within ninety days after the provision of the aid. With the amendment in legislation, the amounts to be sent to the headquarters of foreign CSOs operating in Türkiye with permits are also included in the notification requirement.

Associations and foundations can receive donations and aid from domestic companies, individuals, and other sources to achieve their stated objectives as written in their statutes/by-laws/official documents. While there is no explicit provision in the Law on Collection of Aid, in practice, income-generating activities conducted by CSOs outside their headquarters (such as public events, campaigns, SMS donations, etc.) are classified as collection of aid. Each aid collection activity carried out by a CSO is subject to permission. To obtain permission, a detailed application is required, including information on the amount of funds to be raised, how it will be used, the timeframe for the activity, and where it will take place. Permission and refusal authority to collect aid rests with the district governorships or governorships, depending on the region where aid is collected. As a result of the amendment made under Law No. 7262, fundraising activities conducted on the internet are also subject to the law and require permission. The same regulation also determines the actions to be taken to terminate unauthorized fundraising activities in the online environment and the sanctions stipulated in case of violation of the law.

Another restrictive regulation in the law is the obligation to spend the net income obtained from a aid collection activity in accordance with the specified purpose and within the authorized period. CSOs have an obligation to report in this regard. Additionally, the Law stipulates that if the collected aid does not reach the desired/declared amount or exceed it, the entire amount or the excess amount shall be transferred to organizations deemed appropriate by the competent authority and operating for a similar purpose as stated in the permit. This regulation disregards the will of the donors and the autonomy of CSOs and violates property rights.

While Türkiye uses two different concepts, aid, and donation, the lack of a clear definition between the two in legislation caused difficulties until 2021. On November 10, 2021, an amendment was made to the Regulation on Principles and Procedures for Collection of Aid, defining donations as any in-kind or monetary support provided to a CSO without any specific call, whereas aid was defined as in-kind or monetary support given, either unconditionally or as a loan, when directly or indirectly requested for the purpose of addressing a specific need. In this regard, voluntary donations that are spontaneously made are outside the permission procedure stipulated by the Law on Collection of Aid, and CSOs do not need official permission to publish their bank account numbers on their official websites. However, CSOs are not allowed to share their account numbers, make donation calls, or launch donation campaigns without permission on other websites or social media accounts. This situation causes difficulties for CSOs in fundraising and engaging in

income-generating activities. On the other hand, a very limited number of CSOs are exempt from the Law on Collection of Aid. Some of these exempted CSOs are organizations established by law and managed by the state. The determination of which organizations are exempt from the Law on Collection of Aid is made by the President upon the proposal of the Ministry of Interior.

The regulation and permission requirements for the collection of aid make it difficult for CSOs to maintain financial sustainability and access financial resources.

## Practice

The procedures required for engaging in economic activities are quite burdensome for CSOs. It is mandatory for the statutes/by-laws or official documents of CSOs to include a provision stating that they can establish economic enterprises. In cases where this provision is not included, the statutes/by-laws or official documents need to be amended. According to the latest data provided by DGoF, in 2020, there were 1,468 profit-oriented organizations/businesses affiliated with foundations, but the income of new foundations consisted of only 1.2% of economic enterprise revenues.<sup>35</sup> The fact that only a portion of new foundations have an economic enterprise and the income generated from economic activities is significantly less compared to other sources of income indicates the obstacles faced by CSOs in engaging in economic activities. In fact, only 6.5% of the organizations participating in the quantitative research indicated that they have economic enterprises.

Establishing and maintaining an economic enterprise usually requires capital, which is not feasible for many organizations. Additionally, even if an economic enterprise is established, there is a need for relatively skilled labor to sustain it, comply with regulations, and deal with bureaucratic procedures. Most associations lack such institutional capacity, as their members or management cannot spare time from their own businesses to both sustain their economic activities and deal with bureaucracy. In this sense, foundations and associations differ. According to field research data, while one in five foundations has an economic enterprise, this rate is only 3% for associations. The different financial structure of foundations and their establishment with a certain capital facilitate the establishment of economic enterprises. Similar issues have been mentioned in qualitative interviews as well. Many organizations with economic enterprises face challenges in areas such as product design, production, and monitoring. These require capital and personnel.

*"From designing the product to its production... I mean from procurement to how to sell the products... It's not something that can be done by one person. It needs thorough planning. Therefore, especially with the pandemic and increasing production costs, it has become even more difficult. We established it in the past and we are trying to keep it going, but we are constantly incurring losses."* **(Foundation-Youth rights)**

*"I don't have much knowledge about it, but I know it's a headache... We couldn't create a dedicated human resource for that. I don't know if we're losing money. I'm sure we're not making a profit. Generally, we rent rooms in the building, have a publishing house, and there are book sales. But as I said, it's not an area that will bring in a lot of money, so I don't know why we're investing in it."* **(Association-Press)**

It has been observed that some organizations can receive sponsorship for materials. However, materials donated to the CSOs cannot be transferred to the enterprise. Therefore, the enterprise needs to pay the invoice value of the materials to the organization. Additional taxes are incurred in this process. There appears to be challenges in invoicing. For example, an organization that engages in production with their beneficiaries mentioned that they have to issue receipts instead of invoices since these individuals are unable to issue invoices, which increases the tax burden. As a result, the cost of the products increases, they are sold at a higher price in the market, and consequently, the tendency for consumers to purchase them decreases.

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<sup>35</sup> Directorate General of Foundations *Select Data on New Foundations - Number of for-profit organizations/businesses owned by foundations.*

*"A company donated a few rolls of fabric to [the association] ... Then they told us that we couldn't use it in the economic enterprise. You can't use it in the enterprise. How are we going to use it here? They donated it to us for using it here. But no, it is another entity. You should determine the invoice value for this in-kind support. The economic enterprise should transfer the money from one pocket to another then... Meanwhile we have to pay additional taxes and other expenses." (Association-Refugee rights)*

CSOs say that they make very little profit, and some even report losses from their economic enterprises. Additionally, one of the most significant issues mentioned regarding economic enterprises is taxes. Economic enterprises have the same tax obligations as companies. This topic will be further elaborated in the next section, which discusses tax practices.

However, both quantitative field research and qualitative interviews have shown that high-capacity organizations, especially foundations, are successful in this regard, generating good income from their businesses and thus supporting their sustainability. While 5% of organizations with a weak rights-based approach have economic enterprises, this percentage rises to 11% for strong ones. During qualitative interviews and focus group discussions, it was observed that some CSOs are trying to overcome fundraising challenges and achieve financial sustainability by establishing businesses or improving existing ones to generate significant income. CSOs engaged in rights-based advocacy state that they are seeking solutions to overcome their dependence on funding sources and the targeting they face due to receiving funds from abroad.

The use of foreign funds is not subject to permission, but relevant authorities must be notified. Even in cases where small amounts are donated from abroad or membership fees are paid, the obligation to notify imposes a disproportionate administrative burden on CSOs. There is no publicly available information regarding how and to what extent CSOs in Türkiye can benefit from foreign sources. As a result, a request for information was made to the DGRCS, DGoF, and the Financial Crimes Investigation Board (MASAK) regarding the number of CSOs that were sanctioned due to deficiencies in their reporting obligations for foreign funding or assistance, as well as those that were prevented from benefiting from foreign funding or assistance for various reasons during the years 2020-2021. However, the responses to these inquiries did not provide any information on these questions. Therefore, the results of field research become even more important. Among the CSOs participating in the quantitative part of the research, only 6.2% stated that they benefited from foreign funding sources, and 23.2% of this group found foreign aid/funding reporting obligations to be complex. Obligations such as constantly checking the donation accounts to regularly notify about the individual donations from abroad, and compiling a large amount of data about the donor are especially challenging for small-scale CSOs with few employees. During the qualitative research interviews, examples were shared indicating that CSOs that failed to provide complete or timely reports due to such reasons faced punitive measures as a result of audits.

Another problem encountered by CSOs receiving funds from abroad is the frequent occurrence of defamation campaigns in recent years. Lists of CSOs are being published on social media or certain media outlets using accusatory and stigmatizing language, targeting both funding organizations and the CSOs themselves, as well as their managers and employees, with allegations such as "supporting terrorism" or "espionage." Almost all of the CSOs targeted by certain media outlets and senior state officials focus on issues such as human rights, women's rights, or work in areas such as violations and discrimination against LGBTI+, ethnic groups, and migrants. Nine CSOs participating in the quantitative research reported being targeted in connection with the received grants. Additionally, in-depth discussions revealed that some of these CSOs have undergone audits that specifically focus on their detailed financial transactions and funding sources following smear campaigns. In this regard, concerns about utilizing foreign funding sources increase due to the preferences and practices of political will, posing a risk of foreign funds becoming a pressure factor on CSOs.

A large majority of the participants interviewed in the field research stated that various changes have occurred in international funding in recent years. The reasons for these changes are attributed to the political climate in Türkiye and the pressures exerted on civil society. According to the information conveyed, these organizations do not want to take risks as the laws in Türkiye also bind the funders. Foreign governments and international organizations that provide funding particularly want to ensure that the association/foundation will not be shut down, thus ensuring that their organization's budget will not be wasted. According to the participants,

funding organizations have changed their attitude and diversified their funding procedures and distribution methods due to all these reasons. These organizations have become more selective in providing funds to organizations. Therefore, it was noted that priority is given mainly to CSOs that have previously been worked with, are known, have larger capacities, and can meet more criteria, and that are less critical of the administration's policies. Meeting these criteria is difficult for small-scale institutions. Therefore, the number of supported organizations has reportedly decreased. It was noted that the procedures followed by funding organizations to verify the reliability of CSOs have also become more stringent. These procedures may include investigating the members of the CSO's board of directors. It was mentioned that some organizations have withdrawn from Türkiye due to all these pressures and risks.

*"For example, when faced with questions like... why your daily content is not as much as other news websites... it is technically impossible for us to answer that... I feel like they are disregarding the structure and main objective of the institution... questions that come with such expectations feels as if they are not working with a civil society organization..." (Foundation-Press)*

*"Following the Büyükada trial, it seems that human rights organizations have been treated as if they were involved in a coup attempt... Afterwards, access to funding became more procedural and a tendency to give priority to CSOs that would go easy with the government became more evident..." (Association-Human rights and democracy)*

*"If they shut down the association and seize its funds, ultimately it will be like seizing the funds of the EU... It feels like there is a risk management aspect to it. Secondly, we face a lot of questions. Can we give it to you?... Will you do a risk analysis? We can do a risk analysis, but what if tomorrow they appoint a trustee... Just like that?... They expect assurance that under all these conditions, it will never be closed, and they want to be sure because public funds are being spent. This applies to the EU. Many institutions have been driven away, exhausted, and frustrated... Plus, things like, "Let us not give you any money, but we'll pay the bills" this kind of approach emerged..." (Association - Human Rights and Democracy)*

There are also those who believe that funding organizations no longer want to allocate resources to potentially risky subjects. In addition, funding organizations may request the exclusion of certain expressions that could pose problems in project outcomes. For example, one participant mentioned that a funding organization no longer wants in project outputs to be in Kurdish.

*"If they were supporting 50 CSOs before, now they have reduced it to 20 and also reduced the amount they allocate. They have also narrowed down their areas of work in some way. They started focusing on softer topics. They have probably felt the pressure themselves; we can see that the fear of being closed down and prosecuted... and we see the change and weakening, of course." (Association-Law, advocacy, and politics)*

*"First, some of them no longer want us to publish in Kurdish. We severed our ties with those organizations. Or they do not accept Kurdish descriptions of the projects they support in our posts, on all social media platforms, and on the website... And there's this new thing now. They say, "You need to send us the list of your board of directors"... So, in the end, if an investigation is initiated against this association with such an accusation, they will also be at risk because they support us. They said they have developed such a method to protect themselves." (Association-Children's rights)*

Another important point mentioned regarding funds is the change in the allocation of EU funds. It is noted that EU funds for civil society are now provided directly to the Delegation of the European Union to Türkiye or to CSOs with high technical and financial capacity in Türkiye, rather than through public institutions. These CSOs then distribute the funds to civil society under the framework of "sub-grants." These funds are mostly provided in the form of institutional support. Institutional support grants help facilitate and strengthen civil society's work. However, this sub-granting strategy is controversial in some respects. The first point of contention is that it tends to turn civil society inward. While CSOs funded by the state were able to maintain a relationship with the public sector - albeit somewhat tense - in the past, current conditions have severed ties and distanced them from the government. The other issue is the emergence of bureaucratic and hierarchical relationships within civil society. ...which is against the spirit of civil society.

*"... At the beginning of IPA III... the European Union made a decision and said, 'I'm leaving the government out.' The international political implication of this was: 'You are no longer a candidate country; you are among neighboring countries.' While the European Union empowers its candidate members by getting them on board with its own criteria, it also supports the strengthening of civil society in neighboring countries... The European Union has now shifted away from directly involving the government and adopted a system where funds are distributed from one organization to another... They allocate resources to a well-established and capable organization, which in turn provides support to other organizations in the field... So, I understand that the public sector isn't seen as an ideal partner for the European Union... However, regardless of that, civil society inherently exists to actively influence, bring about change, and even disrupt the workings of the public sector. What will happen when you leave out the government, how will we make an impact? So, despite all the bad stories, there was an advantage in funds being transferred from the public to civil society. It was creating a clash between the public and civil society and causing this change. For some, it was sufficient; for others, it was inadequate, but it was happening... There are advantages as well. Yes, we need to strengthen and stay in protected areas as organizations, and we can only do that in this way; we can continue our lives in this way."* **(Association-Youth rights)**

*"For example, that's why STGM was established. It has something that empowers civil society. It is trying to create resources for it. Attempts are being made to manage grant programs from there, but gradually... you see organizations that were not established for this purpose starting to provide subgrants. In my opinion, it eliminates trust, collaboration, and partnership within the civil sector. It turns these organizations into bureaucratic entities. ...and initiates a hegemonic relationship."* **(Platform-Law, advocacy, and policy)**

It has been noted that this trend applies not only to EU funds but also to foreign foundations. One participant mentioned that CSOs no longer have easy access to international foundations, but they can apply with the reference of another funding organization, and funds are distributed through other reliable international major organizations.

*"Now, major foundations give their funds to major international organizations or specific partnerships and distribute them to us from there. For example, we used to directly receive funding from a major organization. Now, that organization gives its funds to other organizations and says... 'Distribute this to your partners under my control.' Thus, they get their funds checked... With the decline in the credibility of countries like ours, trust in CSOs has also decreased... Our direct access to international funds has also diminished. In the past, for instance... we would travel to Switzerland, make a presentation... We would invite them. Then they would come. That's how a relationship would begin. Now, your relationship with another international fund needs to be good so that the fund can recommend you to the umbrella fund."* **(Association-Nature conservation)**

There is no legal barrier to receiving funds/donations from individuals, companies, and other sources. Cash donations must be made through bank transfers.

CSOs face significant problems in fundraising activities due to the restrictive and bureaucratic Law on Collection of Aid. Obtaining permission for fundraising requires filling out a form in detail. The evaluation and outcome of the permit application are at the discretion of the public administration. The evaluation criteria are neither clear nor predictable, leading to inconsistencies in practice. Getting a permit can be easy or difficult depending on the attitude of the relevant official in the province where the application is made. The evaluation process for permission to collect aid is not transparent for CSOs and is considered a stage that makes obtaining permission more difficult. According to data shared by DGRCS, as of October 2021, there are 34 associations and foundations that have the right to collect aid without obtaining permission. Requests for information were made within the scope of the research to learn the number of applications for fundraising permits, acceptance/rejection rates of applications, and the reasons for rejections. However, the relevant public institutions did not share this data.

In the in-depth interviews, opinions emerged that the right to collect aid without permission should either be given to all CSOs or none. The lack of transparent and concrete criteria for granting such statuses leads to criticism due to the shaping of decisions based on political will and creating distinctions among CSOs.



The barriers and procedures introduced by the Law on Collection of Aid make it difficult for CSOs to generate income and constitute a heavy interference with their rights to association and property. Among the organizations participating in the research, very few (4%) collected aid over the internet following the enactment of Law No. 7262. 8% of foundations and 2% of associations organized online aid/donation collection activities after the law changed in 2021. While more than half of the fundraising associations are of the opinion that it has become more difficult to collect aid from the internet after the law amendment, this rate is lower in foundations (43.5%). No notification has been made by the Ministry of Interior to any foundations regarding the removal of fundraising content, while 16% of associations have indicated receiving such notifications.

One participant mentioned that some legal loopholes have been closed with the new law, which resulted in their inability to organize fundraising campaigns on the internet, and negatively impacted their foundation. One participant gave the example of a charity run. While some CSOs do not encounter problems with participating in and collecting aid through runs, one foundation was unable to obtain permission to do so. An official from an LGBTI+ association stated that they applied for permission approximately 16 times and all were rejected. They continue to persist in their applications and plan to initiate legal proceedings in the future, as they believe that these rejection decisions will have political implications. Some CSOs have also reported that while they used to be able to obtain permission in the past, they are now denied permission for fundraising activities. Moreover, some mentioned that penalties have increased after the amendment to the Law on Collection of Aid.

*“Some expressed difficulties, stating: “We are unable to raise funds. We never get permission from the governorship... When we apply, they say you have the money... You don’t need to collect aid. You can do this activity with your own resources. For the following year, we design a project to raise more funds. They say we don’t see any public benefit in it.” (Association-Nature conservation)*

One participant mentioned that the transfer of money has become more difficult in fundraising:

*“Fundraising has already been significantly restricted. Second, there have been difficulties and problems with transfers after these laws... Restrictions have been imposed on the banking services for both national and international transfers of civil society organizations. Because every transaction is viewed with suspicion. Money circulates around the world through the SWIFT system, and they control these transactions through correspondent banks. How does money circulate in the world? It circulates in exchange for goods and services. Then why are civil society organizations sending money? Did they buy goods or services? Because of this understanding, every transaction is viewed with suspicion. What is the purpose of this money? Who will it reach from there? Will they finance terrorism? This is how we feel the impact of these laws. In other words, we are experiencing difficulties in terms of delivering to those in need. Now a law is enacted, they say, ‘We are doing this to protect you.’ Alright, protect us. But how will we protect ourselves? Will there be a guide, a regulation, a directive, or a principled or standardized audit designed for this? There is no answer to this. So, okay, let’s enact these laws, but let’s not restrict the civic space. Because look, I can’t make transfers, nobody can.” (Foundation-Aid)*

Consequently, due to both legislation and practices in Türkiye, there are significant obstacles for CSOs regarding engaging in income-generating activities, benefiting from various funding sources, and expanding donation and aid resources. It is difficult to say that the financial sustainability of CSOs is guaranteed in this regard.

### *EU Guidelines Assessment*

**Finding 1.1.a** The freedom of association is generally protected in the legislation in compliance with international standards. However, the legislation contains restrictions concerning children, foreigners, individuals with limited legal capacity, and public personnel. Due to the provision in the Civil Code stipulating that “associations cannot be established for purposes contrary to law or morality,” the establishment purposes of CSOs are limited, allowing wide discretion to public authorities. The current legal framework allows for various forms of state interference in the internal affairs of CSOs, and legislation needs to be revised to prevent such interference.

**Result 1.1.b** According to the Constitution, everyone has the right to establish an association, become a member of an association, and resign from membership without prior permission, and no one can be forced to become a member of an association or maintain membership. With the recent amendment to the Law on Associations, associations are now obligated to disclose the personal information (name, surname, national identification number, profession, and date of birth) of their current members, as well as those who become members and whose membership has ended, to public authorities. Previously attempted through a regulatory amendment, this regulation is criticized for the government’s recording of information on civil actors. The Law on the Prevention of Financing the Proliferation of Weapons of Mass Destruction is viewed as a tool for continuous monitoring, imposing heavy fines, and ultimately as a means for direct state interference in associations.

**Finding 1.3.a** There is no specific regulation in the legislation regarding grassroots organizational structures, and detailed regulations are only available for associations. As a result, foundations and cooperatives are considered civil society organizations to a certain extent. Therefore, they are required to be registered in order to operate freely and receive financial support. Nevertheless, there are many organizations, such as solidarity networks, that do not receive any official funding and even do not collect membership fees.

**Finding 2.1.a** Laws and regulations concerning CSOs outline the general framework of fiscal rules applicable to CSOs. Although the rules may seem clear, their detailed nature causes confusion. CSOs complain about bureaucratic administrative burdens and arbitrary practices in financial audits.

**Finding 2.1.b** states that financial rules for CSOs, including taxes, are not clear and not adapted in a user-friendly manner to meet the needs of CSOs. All CSOs maintain their financial records in specific books. Associations with public benefit status and associations with income exceeding 500,000 TL are required to keep books based on balance sheets. The only amendment made to fiscal rules is the requirement for more detailed prior notification to receive external financing.

## Sub-area 1.2. Related-Freedoms

### 1.2.1. Freedom of Peaceful Assembly

#### Legislation

The right to assembly and peaceful protest in Türkiye is regulated by the Constitution, Law No. 2911 on Meetings and Demonstrations, the Regulation on the Implementation of the Law on Meetings and Demonstrations, Law No. 2559 on Police Duties and Powers, Law No. 3713 Anti-Terror Law, and Law No. 5326 on Misdemeanors. According to Article 34 of the Constitution, everyone has the right to organize meetings and marches without prior permission. However, this right can be limited based on reasons such as “national security,” “public order,” “prevention of crime,” “protection of general morality,” “protection of public health,” and “protection of the rights and freedoms of others.” While the purposes for restrictions comply with Article 11 of the European Convention on Human Rights, they can be subject to arbitrary interpretations.

Law No. 2911 on Meetings and Demonstrations significantly restricts the exercise of the right to peaceful assembly with comprehensive limitations. Meetings and demonstrations of foreigners are subject to the permission of the Ministry of Interior. Furthermore, according to Article 10 of TGYSK, all members of the regulatory board are required to sign a declaration at least 48 hours before the meeting and submit it to the governorship or district governorship to which the meeting venue is affiliated during working hours. Otherwise, meetings, demonstrations, or marches are considered illegal, and the government is authorized to take any necessary measures, including police intervention, to disperse the gathering. Therefore, it can be argued that the law prohibits spontaneously occurring, unplanned demonstrations.

The Law delegates the authority to determine the places where meetings and demonstrations can take place to district governorates and governorates, thus imposing restrictions. According to Article 6/2 of the Law, meetings held outside the locations determined by the local authorities become illegal: “The location and route for meetings and demonstrations in provinces and districts are determined annually in January by the highest-ranking local administrative authority, taking into account the written opinions of the provincial or district representatives of political parties with parliamentary groups at the Grand National Assembly of Türkiye, mayors of districts and provinces along the route, the three largest trade unions, and the representatives of professional organizations that have the status of public institutions, while adhering to the limitations listed in the first paragraph of Article 22 of the Law. These determinations should ensure that the activities do not disrupt public order and general peace, and do not excessively or unreasonably impede the daily lives of citizens. In cases where it is necessary for the maintenance of public order and general security, the location and route of meetings and demonstrations can be changed using the same procedure throughout the year. Multiple locations and routes for meetings and demonstrations can be determined taking into account the size, development, and settlement characteristics of the province and district.” According to Article 22 of the Law, organizing meetings and demonstrations in numerous public places is prohibited. These include parks, places of worship, buildings and facilities providing public services, as well as their extensions, and areas within one kilometer of the Grand National Assembly of Türkiye (GNAT). According to the decisions of ECtHR, all the aforementioned areas are places where the freedom of assembly can be exercised, and a broad restriction of this nature directly violates the ECHR.<sup>36</sup>

According to Article 17 of the law, “The regional governor, governor, or district governor may postpone a specific meeting for a maximum period of one month for the purpose of maintaining national security, public order, crime prevention, protecting public health and general morality, or safeguarding the rights and freedoms of others; or prohibit it if there is a clear and imminent danger of committing a crime.” According to Article 18 of the Law, these institutions must notify the organizing committee of their decisions at least 24 hours in advance. Another basis for the prohibition decisions is Law No. 5442 on Provincial Administrations. According to Article 11, paragraph (c) of the law, “Ensuring peace, security, personal immunity, safety related to

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<sup>36</sup> Gökçeçişek Ayata, Ulaş Karan. *Active Participation in Civil Society: International Standards, Obstacles in National Legislation, And Proposals Report*.

possessions, public welfare, and preventive police authority within the provincial borders are the duties and responsibilities of the governor... The governor takes the necessary decisions and measures to ensure all these." There is no specific and expedited appeal procedure regulated in the legislation for CSOs to object to the prohibitions imposed by public authorities. Individuals and CSOs who have experienced human rights violations, including the freedom of assembly, can seek recourse to the Human Rights and Equality Institution of Türkiye (TİHEK), established with the aim of protecting human rights, combating discrimination, and developing a national preventive mechanism against torture and ill-treatment. Similarly, they can also turn to the Ombudsman Institution, established to examine, investigate, and make recommendations on the actions, decisions, and attitudes of the administration in accordance with a human rights-based understanding of justice, legality, and fairness, specifically regarding any actions, decisions, or behaviors of the administration that infringe upon the freedom of assembly. These institutions are responsible for reviewing, investigating, and making recommendations regarding the applications received.

Article 16 of the Police Duties and Powers Law stipulates that "If the police encounter resistance while performing their duty, they are authorized to use force to break such resistance, to the extent necessary. Within the scope of the authority to use force, the use of firearms is permissible when the nature and degree of resistance and the conditions of rendering the resisters ineffective require the gradual and increasing use of physical force, material force, and legal conditions." With this article, law enforcement authorities have been given the power to disperse demonstrations that have not been notified to or have been postponed/banned by local authorities, and to physically intervene in case of protest by demonstrators. The fact that unannounced meetings and demonstrations are deemed unlawful per the TGYSK, paves the way for police interventions, which are often disproportionate.

Widely known as the "Internal Security Reform Package," enacted by the Grand National Assembly of Türkiye (GNAT) in March 2015, which includes the Law No. 6638 on Police Duties and Powers, Law on the Gendarmerie Organization, Duties, and Authorities, as well as the Law on Amending Certain Laws, has expanded the authority of the police to detain individuals without consulting the prosecution and has also strengthened the powers of the police during demonstrations. The Law on Meetings and Demonstrations and its related secondary legislation introduce restrictions concerning the location, duration, and timing of demonstrations and marches, granting extensive discretionary powers to the administration and security forces.

## Practice

In international human rights law, there is a tendency to apply restrictions on the freedom of assembly for organizations and individuals working in the field of human rights only in necessary and exceptional circumstances. In the event of attacks on protests involving human rights defenders, prompt investigation of the attacks and imposition of disciplinary sanctions or other criminal penalties on responsible third parties or law enforcement personnel are expected.<sup>37</sup> Therefore, it is important for public authorities to identify and investigate these cases.

In response to information requests made by TÜSEV within the scope of this research on the right to assembly and demonstration, the requested information has not been provided. However, according to the official figures announced in the 2022 and 2023 budget presentations of the Ministry of Interior, interventions were made in 265 out of a total of 33,609 protests/events in 2020 and in 278 out of 46,555 protests/events in 2021.<sup>38</sup>

Significant incidents occurred during the years 2020-2021 where demonstrations, meetings, and marches were obstructed. (These incidents include the Feminist Night March on March 8<sup>th</sup>, LGBTI+ Pride Week Events, protest and march bans imposed for various durations in numerous cities such as Adana, Van, Şanlıurfa, as well as protests by lawyers, students, workers, and the environmental movement, among other groups.

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<sup>37</sup> United Nations Human Rights Committee. *Argentina, ICCPR, A/56/40 vol. I (2001) 38, para. 74(13)*.

<sup>38</sup> Ministry of Interior. *2023 Budget Presentation*, p. 175 and p. 247.

Following Melih Bulu's appointment as the rector of Boğaziçi University, one of Türkiye's leading universities, through a Presidential Decree on January 1, 2021, students and academics who demanded the selection of the rector through elections organized protests starting from January 4, 2021. However, many of these protests were obstructed by the law enforcement authorities. During interventions, various incidents occurred, such as police putting handcuffs on the university's door, clashes between security personnel and students, and preventing students and faculty members from entering the campus. During ongoing protests, many students were detained, their homes raided by the police, disciplinary penalties imposed on students and academics, and some academics were dismissed from their positions. Melih Bulu was dismissed from his position on August 20, 2021, and was replaced by Mehmet Naci İnci who was appointed by the Presidency. Protests by academic staff continue on the campus.

The majority of the bans on meetings, demonstrations, and marches are justified based on the potential for acts of violence before, during, and after the gatherings. However, since the onset of the Covid-19 pandemic, the most commonly encountered justification for the prohibition of meetings and demonstrations, or the dispersal of an ongoing gathering or protest, was the pandemic itself. Although the State of Emergency (OHAL) ended on July 19, 2018, continuous and indefinite bans on meetings and demonstrations have been imposed in many cities through consecutive 15-day decisions.<sup>39</sup> In addition to official data, the data collected by human rights organizations on the right to assembly and demonstration also constitutes an important source in this field. According to the data compiled by the Documentation Center of the Human Rights Foundation of Turkey (HRFT), during the first 11 months of 2020, there were 115 instances of complete bans on all demonstrations and activities in 35 provinces by the governorships and district governorships, ranging from as short as 1 day to as long as 30 days. Furthermore, security forces intervened in at least 731 peaceful meetings and demonstrations.<sup>40</sup> In the first 11 months of 2021, a total of 101 instances of banning all actions and activities were imposed by governorships and district governorships in 24 provinces and 6 districts, with durations ranging from a minimum of 5 days to a maximum of 30 days. Law enforcement forces intervened in at least 291 peaceful meetings and demonstrations, while 88 events were prevented from taking place.<sup>41</sup>

Field research findings indicate that the majority of registered CSOs consist of inactive organizations with weak financial status, a lack of rights-based approach, limited capacity, and low levels of participation in collaboration with the public and decision-making processes. A significant portion of these organizations have not participated in or organized any meetings or demonstrations. However, within the sample, there are also groups that are more active in exercising this right, and some of the CSOs with specific characteristics state that they encounter more challenges regarding the right to assembly and demonstrations. Qualitative interviews also confirm this analysis, which is based on the data compiled in the quantitative research. For instance, organizations experiencing challenges in terms of freedom of association/expression are subject to greater pressure, increased scrutiny, and feel the "presence" of the administration more in other aspects as well. However, this group organizes and participates in a higher number of public meetings/protests.

According to the findings of the field research, the representative of the interviewed CSOs, as well as other members of the organization, reported a participation rate of 19.5% in peaceful meetings or demonstrations in either 2020 or 2021. The analysis of the research data reveals that the grouped CSOs, which share similar characteristics, significantly differ from each other in this regard. For instance, among representatives of high-capacity organizations, this rate is much higher compared to other groups, standing at 48%. The organizations with a moderate to strong rights-based approach also significantly differ from the weaker ones in terms of their participation rates in peaceful demonstrations. Among organizations with a strong rights-based approach, the participation rate stands at 40%, while it is 10% among the weaker ones. For organizations facing challenges in freedom of association/expression, the rate is %34.

39 Association for Monitoring Equal Rights and Kisa Dalga. *Yasaksız Meydan 14: What is Happening in Van?*

40 Human Rights Foundation of Turkey. *Human Rights Violations in Turkey, 2020 Data.*

41 Human Rights Foundation of Turkey. *Human Rights Violations in Turkey, 2021 Data.*

### Characteristics of CSOs that participated in a peaceful meeting/demonstration in 2020 or 2021 based on the Quantitative Research Findings

Figure 1.5a CSOs that participated in a meeting/demonstration (%)

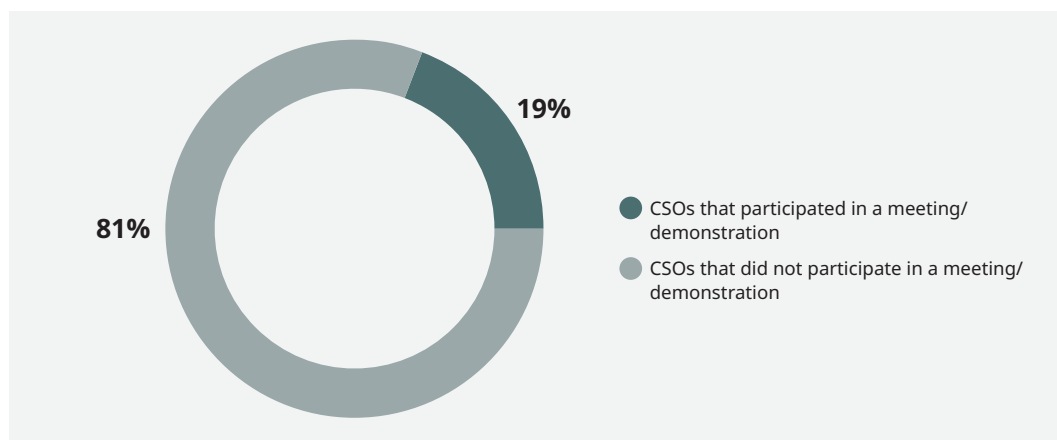


Figure 1.5b CSOs that participated in a meeting/demonstration, by capacity (%)

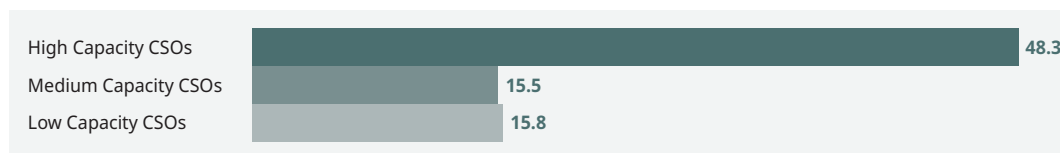


Figure 1.5c CSOs that participated in a meeting/demonstration, by rights-based approach (%)

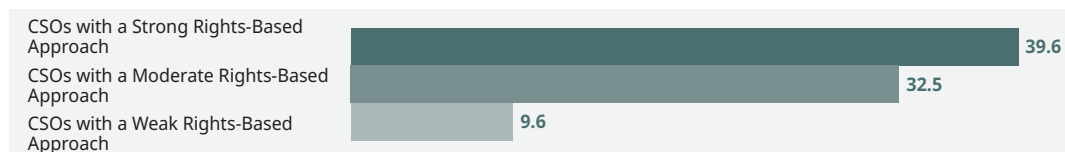


Figure 1.5d CSOs that participated in a meeting/demonstration, by challenges faced in freedom of association/expression (%)



It has been observed that organizations with relatively good financial status, high levels of collaboration with the public sector and participation in decision-making processes, as well as organizations with a negative perception of participation, had a higher rate of participation in peaceful meetings or demonstrations compared to others.

In parallel with participation in peaceful demonstrations, the organizations in the mentioned groups significantly differ from other organizations in terms of organizing demonstrations as well. These groups organize more peaceful demonstrations than other CSOs.

The Venice Commission considers the notification procedure for meetings and demonstrations to be a more favorable practice compared to the permission procedure in pluralistic democracies.<sup>42</sup> In this sense, it is considered positive for the legislation to subject meetings and demonstrations to notification rather than permission. However, in practice, the requirement of prior notification

<sup>42</sup> European Commission for Democracy Through Law (Venice Commission), OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR). *Guidelines on Freedom of Peaceful Assembly (3<sup>rd</sup> Edition, 2019)*.

for all types of meetings can lead to the categorization of spontaneously occurring, unplanned meetings as “illegal” and their subsequent prevention. The European Court of Human Rights (ECtHR) defines the purpose of the notification system as enabling authorities to effectively ensure the exercise of the freedom of assembly by taking preventive measures for the conduct of meetings or demonstrations. The ECtHR emphasizes that notification or authorization requirements should not constitute hidden obstacles to the freedom of assembly.<sup>43</sup> Court decisions also state that there is a positive obligation on states to ensure effective exercise of the right to freedom of assembly and peaceful demonstration by citizens.<sup>44</sup> The Constitutional Court has also issued decisions stating that the state should show tolerance towards the non-violent actions of individuals or groups who have come together for peaceful purposes and do not pose a danger to public order.<sup>45</sup> Nevertheless, many individuals who seek to exercise their right to assembly and demonstration face administrative fines under the Misdemeanors Law for allegedly participating in or organizing gatherings/demonstrations deemed unlawful. Moreover, investigations and legal proceedings can be initiated against individuals for violating the law regulating assembly and demonstrations. According to the annual Justice Statistics published by the Ministry of Justice, in 2020 and 2021 respectively, the Chief Public Prosecutor’s Offices initiated investigations against 6,770 and 7,704 individuals for violating the Law on Meetings and Demonstrations, of which 3,171 and 3,575 individuals had decisions made to initiate public prosecutions against them.<sup>46</sup>

Such restrictions are not limited to marches and demonstrations alone, but there are also examples where they have been expanded to include the activities of rights-based CSOs. In in-depth interviews and focus group meetings, many CSOs stated that they do not organize peaceful meetings and demonstrations in the streets. Some of them stated that they do not feel the need to organize such events, depending on the nature of their activities. However, CSOs that previously included street protests and press statements among their advocacy activities explained that they now refrain from using these methods extensively due to reasons such as prohibitions by local authorities and police interventions. There are only a few CSOs that continue to engage in street protests.

Some participants stated that even though their organization does not organize such activities, they still participate in attempted protests or demonstrations. It has been stated that law enforcement intervened in the protests in which CSO representatives participated in recent years, except for some demonstrations taking place in areas directed by local governorships.

In the few permitted marches, it is possible for slogans or banners to be prohibited. In some cases, CSOs have stated that although they see it as a violation of their freedom of assembly, they choose not to chant slogans to prevent the police from intervening with the gathered crowd. It has been reported that the slogans to be chanted during the march are communicated to the police chief prior to the march, and that slogans that are not permitted are not chanted, and banners that are not allowed are not displayed.

*“So, let’s say there is a new Chief of Police. We go and visit the Chief. ... We say that we are doing these things in the field, these are our activities. We will be advocating for the Istanbul Convention and on November 25, this will also be expressed. Or we do these simultaneously on March 8 or at different times... In that sense, they tell us something like this... Do not write İstanbul Convention on your banners. But use whatever context you want to communicate. We abide by it.” (Association-Women’s rights)*

*“So, we made the notification, and I must say, although at times we consider it a step back, we adopted a somewhat pragmatic approach. Here’s what they said: We want to see what you have to say in the transcript. Or we want to see the banners. It’s like, they decide what to allow and what not to allow, I mean, this is against the essence of the right to assemble and demonstrate.” (Union-Press)*

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43 European Court of Human Rights. *Oya Ataman v. Türkiye*, 74552/01, 05.03.2007; *Samüt Karabulut v. Türkiye*, 16999/04, 19.11.2009.

44 European Court of Human Rights. *Nurettin Aldemir and Others v. Türkiye*, 32124/02, 32126/02, 32126/02, 32132/02 and 32138/02, 02.06.2008.

45 Constitutional Court of the Republic of Türkiye. *Application of Ali Rıza Özer and Others*, 2013/3924, 06.01.2015.

46 Ministry of Justice, Directorate General for Criminal Records and Statistics. *Criminal Statistics 2020; Justice Statistics 2021*.

It has been observed that events such as the annual March 8<sup>th</sup> and November 25<sup>th</sup> marches or Pride Parade have faced obstacles in recent years. Marching on the streets, which were traditionally used for marching, has been prohibited. In many cities, bans on public gatherings and marches are implemented through governorship decisions. It has been reported in the discussions that there are long-term bans covering the entire city of Ankara, as well as bans that target specific districts or areas, including those coinciding with events such as March 8<sup>th</sup> and November 25<sup>th</sup>.

*"In Van, as you know, the governorate has been prohibiting protests and activities for the past 6 years. Later, the Constitutional Court ruled in favor of the case filed by our friends regarding the situation in Van, but now we are being directed to a location 5 kilometers outside the city. They will probably do the same in Ankara."* **(Foundation-Human rights and democracy)**

*"...Well, we haven't organized any protests lately. These types of things are being seriously obstructed. For example, the governorate issues a decision. Let's say they issue a directive stating that press statements, demonstrations, marches, etc. are prohibited for a year."* **(Association-Human rights and democracy)**

In numerous peaceful demonstrations where social groups criticizing government policies come together, there have been instances of law enforcement using disproportionate force in their interventions. There have been decisions by the Constitutional Court indicating that incidents where law enforcement forces employ disproportionate force during meetings and demonstrations violate both the substantive and procedural aspects of the right to assembly and demonstrations, as well as the prohibition of ill-treatment and treatment incompatible with human dignity.<sup>47</sup>

*"Handcuffing from behind has become normalized in the past two years. In other words, everyone is handcuffed from behind when detained. In fact, this is torture according to the decisions of the ECtHR. We can't even advocate against it anymore."* **(Association-Law, advocacy, and politics)**

CSOs that continue to take to the streets noted that the law enforcement does not intervene in protests with limited participation, where only their own members are involved. However, when these actions gain momentum and mass participation, interventions are invariably observed. Apart from the peaceful protests on the street, CSOs also reported interventions in activities such as picnics.

*"For instance, I recently attended a picnic... Around 40-50 people gathered in the park. We put up a banner. It said 'Welcome to our iftar' in different languages. ... Shortly after, the park wardens arrived, and they seemed uncomfortable with the banner. Anyway, we did not want to be bothered so we took down our banner. When 5-6 wardens kept staring at us and taking pictures, the group of 40-50 people dwindled to 20. Naturally, there was a decrease in numbers. After we were reduced to around 20 people, I noticed that they were from the Counterterrorism Unit... We were simply having a picnic, and the counterterrorism police showed up."* **(Platform-Women's rights)**

In the research, there were a few instances where law enforcement authorities contacted the organizers and requested that the demonstration not take place, intimidating them. Organizations facing challenges in freedom of association/expression encountered a significantly higher level of such treatment compared to those who do not face such challenges (20% vs 3%, respectively). Similarly, approximately 20% of high-capacity organizations that organize demonstrations have been contacted by the police/gendarmerie in advance, requesting that the demonstration not take place. It has been reported that law enforcement forces had waited at the entrance of the organization or in front of the meeting hall during the activities of certain CSOs. In such instances, it was claimed that the police, without any attempt at arrest or direct effort to hinder the activity, acted with the intention of making their presence felt and giving a sense of intimidation. This situation can indeed have an impact on the participants attending the meeting or the activity.

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<sup>47</sup> Constitutional Court of the Republic of Türkiye. *Application of Nuray Zencir, 2018/3087, 2/2/2022*; *Application of Evren Köse, 2017/35918, 30/6/2020*.



*“Before March 8, we were holding a banner workshop. The police came directly to the door and said something like, “Just so you know, we are protecting you here.” We said, “there is no need, please go.” So, of course, we don’t think that they were protecting us. It is all about intimidation” (Foundation-Women’s rights)*

*“For instance, the police would come to the meeting and say, “What are you discussing? We’ll be downstairs waiting.” So, they always pay a visit before every meeting, making their presence known, whether it is to make the people attending feel uneasy or simply to assert their presence, I cannot say for sure.” (Association-Law, advocacy, and politics)*

Considering the regional distribution, meaningful data is obtained. According to the qualitative and quantitative findings analyzed, the approaches of the authorities and law enforcement towards the actions vary regionally. In certain regions, the pressure exerted by the authorities on the activities of CSOs can be much more intense. For example, during protest demonstrations held in major cities such as Istanbul and Ankara, the provisions of Law No. 2911 on Meetings and Demonstrations are mostly applied during detentions. However, it has been reported that members of CSOs in the Eastern and Southeastern regions are often accused under the Anti-Terror Law.

*“The same protests and activities that invoke 2911 in İstanbul and İzmir, invoke Anti-Terror Law here... For example... It was a campaign by the women’s platform, about the amendment in the sexual harassment law. So, it took place simultaneously, all around Türkiye, with the purple ribbon. I mean, the protests happened all around Türkiye that day, and also here. That protest did not even invoke 2911 elsewhere. But here, it is used as evidence in an anti-terror prosecution. Yet, they cannot figure out which organization to affiliate it with...” (Association-Women’s rights)*

In Trabzon, it has been observed that CSOs working in the field of women’s rights are able to maintain their relationships with public officials during their activities. They explained that they could carry out their actions by notifying the police or by contacting the governor directly when the police did not allow it.

*“We are progressing through here, passing through here, the Police is with us ... we did our advocacy, we made our press statement in the square. Naturally, İstanbul and İzmir were very surprised at this, how could this be? We explained it very casually. They really supported us.” (Association-Women’s rights)*

In İzmir, İstanbul and Ankara, however, it has been observed that the intervention of law enforcement in meetings and protests has increased in recent years. In large cities, certain centers where demonstrations and press statements had traditionally taken place are being effectively prohibited for an extended period of time. In Istanbul, gathering in Taksim Square, Istiklal Avenue, and around the Bull Statue in Kadikoy is almost entirely prohibited, while in Ankara, very little permission is granted for gatherings in Yüksel Square.

*“In the past, there used to be large-scale demonstrations, and we would march. Now they’re blockading us. They did not allow us in front of the Council of State. In the end, we were stuck inside Eğitim-Sen building... and I don’t know... there is a lot of pushing and shoving and stuff. For example, they caused a lot of hardship on March 8<sup>th</sup>.” (Foundation-Women’s rights)*

It has been reported that press statements are effectively obstructed, and places such as the entrance of the Grand National Assembly of Türkiye or Istiklal Avenue, where press releases were previously allowed, are no longer permitted for such purposes. Therefore, CSOs are compelled to hold press statements in front of their own centers, rather than in locations where they could reach a wider audience. Furthermore, it has been reported that law enforcement forces await outside the building where the statement is made even during indoor press announcements.

*"Often, unions are unable to make statements in front of a ministry they will be dealing with. Most of the time, they are even hindered from leaving their own buildings. They are compelled to read their statements in front of their own building." (Association-Human rights and democracy)*

*"For instance, we once held a press statement inside the union's building, indoors. Even then, there were a lot of police outside the door." (Association-Human rights and democracy)*

The media has the right to participate in meetings and marches. However, there is no encouraging regulation in this regard. It has been reported that recently, regulations have been introduced with the aim of impeding the freedom of journalists to report. The most prominent issues are the obstacles against granting press cards and the prohibition on recording law enforcement forces. Following the transfer of authority to appoint members of the Press Card Commission to the Presidency's Directorate of Communications, the yellow press card issued to journalists has been transformed into a turquoise press card. During the interviews, it has been reported that applications for renewing press cards are delayed by claiming they are "under review," and press cards are not issued to journalists, particularly those perceived to hold dissenting views. It is also mentioned that journalists without press cards face difficulties and obstacles in conducting news coverage.

*"Something called the Directorate of Communication affiliated with the Presidency was established... They announced that they would renew the press cards. In fact, this process began after July 15<sup>th</sup>. Numerous press cards were revoked. They were supposed to be renewed. So, everyone who had a press card applied for renewal... You see, there is a press card that you carry for a lifetime. You carry it for life. I applied for it. It still says it's under review and they haven't issued the press card to me. Not just me, but to some others as well... Now, they even revoked the press card of [well-known journalist] ..." (Union-Press)*

It was shared during the interviews that journalists are not only obstructed by legal regulations but also by arbitrary practices of law enforcement. It was noted that despite having a press card, law enforcement officers do not allow journalists to enter areas where filming is permitted or to shoot footage. In some cases, journalists have reportedly been subjected to insults, obstruction, and even physical violence, and in some cases, interrogated by the police.

*"One of them was filming on Istiklal Avenue. Two police officers approached and asked for their press card. They take out their press card and show it to them. The officers pause for a moment upon seeing the press card, they go and talk to someone else. Then say, 'My superior says filming with a sponge microphone is not allowed here.' So, there is such arbitrariness happening. Especially for those working in the field. For example, during events like the March 8<sup>th</sup>, the Pride March or May 1<sup>st</sup>, they barricade Istiklal Avenue. They don't allow anyone to enter. Even if I show my press card... They say that neither the press card nor journalists can enter." (Union-Press)*

It was also emphasized that with the circular issued by the General Directorate of Security on April 27, 2021, regarding the prevention of recording the visuals and sounds of law enforcement personnel during social and judicial events, interventions towards journalists seeking to capture footage during protests have started. Despite the motion for stay of execution by the Council of State in 2022, the harsh attitude of law enforcement towards journalists has reportedly not changed.

*"The ban on shooting has been lifted. However, that mindset did not change in the law enforcement. For instance, just a few weeks ago, during the latest Saturday Mothers' gathering, despite the existing ban, they attempted to go out. At that time, the first thing the police did was to surround the protesters, all the Saturday Mothers, and the Saturday people, in order to prevent the media from capturing footage." (Association-Press)*

## 1.2.2. Freedom of Expression

### Legislation

According to Article 25 of the Constitution, “Everyone has freedom of thought and opinion. No one shall be compelled to reveal their thoughts and opinions for any reason or purpose; nor shall anyone be criticized or accused based on their thoughts and opinions.” The first paragraph of Article 26 of the Constitution is related to the right to dissemination of thought: “Everyone has the right to express and disseminate their thoughts and opinions by speech, in writing or in pictures or through other media, individually or collectively. This freedom includes the liberty of receiving or imparting information or ideas without interference by official authorities.” However, it should be noted that according to the second paragraph of Article 26 of the Constitution, the freedom of expression and dissemination of thought can be restricted for the purposes of “national security, public order, public safety, safeguarding the basic characteristics of the Republic, and the indivisible integrity of the State with its territory and nation, preventing crime, punishing offenders, withholding information duly classified as a state secret, protecting the reputation or rights and private and family life of others, or protecting professional secrets as prescribed bylaw, or ensuring the proper functioning of the judiciary”. Although the provisions regarding freedom of thought and expression in the Constitution bear similarities to the regulations in the European Convention on Human Rights, the freedom of expression is restricted by laws such as the Anti-Terror Law and the Turkish Penal Code. Article 301 of the Turkish Penal Code on “degrading the Turkish Nation, the State of the Republic of Türkiye Turkish Grand National Assembly, the Government of the Republic of Türkiye and the judicial bodies of the State”, Article 216 on “provoking people to hatred and hostility in one section of the public against another section”, Article 299 on “insulting the President”, Article 220 on “committing an offence on behalf of an organization without being a member of said organization” and Articles 6 and 7 of the Anti-Terror Law on “making propaganda of a terrorist organization” are some of the regulations that limit the right to freedom of expression.

### Practice

In Türkiye, freedom of expression is limited by arbitrary and restrictive interpretations of legislation, repression, dismissals, and frequent lawsuits targeting journalists, writers, and social media users. Human rights defenders, journalists, academics, refugees, women, and LGBTI+ rights advocates are subjected to discriminatory treatment and penalties in various forms, including threats, stigmatization, judicial harassment, arbitrary detentions, and travel bans. All these restrictions lead to self-censorship among activists and deter individuals from joining CSOs and actively participating in civil society. The information requested by TÜSEV regarding the violations of the freedom of expression from the Human Rights and Equality Institution of Türkiye and the Ministry of Justice, was not shared.

Some statistics, albeit limited, were shared by the Ministry of Justice. It is evident that the number of individuals being prosecuted and convicted for “insulting the President” in Türkiye has significantly increased. According to the Justice Statistics prepared by the Ministry of Justice based on data received from judicial units, in the year 2020, there were 31,297 investigations opened on charges of “insulting the President,” resulting in 949 imprisonments, 249 fines (judicial and administrative), 697 security measures, and 3,325 convictions. In 2021, there were 33,973 investigations opened on charges of “insulting the President,” and out of these, 12,667 cases were dismissed.<sup>48</sup>

Several reports document the restrictions on freedom of expression in Türkiye. For instance, according to the annual activity report published by the ECtHR on January 25, 2022, Türkiye ranked first in terms of violations of freedom of expression in 2021.<sup>49</sup> According to the 2021 Annual Penalty Statistics of the Council of Europe, published on April 5, 2022, Türkiye ranks second after Russia in the list of countries with the highest prison population and the highest number of prison sentences.<sup>50</sup>

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48 Ministry of Justice, Directorate General for Criminal Records and Statistics. *Criminal Statistics 2020; Justice Statistics 2021*.

49 European Court of Human Rights. *Annual Report 2021*.

50 European Court of Human Rights. *Analysis of Statistics 2021*.

According to the information note titled “Repression, Obstacles and Challenges Faced by Human Rights Defenders in Turkey” published by the Human Rights Foundation of Turkey (HRFT) in January 2022, between September 1 and December 31, 2021, a total of 833 human rights defenders were subjected to judicial investigations, while 353 human rights defenders faced administrative investigations. Additionally, 34 human rights defenders were subjected to threats and targeting, and 46 faced intervention and obstruction during peaceful meetings and demonstrations.<sup>51</sup>

The arrest and prosecution of human rights activists, journalists, and even parliament members have had significant consequences in restricting advocacy and monitoring efforts of rights-based CSOs in Türkiye.

In the field research, a series of questions were posed to organizations regarding their experiences while exercising their freedom of expression in 2020-2021. Only 3.5% of the organizations stated that they faced any repression targeting their statements, expressions, or reports. The percentage of organizations that believed they practiced self-censorship was 6.5%. Among the 35 organizations that reported facing repression targeting their statements or reports, 36% indicated that the repression originated from the state, while the rate of those subjected to physical attacks was 14.5%. Additionally, 28% reported facing sanctions. Although organizations that face challenges in terms of freedom of association/expression and have a strong rights-based approach, high capacity, and a high level of collaboration with the public and participation in decision-making processes seem to encounter problems at higher rates, it is not possible to make a meaningful analysis due to the limited number of organizations that have made such statements in this regard. On the other hand, during the in-depth discussions with rights-based organizations, issues related to freedom of expression and self-censorship were frequently brought up. In light of these findings, it should be also taken into account that interviewees may have avoided making comments on sensitive areas while answering the questionnaire in the quantitative research.

According to qualitative research findings, a significant portion of rights-based organizations practice self-censorship at least at some stage of their activities. The political climate, changes in laws, and repression faced by other rights-based organizations have been cited as reasons for self-censorship.

While some organizations do not make changes to the language of their reports, they may practice self-censorship during one-on-one meetings with public institutions. The majority of organizations stated that they are very careful in drafting their press releases, and some even consult with a legal expert before publishing them. It has been observed that CSOs are selective in organizing their meetings. Some meetings are not announced to the public and are conducted within closed groups. In some cases, the information is shared with the public after the meeting has taken place.

Most of the interviewed CSOs have not faced legal cases or been targeted directly due to their press releases or activities. However, experiences of other CSOs appear to have had a restrictive impact on them, even if they have not been directly targeted. When examining the regional distribution, CSOs operating in the Eastern and Southeastern regions of the country have been targeted more frequently compared to similar organizations in other provinces.

The visibility of CSOs in the public eye and whether their members have previously faced legal cases also influence their ability to continue their activities despite pressure. Organizations working in the field of human rights or whose members have previously faced legal cases appear to have less limitations on their activities and continue to operate, even in the face of obstacles or the possibility of closure. Newly established and smaller CSOs, even if they work on rights-based issues, tend to apply more self-censorship during their activities. CSOs working for disadvantaged individuals may also practice self-censorship for the continuity of their activities, even if they are not newly established.

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<sup>51</sup> Human Rights Foundation of Türkiye. *Information Note on Repression, Obstacles and Challenges Faced by Human Rights Defenders In Turkey, 1 September 2021 - 31 December 2021.*

Some CSOs have expressed that due to the decrease in belief in the impartiality and independence of the judiciary, they choose not to seek judicial remedies for violations against themselves or their members and also limit their activities to avoid any encounters with the judiciary.

*"Sometimes it breaks our motivation. Because this is fundamentally an issue of justice and freedom. The absence of a democratic environment significantly shakes the foundation of working in the field of human rights. In fact, we are aware that some civil society organizations have become almost unable to operate. We talk a lot about it among ourselves."* **(Association-Human rights and democracy)**

*"For example, when a lawyer objects to something there, saying "there is an error here," "this is contrary to the case law of the European Court of Human Rights," or "this is contrary to the decisions of the Constitutional Court," previously, at least formally, there would be some attempt of correction... but now they don't even care about the evidence. In other words, all these cases, if taken by lawyers, would result in violation judgments from the European Court of Human Rights, each and every one of them."* **(Association-Women's rights)**

One of the factors that lead CSOs to self-censorship is the tendency to protect the organization. Interviewees state that decisions are made more cautiously to ensure that the organization does not face a lawsuit or closure and can continue its activities.

*"The strain experienced by our colleagues in these organizations and the closure of those avenues bring us all into line. It is clear that ... there is a greater tendency to avoid addressing certain issues. We understand the cautious approach of the boards of directors and executive committees because they want to continue their work. They want to keep working, sometimes, to continue the work, it means not doing certain things, not being too visible, not speaking out loudly, and if necessary, not touching certain matters..."* **(Foundation-Children's rights)**

*"We are more concerned about not getting into trouble with the government, not challenging the state, not losing what we have, or individually, not ending up in prison, not getting arrested, not being detained..."* **(Federation-Minority rights)**

The second reason for CSOs resorting to self-censorship is to protect their members and board of directors. The lawsuits and negative practices experienced by those engaged in advocacy activities are cited as the reason for this. Public officials appear to be more cautious in this regard.

*"Especially as a public official, I struggle a lot in this regard. Sometimes I find myself forced to remain silent on many issues that go against my principles and that I personally find unacceptable to even mention."* **(Association-Law, advocacy, and politics)**

*"...we have revisited our language in order not to put all our well-known colleagues at risk. At times, we have also discussed within ourselves the need to not be afraid of demanding our basic rights and to be more inclusive and explanatory in our language, making it a matter of concern for us all."* **(Platform-Right to the city)**

The scope of work for CSOs can also be restricted based on the attitudes and guidance of local public institutions and the community in which they operate. For instance, a CSO has stated that despite their willingness, they cannot work on LGBTI+ issues due to the dynamics of the city. Similarly, it has been reported that there are similar limitations on refugee-related work in Izmir. It has been mentioned that even in outdoor press releases, apart from closed-door meetings, there have been instances of local residents reacting negatively to refugee-related issues in Izmir.

*"Not recently. But unfortunately, they cannot march for LGBTI+ here. Tough. The state won't allow it, the people won't allow it at all. The hardest area we work in. Actually, it is an area we cannot work in."* **(Association-Women's rights)**

Organizations that are systematically targeted tend to continue their activities without applying self-censorship. Members of these organizations have been facing legal cases and receiving penalties for various reasons for a long time. They acknowledge that they are already aware of the possibility of being prosecuted for their activities, and therefore, they persist in using certain concepts in their activities and written reports.

*"We continued our work. Because we work with a group that can be targeted systematically. That is the kind of CSO we are. We are constantly confronted with the reality that at any moment we could wake up to unfounded news and yet we continue our work, acknowledging this fact. Considering this, we hold risk meetings to discuss what actions we can take and then continue our work where we left off, remaining resilient to such uncertainties."* **(Association-LGBTI+ rights)**

Another common characteristic of organizations that continue their activities despite the risks they face is their established and institutionalized structure, which has proven itself in the public eye.

*"It is a much more established organization. Over the years, as I mentioned earlier, we have had a relationship with the state, and our input has been sought in various processes such as lawmaking. We provided training even to Supreme Court judges. So, we have that kind of thing. And of course, we are never back down. That's why for us it's a little more, maybe in that respect, it's easier, I'll say, quote-unquote."* **(Foundation-Women's rights)**

Even representatives of well-established CSOs tend to use a more cautious language when they encounter public officials or make statements, despite not practicing self-censorship in their reports.

*"So, it's out of the question for me to change the name of the concept I'm working on. But during the conversation, if I know something will annoy them.... I mean, if you want to achieve something, you can formulate what you say in a way that won't provoke or lead the other person to respond negatively to you. However, changing the title of my report, if the main subject is about gender, equality policies, and similar topics, is out of question."* **(Foundation-Human rights and democracy)**

It was stated that although not specifically targeting CSOs, prejudiced or discriminatory statements made by government officials increased societal pressure on CSOs working in specific areas. As a result, CSOs started conducting their activities in a more sheltered environment and became more "cautious" in their social media postings.

*"...Please don't perceive this as a heroic narrative; there are serious risks involved, and unfortunately, not everyone is willing to take these risks. As a result, the number of individuals able to work in the field of LGBTI+ becomes increasingly limited. However, on the other hand, there is a growing LGBTI+ community that is seeking support and services... You are attempting to make a press statement. The police surround you. How can you establish a connection with the LGBTI+ community or society as a whole? You establish an association, but you are unable to display a sign or share an address. Security, privacy, hate, phobia, and threats of violence..."* **(Association-LGBTI+ rights)**

During the interviews, it was stated that generally the same CSOs face lawsuits due to their activities, and these organizations are frequently targeted in the media and on social media platforms. These CSOs, which are explicitly mentioned in statements given by government officials, are well-established and widely recognized by the public. It has been noted that such statements create a climate of fear for other CSOs working on human rights issues, affecting, and limiting their activities.

Furthermore, CSOs engaged in activities aimed at empowering specific social groups and conducting educational programs for children and youth have become more cautious in their advocacy efforts compared to organizations that monitor human rights violations. This period is described as a time when civil society retreats into its own shell and strives to maintain its existence.

During the discussions, it was observed that the CSOs targeted most by public officials are those working on human rights violations of public institutions, as well as those advocating for LGBTI+ rights and operating in the Eastern and Southeastern regions. Although rights-based CSOs are not directly targeted by government officials due to their activities, they are still impacted by the situations faced by other CSOs. As a result, the majority of CSOs are conducting their activities with greater caution, prioritizing monitoring and reporting over street protests, and implementing self-censorship in their social media posts.

*"You think twice before you tweet, you think twice before you write. you find yourself considering many things, and unfortunately, one of the first thoughts that comes to mind is whether ...' will pick it up and twist it"* **(Association - LGBTI+ rights)**

*"He targeted the entire corporate structure of the association from in his speech at the parliament. ... The press picked it up. Afterwards, for the first time as a human rights organization, we sent a notice to all our branches, like a security notice. We instructed them not to go into the association buildings alone and to install security cameras in risky areas, especially in places where nationalist delusions are at their peak. We were forced to install security cameras in most of our branches."* **(Association-Human rights)**

During the interviews, it has been observed that the government and public officials have attempted to restrict civil society organizations working on a rights-based approach through various methods. These restrictions vary in nature, ranging from regulations concerning the financing of CSOs, discourse targeting specific groups, prohibitions on gatherings and demonstrations imposed by local authorities, obstruction by the police during protests, to the denial of reports published by CSOs on human rights violations.

*"As I said, they set up a system. Whenever we submit an application or the media covers our activities, we receive immediate statements accusing us. 'The civil society claims this and that, but there is no such thing, everything is fine...' The General Directorate of Prisons and Detention Houses... They put up a page. 'This one lied, that one lied, that's also a lie...' 'There's no torture, why do you make up such a thing?'"* **(Association-Human rights and democracy)**

*"In the realm of freedom of association, the state's grip affects various sectors. It impacts individual members differently, it affects the management of associations differently, and it has different implications for other civil society organizations. However, every sector develops a stance against this grip from its own perspective. Therefore, you can't blame someone for avoiding or resigning from membership, or because they distance themselves from you."* **(Association-Human rights and democracy)**

Some participants have shared that the change in the government's human rights policy has limited the ability of CSOs to criticize the government, and that in the past, they were able to express their criticisms much more freely compared to the present.

*"In the past, you could freely say things like "there is torture, there are these issues, and those issues," but now, due to the government transitioned to another level, speaking out about these matters can potentially entail facing greater consequences. Therefore, I can say that there is a problem in exercising free expression or free will because we know that if we say what we said in the past, things will be different."* **(Association-Human rights and democracy)**

The administration, in its own correspondences and in the reports conveyed to them, prefers not to use certain terms. During the interviews, it has been observed that while some comply with this preference of the administration, there are also those who continue to use the term in the reports they submit to the administration.

*"The notion of gender is currently prohibited in the government's terminology. I work with the Ministry of Family, we cannot say "gender." Forbidden. So, we removed it. Otherwise, they won't let you through the door. You shall not say "gender." Therefore, these limitations and the issue of a restrictive mindset are a result of the more religious and conservative perspective that the government has created."* **(Platform-Women's rights)**

As a result of the interviews, there is an impression that due to the limitations imposed by the political climate and the increasing human rights violations experienced by various sectors, civil society has turned more towards monitoring and reporting activities. However, due to de facto bans imposed by public institutions, monitoring activities cannot be carried out in some regions where human rights violations occur. It has been reported, especially in the Eastern and Southeastern regions, that monitoring and reporting are no longer allowed. For this reason, it can be said that monitoring and reporting activities can only be carried out within certain limits.

*"There is a shift towards monitoring activities. Rather than street protests, which may not be allowed or possible to carry out. Monitoring has become more prominent in understanding the ongoing developments, especially regarding youth rights violations during the Covid-19 process, particularly in areas such as housing and employment."* **(Association-Youth rights)**

*"Monitoring have become increasingly important, particularly for populations such as immigrants facing language barriers or individuals deprived of their rights like prisoners, as well as for marginalized communities that are outside the reach of traditional communication channels or inaccessible through them, where we are unable to provide information."* **(Association-LGBTI+ rights)**

*"Yes, because those public boundaries are getting harder and harder to cross, so in Van, for example, the idea is to monitor the border crossing, but it's not allowed. There was also a reaction to conceal the monitoring of such issues."* **(Association-LGBTI+ rights)**

In most interviews, it has been observed that due to the current political conditions, CSOs tend to avoid directly engaging with the administration to resolve their issues. However, in two cases, it was recommended to establish direct contact with their counterparts.

*"Well, I think communication is important... When communication channels are broken, mutual prejudices begin. These prejudices are turning into mutual blame due to a lack of mutual understanding... ..creating an intractable situation. It becomes an impasse. Therefore, if there is open communication and dialogue between civil society and relevant authorities, at least to some extent, it will help prevent potential prejudices and polarization from emerging."* **(Foundation-Aid)**

In recent investigations, press statements, reports, or wiretaps from previous years are being entered into evidence. In some cases, investigations can be initiated against CSO members based on their social media posts. Furthermore, simply retweeting a text shared by another person on Twitter can be considered sufficient grounds for launching an investigation.

*"They were detained during the Syrian crisis simply because they shared three articles of the UN International Covenant on Civil and Political Rights. Now he has been acquitted, and all travel bans and restrictions have been lifted. Apart from that, two years ago, one of our colleagues ... had to give a statement regarding a complaint related to a LGBT children's drawing."* **(Association-LGBTI+ rights)**

It is observed that a small number of members of certain CSOs are detained or arrested due to the activities of their organizations. Despite being a small number, members of specific CSOs are constantly facing legal cases or encountering negative attitudes or threats during detention or job applications due to their affiliation with these organizations.

*"Currently, we have three of our colleagues who are in custody. [Referring to detained association executives] ... was also detained but has been released. There are several friends who have been investigated, detained, and arrested due to their membership in the past... Some are still awaiting the outcome of their cases. That, I can say. The most recent ones, for example, are our friends in Van."* **(Association-Human rights and democracy)**

*"For instance, when one of our friends is taken into custody, they say things like, "We know that the place where you volunteer has connections with terrorism." Our colleagues are constantly being threatened, such as when a friend of ours who applied for a paid teaching position at the Public Education had ... listed on their CV. They are told, "Either you sever your ties with that organization, or we won't appoint you as a paid teacher."* **(Association-Children's rights)**



Recently, CSO members may face criminal charges for their criticism of public institutions. Even the criticisms they need to express as part of their advocacy activities can become the subject of lawsuits.

*"You know... the case of our co-director, they had a trial and were punished... ..for insulting the judiciary. Because they stated in an interview that the judiciary is not independent. It goes to show that some of our clients draw a lot of attention. You know, everyone says that the judiciary is not independent. But they were the ones that got punished."* (Association-Press)

Lawsuits can be filed against CSOs based on complaints submitted to CİMER or due to targeted media coverage. The impact of such lawsuits on civil society was discussed during the focus group meeting. It was mentioned that the lawsuits filed against CSOs operating in specific areas or on specific issues create concerns among rights-based CSOs, as they fear facing similar repercussions.

*"On one hand, it actually pushes for conducting risk analyses, even for small local organizations. The question of whether it is necessary to establish an alternative association... For example, this is one of the questions on the table, on the agenda. Because such a thing can happen at any time, and do we have to move our work here to somewhere else? How can we do this?"* (Association-Youth rights)

### 1.2.3. Access to Information

#### Legislation

The right to access information is a prerequisite for CSOs to act as stakeholders in the determination and implementation of public policies. The additional paragraph introduced in the Constitution's Article 74 with the amendment made in 2010 stipulates that "Everyone has the right to obtain information..."

The Law on the Right to Information regulates the rights, responsibilities and freedoms related to this issue in detail.

On the other hand, freedom of communication and the confidentiality of communication are guaranteed by the Constitution for everyone. However, the Law No. 5651 on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications (also known as the Internet Law), and the general legislative framework allow the executive branch to block online content without court permission. With the amendment made in March 2018, the jurisdiction of the Radio and Television Supreme Council (RTÜK) has been expanded to include all online media service providers and platform operators, including those broadcasting from abroad. The amendments grant the Radio and Television Supreme Council the authority to impose bans on online broadcasts.

According to the relevant law, unless there is a duly issued court order based on one or more reasons such as national security, public order, prevention of crime, protection of public health and morals, or safeguarding the rights and freedoms of others, communication cannot be obstructed, or its confidentiality violated. The Internet Law does not clearly define crimes related to content shared on the internet. This situation leads to arbitrary practices and significantly hampers freedom of expression. Under the state of emergency (OHAL), with Decree Law No. 671, the Telecommunications Communication Presidency was shut down, and the authority for internet surveillance was transferred to the Information Technologies and Communications Authority (BTK). With the Law No. 7188 on the Criminal Procedure Code and Amendments to Certain Laws, which came into effect on October 24, 2019, it is now possible to issue a blocking order for access to the entire website if access to the content related to the violation is not blocked.

## Practice

In the 2021 Freedom House Internet Freedom Report, Türkiye was categorized among “not free countries” due to factors such as the blocking of political, social, or religious content on the internet, manipulation of online discussions by pro-government commentators, the arrest or detention of information and communication technology users or bloggers, and technical attacks against dissenting voices.<sup>52</sup>

According to the 2020 Turkey Human Rights Report published by the Human Rights Foundation of Turkey (HRFT), 11 individuals were arrested in 2020 due to their social media posts. Additionally, at least 72 journalists and one writer were detained, with 41 journalists sentenced to a total of over 173 years in prison and fined 34,160 Turkish Lira (approximately \$1,830). At least 1,079 news sources, 97 websites, 635 internet addresses, 10 social media accounts, and 301 websites were blocked through court orders.<sup>53</sup>

According to the 2021 Annual Report of the Media and Law Studies Association, courts convicted 34 journalists in 22 cases in 2021. At least 11,050 domain names, news URLs, and social media content were blocked by court decisions. Access bans were imposed on at least 49 websites belonging to news agencies, newspapers, or internet news platforms at least once in 2021. The report indicates that out of the blocked news content, 838 were related to the President, his family, ruling party mayors, or officials.<sup>54</sup>

According to the 2021 EngelliWeb Report prepared by the Freedom of Expression Association, as of the end of 2021, 574,798 websites in Türkiye were blocked through 504,700 different decisions issued by 789 different institutions (courts and authorized bodies). Furthermore, as identified within the report, by the end of 2021, sanctions were imposed on 150,000 URL addresses, 8,350 Twitter accounts, 55,500 tweets, 13,500 YouTube videos, 9,500 Facebook content, and 9,000 Instagram content under the provisions of Law No. 5651 and other regulations.<sup>55</sup>

According to the 2021 World Press Freedom Index by Reporters Without Borders, Türkiye ranked 153<sup>rd</sup> out of 180 countries in terms of press freedom.<sup>56</sup> According to the Job Satisfaction Survey Report published by the Journalists Association in March 2022, 241 journalists were prosecuted, and 28 journalists were convicted in Türkiye in 2021.<sup>57</sup>

The Law Amending the Internet Law No. 5651 came into effect on July 31, 2020. In order to facilitate easier monitoring and removal of content by Turkish authorities, foreign social media platforms with daily traffic exceeding 1 million were required to appoint representatives based in Türkiye by November 2, 2020. Facebook, YouTube, Twitter, Instagram, and TikTok, among others, were fined 10 million TL initially for failure to appoint representatives, and after 30 days of the notification of the decision, on December 3, 2020, an additional fine of 30 million TL was imposed. Following the expiration of the 30-day period, advertising bans were imposed on social media platforms that still did not appoint representatives. The next step was planned to be a 50% reduction in bandwidth, but social media companies were exempted from 75% of the fines imposed until that day as they appointed representatives to continue their activities.<sup>58</sup> The Media Studies Association published a report in September 2021 on how the regulations, which came into effect in October 2020, have affected press freedom. According to the report that examined 658 censored news articles, “corruption and irregularities” and “abuse of power” are prominent subjects among the topics for

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52 Freedom House. *Freedom on the Net 2021 (Internet Freedom in Turkey 2021 Report)*.

53 Human Rights Foundation of Turkey. *Turkey Human Rights Report 2020*.

54 Media and Law Studies Association. *2021 Annual Report*.

55 Freedom of Expression Association. *EngelliWeb 2021: The Year of the Offended Reputation, Honour and Dignity of High Level Public Personalities*.

56 Reporters Without Borders. *2021 World Press Freedom Index*.

57 Association of Journalists. *Journalists' Professional Satisfaction 2021 Survey Final Report*.

58 TRT Haber. *Social media giants appointed representatives in Türkiye*.

<https://www.trthaber.com/haber/ekonomi/sosyal-medya-devleri-turkiye-temsilcilerini-atadi-566084.html>

which censorship requests were made. Businesspeople, ministers, and high-level bureaucrats are the most frequent requesters of censorship.<sup>59</sup>

Data shared by social media platforms is also an important source in this regard. According to the Facebook Transparency Report, between January and June 2021, Facebook received a total of 7,825 requests from the government, including 7,801 legal action requests and 24 emergency disclosure requests. Additionally, 9,227 user/account information requests were made. Facebook's compliance rate with government requests, either in whole or in part, is 59%.<sup>60</sup> According to the Twitter Transparency Report, between January 2015 and December 2020, law enforcement and other state institutions made a total of 4,952 information requests, including emergency<sup>61</sup> and routine<sup>62</sup> requests, for account information.<sup>63</sup> From January 2012 to December 2020, Twitter received a total of 49,425 legal requests for content removal or access restriction, involving 107,221 specified accounts. In response to these requests, Twitter blocked 12,317 tweets and 2,527 accounts. According to Twitter's latest published data in 2020, 94% of the global volume of legal requests for content removal originated from only five countries (in descending order): Japan, India, Russia, Türkiye, and South Korea.<sup>64</sup>

According to August 2021 data from the Turkish Statistical Institute (TÜİK), the internet usage rate among individuals aged 16-74 was 79% in 2020 and 82.6% in 2021. When examined by gender, the internet usage rate in 2021 was 87.7% for males and 77.5% for females.<sup>65</sup>

The quantitative findings of the field research conducted within scope of the monitoring matrix indicate that the percentage of organizations reporting harassment or restrictions on various internet platforms is 7%. Organizations that identify minorities, members of the press, environment activists, persons with disabilities, ethnic and cultural groups, victims of human rights violations, laborers, women, LGBTI+, prisoners, refugees/migrants, or CSOs as their target audience have a higher rate of experiencing harassment and restrictions on online platforms (%13,1). Among the organizations facing challenges with freedom of association/expression, a significant portion, 36.5%, reported encountering such situations.

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59 Media Research Association. *Impact of Social Media Law on Media Freedom in Turkey Monitoring Report Extended Research - October 2020/October 2021*.

60 Facebook Transparency Center. *Facebook Transparency Report, Government Requests for User Data*.

61 According to Twitter's policy, they may provide account information to law enforcement authorities in response to a valid "emergency disclosure request" if there is sufficient information supporting the claim of an imminent threat of death or serious physical injury to an individual.

62 "Routine requests" refer to legal requests issued by governments or law enforcement agencies to Twitter for user account information, such as court subpoenas or court orders.

63 Twitter. *Turkey Transparency Report*.

64 Twitter. *Twitter Transparency Report, Removal Requests 2020*.

65 Turkish Statistical Institute (TÜİK). *Survey on Information and Communication Technology (ICT) Usage in Households and by Individuals, 2021*.

*EU Guidelines Assessment*

**Finding 1.1.a.** The 34<sup>th</sup> article of the Constitution explicitly states that prior permission is not required for holding meetings or demonstrations. However, the Law on Meetings and Demonstrations grants public authorities the right to prohibit any meeting or protest without concrete reasons, which significantly restricts the freedom of assembly. According to the law, prior permission is not necessary to organize a meeting or demonstration; however, notification is mandatory. In practice, the requirement for notification effectively turns into a permission process, imposing practical limitations on the exercise of the right without considering international standards. There is a right to appeal to the courts for the suspension of the executive's decisions that restrict the exercise of this right.

The Constitution guarantees the exercise of freedom of expression. However, numerous articles of the Turkish Penal Code, along with the Internet Law and the Anti-Terror Law, provide the grounds for almost all violations of freedom of expression.

**Result 1.1.b.** Due to the authority of public officials to prohibit any gathering without specific conditions or concrete reasons, the freedom of assembly is significantly restricted in practice. The exercise of the freedom of assembly was effectively narrowed through the instrumentalization of public health regulations during the Covid-19 pandemic. The arbitrary implementation of these restrictions was evident from the lenient approach towards certain public gatherings even on days of lockdown, while critical assemblies were met with harsh reactions.

The pandemic has further exacerbated the already problematic situation regarding the exercise of freedom of expression. Hundreds of citizens and journalists faced lawsuits and were even some of them detained for their social media posts criticizing the government's alleged inadequate and ineffective response to the Covid-19 crisis or attempting to manipulate official health statistics.

The increasing pressures on the media, arbitrary fines imposed on newspapers and television channels, serve as another indication of the restrictions on freedom of expression.

# Area 2: Framework for CSOs' Financial Viability and Sustainability

Civil society organizations require various resources to sustain their activities. The Monitoring Matrix classifies the resources utilized by CSOs into financial aid (tax benefits, income-generating activities, donations, grants, and state support) and human resources (employees and volunteers). According to the monitoring standards in this area, it is important to implement tax incentives that encourage CSOs and donors to support their ability to generate income and mobilize local resources. The fundamental standard in the case of providing state support is the transparent distribution and accountable utilization of these resources. The third standard emphasizes the necessity of having public policies and legal conditions in place that promote and facilitate the development of sustainable human resources in CSOs through employment and volunteerism.

## Sub-area 2.1. Tax/Fiscal Treatment for CSOs and Their Donors

### 2.1.1. Tax Benefits

#### Legislation

Grants and donations received by CSOs to support their non-profit activities are exempt from taxes. Additionally, all CSOs are exempt from corporate income tax. However, the economic enterprises established by CSOs to engage in economic activities are subject to the same tax regime as commercial companies, and all income-generating activities are taxable.

Rental income from real estate owned by foundations and associations, dividends from participation shares and stocks, interest income from bond investments in Turkish Lira and foreign currency are subject to withholding tax under the Income Tax Law. Foundations and associations themselves withhold income tax on profit shares obtained from their economic enterprises.

The most important means for CSOs to enjoy tax benefit is to have the status of a Public Benefit Association or a Tax-Exempt Foundation. These statuses are granted to a limited number of organizations through a Presidential Decree with the aim of supporting activities beneficial to the public, and come with certain tax exemptions. The application requirements and procedures for obtaining and losing these statuses vary between associations and foundations, and they are regulated in different sections of the legislation.<sup>66</sup> Currently, only a few CSOs benefit from these statuses, which allow donors to deduct their donations from taxable income up to certain limits or without limits. The incentives provided to donors through these statuses will be discussed in the following sub-area. Additionally, various tax benefits are granted to foundations and associations established by special laws. Whether donations and aid to these foundations and associations are subject to any limits is specified in some of their establishment laws. For those not explicitly stated, the general rates determined in the Corporate Income Tax and Income Tax Laws apply.

While there is no general value-added tax (VAT) exemption for CSOs, associations with public benefit status and tax-exempt foundations have certain exceptions for the purchase of goods and services related to education, culture, and social purposes. Additionally, VAT exemption is granted

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<sup>66</sup> For the status of public benefit association, see the Law on Associations, Regulation of Associations. For tax-exempt foundation status, see Law No. 4962 on Amendment to Certain Laws and Granting of Tax Exemption to Foundations, Communiqué on Granting Tax Exemptions to Foundations (Serial No: 1).

to CSOs for expenses incurred under contracts within the framework of the Instrument for Pre-accession Assistance (IPA) signed between Türkiye and the European Union. In order to benefit from VAT exemption, CSOs need to apply to the relevant public institutions and obtain a Value Added Tax Exemption Certificate.

The legislation allows organizations to constitute their endowments. CSOs are exempt from inheritance and transfer tax and corporate income tax for donations to endowments.

The limited scope of the defined tax benefits, coupled with the taxation of all income-generating activities, makes it difficult for foundations and associations established to create public benefits and serve the community to operate and grow.

## Practice

Grants and donations to CSOs are tax-exempt, and there is no hidden taxation in practice.

The regulations in the Corporate Income Tax Law regarding the economic enterprises of foundations and associations are quite restrictive. Some activities undertaken by CSOs to fulfill their objectives require the establishment of economic enterprises, but these enterprises generally do not generate profits and cannot sustain their operations without financial support from the foundation or association. In the research, it was discovered that low and medium-capacity CSOs are not inclined to establish economic enterprises due to their tax obligations, and those with existing economic enterprises often keep them idle as they are unable to generate profits. Moreover, it was noted that transferring funds from the economic enterprise, which is a part of a participating CSO, to the organization is also challenging and requires proper disclosure during audits. Therefore, it is recommended to make regulations in this regard.

*"The amount of withholding taxes and taxes we pay from our economic enterprise is so high ... that I find it extremely unfair to be taxed as if we were any other business. ...We are even considering shutting down. ...In Türkiye, the already increased costs in retail sales, coupled with a significant portion of our income going towards taxes, put us under tremendous pressure."* **(Association-Nature conservation)**

The limited availability of tax benefits and the highly restrictive conditions for eligibility (such as being established under a special law or having the status of public benefit/tax exemption) lead to discussions among CSOs focusing more on the difficulties rather than incentives regarding tax regulations. As stated by the participants in the field research, the ideal scenario would be to exempt the income-generating activities of CSOs from taxes or, at the very least, support them with certain incentives.

*"...Tax benefits are needed for economic investments. I mean, let them make profits without being taxed on those profits. ...For example, we are saying that the employer's share of social security contributions should be covered by the state. Because, I am actually working for the state, for the public benefit. ...I am supporting the social state. But you are also collecting the employer's share from me for those I employ. Don't take this. If these can be implemented and if the state can share the administrative burden with us, as the civil society, I believe, we can deliver more services."* **(Foundation-Aid)**

According to the quantitative research, only half of the organizations participating in the research are aware of the tax incentives provided to CSOs, and among those who are aware, only 14% have benefited from any tax benefits within the past two years. When comparing the institutional and financial capacities of associations and foundations in the research, a noticeable difference emerges in favor of foundations, which is also reflected in their understanding of tax legislation and their utilization of tax benefits. Foundations have a higher level of awareness and utilization of tax advantages compared to associations. However, since the prerequisite for benefiting from any benefit is to establish a certain level of institutional capacity and financial viability, the current tax

system does not incentivize the establishment of new CSOs, fails to contribute to the growth of the sector, and hinders equal and balanced development within the sector.<sup>67</sup>

In Türkiye, albeit limited, the number of CSOs enjoying certain benefits corresponds to 0.5% of the total number of active associations and foundations. According to data published by the DGoF, as of the end of 2021, among the 5,586 new foundations, only 300 enjoy tax-exempt status. The proportion of tax-exempt foundations to the total number of new foundations remains limited to 5%, as in previous years. Meanwhile, based on the reported data for the same period, 362 associations with public benefit status constitute a mere 0.3% of the total 121,987 active associations.

Distinct definitions of public benefit and different statuses exist for associations and foundations, with varying criteria for each. The areas of operation for foundations eligible for tax exemption status are limited to health, social assistance, education, scientific research and development, culture, environmental protection, and afforestation. Additionally, foundations that do not operate nationwide but serve only specific regions or specific populations are ineligible to apply for tax exemption status. The attainment of public benefit status for associations, however, relies on the discretionary power of authorized public officials responsible for evaluating applications, as the definition of public benefit is not clearly defined. This situation leads to subjective practices. Since these statuses are granted by the President, who holds a politically influential and hard-to-reach position, only a few organizations can benefit from these statuses, and the decision-making process becomes bureaucratic and lengthy. Despite the challenging application and approval process, the privileges obtained through these statuses remain limited and do not provide sufficient ease for CSOs to establish sources for their financial sustainability.

Participants in the field research were asked if they were familiar with the public benefit/tax exemption statuses and if they had applied for these statuses. 44% of the participants stated that they were not familiar with these statuses, 1.1% mentioned that they had applied and received it (all of which were foundations), 1.4% indicated that their applications were rejected, and 53% stated that they had never applied. Even among those who had heard of these statuses, the level of knowledge regarding the requirements and evaluation criteria for obtaining them was relatively low. Among those who were knowledgeable, 33% of organizations found the application procedures required to obtain these statuses complex. Approximately 40% of foundations find it restrictive that only foundations operating nationwide and in specific fields can obtain this status. 47% of foundations and 25% of associations state that the requirement of having income-generating assets and annual income is limiting. The percentage of those who find the evaluation processes objective and transparent is 25% for foundations and 40% for associations. The majority of both associations and foundations believe that the tax advantages provided by these statuses are insufficient: This rate is approximately 70% for associations and increases to 83% for foundations.

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<sup>67</sup> For detailed information, see Third Sector Foundation of Turkey (TÜSEV). *Tax Legislation Related to Foundations and Associations in Turkey and Public Benefit Status: Current Situation and Recommendations*.

Figure 2.1a CSO applications for tax exemption/public benefit status (%)

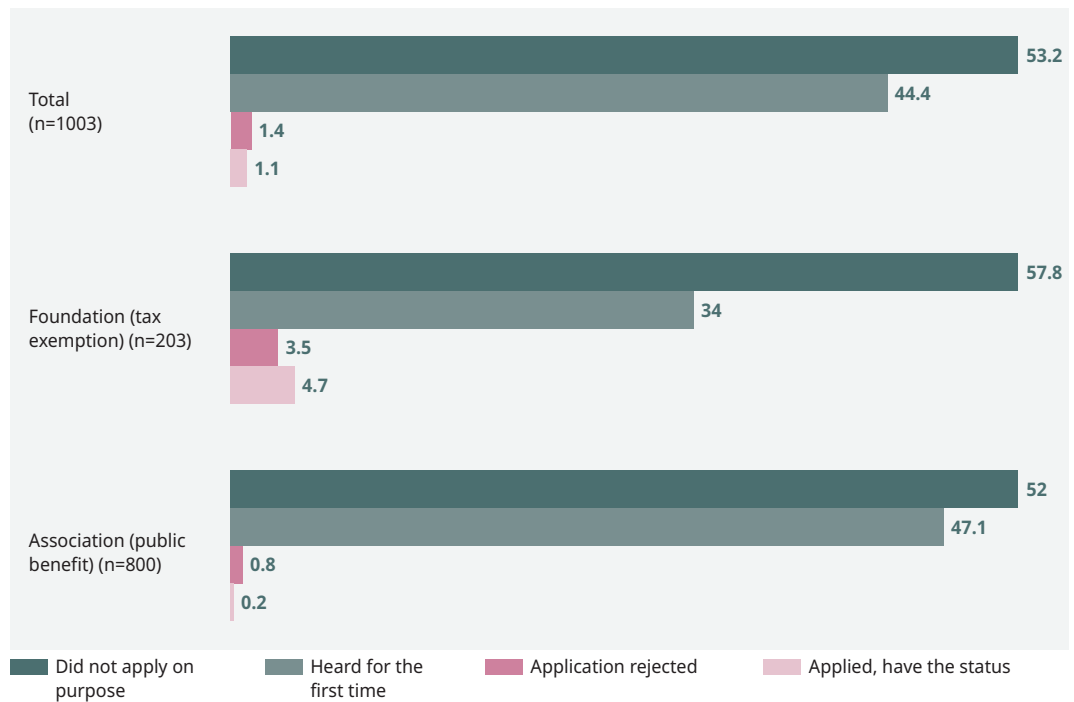


Figure 2.1b Evaluations of CSOs regarding tax exemption/public benefit status  
(excluding those who responded "never applied, heard it for the first time.") (%)





During in-depth interviews conducted as part of the research, CSO representatives emphasized the need for extending the tax benefits provided to all CSOs, not just those with public benefit/tax exemption statuses, and for increasing the tax benefits. However, some also hold the view that in the absence of regulations in this regard, it would be more appropriate to completely remove these statuses due to the inequalities they create among CSOs.

*"...There is a definition for associations working for the public benefit. I think that should be abolished. It's a very subjective matter. It's a decision made by the government of the time. When the government changes, those institutions change. So, it leads to discrimination among civil society organizations."* **(Foundation-Youth rights)**

*"We are among the foundations working for the public benefit, so we can benefit from a tax deduction in return for our receipts. It is also something that corporations inquire about. Therefore, I believe it should be a practice applied to all civil society organizations working in this field."* **(Foundation-Right to health)**

CSOs can engage in passive investments, but different tax practices apply. It is mandatory for foundations to establish an endowment. For the years 2020-2021, the minimum endowment value for the establishment of new foundations has been set at 80,000 TL.

In Türkiye, the number of CSOs benefiting from EU funds and being party to contracts within the framework of the Instrument for Pre-Accession Assistance (IPA) with the European Union is limited. During the field research, it was found that only 6% of all participants received foreign funding, including EU grants, and among them, only 17% (approximately 12 organizations) benefited from VAT exemption. Among the few CSOs that meet the conditions for VAT exemption, there are some facing difficulties in obtaining the Value Added Tax Exemption Certificate. Despite having previously obtained this document without difficulty, there are examples where certain CSOs, despite persistent applications to the relevant unit of the Ministry of Finance during the period covering 2020-2021, were unable to obtain the certificate. The field findings indicate that those experiencing this problem are human rights-focused and rights-based CSOs.

As in many other parts of the world, Türkiye also witnessed the implementation of lockdowns and restrictive measures during the years 2020-2021 in response to the Covid-19 pandemic. These measures unavoidably caused disruptions in the social and economic order of the country. The unique conditions created by the pandemic have compelled many countries to take steps aimed at temporarily alleviating the tax responsibilities of both individuals and legal entities. In this context, most of the financial measures implemented in Türkiye were aimed at relieving companies or households. Although no specific regulations were made for CSOs during this period, they were able to partially benefit from general regulations. The deferral of tax payments, VAT, and social security premium payments for six months, as well as the absence of penalties for delays, can be evaluated within this framework. However, due to the economic incentives targeting commercial enterprises, most CSOs were unable to benefit from the economic incentives and aid provided from the public budget.

## 2.1.2. Incentives for Individual/Corporate Giving

### Legislation

Tax incentives for individuals and legal entities are applicable only for donations and contributions made to foundations enjoying tax exemption status and associations with public benefit status. Donations and contributions can be made in cash or in-kind. Individuals with an annual income exceeding 650,000 TL in 2021,<sup>68</sup> who file an income tax return, and legal entities can deduct their donations and contributions made to CSOs with these statuses, provided that they are declared on

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<sup>68</sup> With the Law No. 7194 published in the Official Gazette on December 7, 2019, starting from January 1, 2020, an obligation was introduced for income tax at a rate of 40% on salary incomes exceeding 600,000 TL in the 2020 fiscal year. Furthermore, individuals earning salary income are now required to submit an annual income tax statement for their entire income. This threshold was updated to 650,000 TL in 2021.

the tax return. The deductible amount may be limited to 5% of their income for the year (10% for priority development regions), depending on the purposes of the donations and contributions and the organization receiving them, or it may be fully deductible as an expense from the taxable base. There is no special tax deduction scheme for donations made by real persons on payroll.<sup>69</sup>

Indeed, apart from these regulations, there is no comprehensive Corporate Social Responsibility (CSR) policy or strategy by the government that addresses the needs of CSOs.

## Practice

The current tax regime, which allows tax deductions only for donations and contributions made to organizations with tax-exempt or public benefit status, results in only a few organizations in specific fields benefiting from public support through tax incentives. There is no specific policy in place to support organizations working in the fields of human rights, youth, culture, arts, or those monitoring the exercise of rights and freedoms. Furthermore, such organizations express difficulties in obtaining public benefit status or believe that even if they apply, they will not be granted such status.

The existing tax system lacks provisions that would encourage effective and strategic giving. The procedure envisaged for individual and corporate donors to benefit from tax deductions is not functional and convenient. Individuals who are unable to file an income tax return (such as those with incomes below 650,000 TL in 2021) are not eligible to deduct their donations as expenses or benefit from tax exemptions. While there is a lack of information in publicly available sources regarding the number of individual and corporate donors benefiting from tax incentives in Türkiye, as well as the amount of donations and aid deducted from taxes during the year, information requests made to the relevant public institutions regarding this matter have not been fulfilled.

In Türkiye, there is no specific regulation or incentive mechanism related to corporate social responsibility aimed at promoting a culture of corporate giving and supporting civil society. Although the 2020 Presidential Annual Program stated that tax regulations related to the support individuals and legal entities provide to CSOs would be reevaluated by examining practices from other countries to enhance social and economic benefits, no such regulations have been made in the two-year period in question.

### *EU Guidelines Assessment*

**Finding 2.2.a.** The existing tax regulations are insufficient to meet the needs of CSOs. There are limited provisions to incentivize corporate donors. It is more challenging for individual donors to benefit from incentives compared to corporate donors. In 2020, it was observed that CSOs had difficulties in collecting donations due to the general worsening of economic conditions during the pandemic. There is no publicly available reliable data on the annual corporate and individual donation amounts to CSOs. Amendments to the Law on Collection of Aid introduce new restrictions and sanctions for CSOs.

**Finding 2.2.b.** CSOs can engage in economic activities through their economic enterprises. However, these enterprises are subject to the same tax regulations as private companies. Only associations with the public benefit status and foundations with tax-exempt status can benefit from certain limited tax advantages for their economic enterprises.

<sup>69</sup> For detailed information, see Third Sector Foundation of Turkey (TÜSEV). *Fundraising Activities of CSOs: International Standards on Legislative Practices*.

## Sub-area 2.2. State Support

### 2.2.1. Public Funding Availability

#### Legislation

There is no comprehensive legislation or national policy document in Türkiye that regulates state support for the institutional development of CSOs. Public institutions can provide aid to CSOs within the scope of the Public Financial Management and Control Law No. 5018, and the Regulation on Providing Aid from the Budgets of Public Institutions within the Scope of General Administration to Associations, Foundations, Unions, Organizations, Institutions, Endowments, and Similar Entities. This is subject to the provision of budget allocations by the said administrations. The relevant ministries (Ministry of Interior, Ministry of Youth and Sports, Ministry of Culture and Tourism, Ministry of Industry and Technology, Directorate General of Development Agencies affiliated with the Ministry of Industry and Technology, Presidency of Religious Affairs, etc.) have prepared regulations and guidelines based on this regulation regarding providing aids to associations and similar organizations from their budgets.

There is no central body or mechanism responsible for the planning and distribution of public funds for CSOs in Türkiye. Public aid is distributed through protocols, project partnerships, and activity-based cooperation mechanisms by ministries, development agencies, or local administrations, and rarely through grant allocations or service contracts. Public institutions establish their own internal directives and guidelines for the programming of resources to be provided to CSOs, in accordance with relevant regulations. There is no general coordination or shared practice or understanding among public institutions. One of the consequences of this situation is the absence of support programs that aim to strengthen civil society as a whole by taking into account diverse needs of CSOs, and the allocation of financial support only to certain sub-sectors.

The proper and effective utilization of grants distributed within the framework of programs funded by the EU is regulated by the Framework Agreements IPA II (2014-2020) and IPA III (2021-2027), which were signed between Türkiye and the European Commission, and by the binding legislation based on the Presidential Decree No. 2019/20 titled "Management of Pre-Accession Funds from the EU and Participation in EU Programs," issued in 2019.

According to the legislation, the national coordinating body responsible for the programming, implementation, monitoring, and evaluation of financial assistance provided by the European Union for accession purposes is the Directorate for European Union Affairs, the Ministry of Foreign Affairs. In addition, institutions such as the EU and Financial Assistance Department of the Ministry of Family, Labor, and Social Services (the Ministry of Labor and Social Security as of April 21, 2021<sup>70</sup>) and Central Finance and Contracts Unit (CFCU), are held accountable for the proper utilization of grants distributed within the framework of programs financed by the EU in Türkiye, in accordance with organizational laws and accreditation provided by the European Commission. Until 2017, a bilateral approach was followed in the programming and implementation of grants for CSOs, where both relevant public institutions and the the Delegation of the European Union to Türkiye acted as contracting authorities. However, since 2017, the role of public institutions has decreased, and the Delegation of the European Union to Türkiye has become the main responsible institution for the programming and implementation of grants targeting civil society.<sup>71</sup>

70 With the Presidential Decree No. 73 published in the Official Gazette on April 21, 2021, the Ministry of Family, Labor, and Social Services was divided into two separate ministries: the Ministry of Family and Social Services, and the Ministry of Labor and Social Security.

71 For detailed information, see Association of Civil Society Development Center (STGM). *What awaits Civil Society in the IPA III Era?*

There is no specific budget item allocated solely to the civil society sector in the budgets of the central government and local administrations. It is not possible to accurately ascertain the exact amount of the public resources planned to be transferred to CSOs in the Central Government Budget Law Proposals annually and actually transferred to CSOs at the end of the year. Nevertheless, the budget classification items, including current transfers and capital transfers made to non-profit organizations, within the sub-categories of associations, unions, institutions, foundations, funds, and similar organizations, also encompass the resources allocated to civil society. While these transfers provide some guidance, they do not provide a definitive conclusion.

According to the legislation, local authorities are not allowed to provide direct grant support to CSOs. However, Article 60 of the Municipal Law and Article 43 of the Special Provincial Administration Law enable local authorities to collaborate and engage in joint projects with CSOs. Collaborations such as joint service provision, utilization of expertise and experience of CSOs in trainings and planning processes mostly progress through protocols. However, there is no standard regulation regarding the terms and criteria for these collaborations and resource transfers. Moreover, transparency and accountability standards to monitor the financial resources allocated throughout the year have not been established. Similar to central authorities, local authorities do not have a separate budget item specifically allocated for expenses related to collaboration with civil society organizations. As a result, it is difficult to accurately determine the total amount of public funds allocated to CSOs throughout the year. Information requests made to relevant public institutions on this subject were not fulfilled.

CSOs monitoring public expenditures struggle to find indicators to track public financing allocated to various areas such as combating violence against women and preserving natural resources. The same problem is encountered in determining the public financing allocated for strengthening the capacity and sustaining the activities of CSOs. One approach adopted to overcome this challenge is to track the item of current transfers to non-profit organizations within the central government budget. However, in addition to transfers made to associations and foundations under this budget item, there are also transfers made to other organizations such as foundation universities, political parties, and public employer associations. Furthermore, certain ministries with a significant number of public officials have their entire budget under this category comprised of payments for items such as lunch assistance for civil servants.<sup>72</sup> Due to data limitations, relying solely on the item of current transfers to non-profit organizations as an indicator without examining the sub-categories of expenses is problematic.

There are no specific regulations regarding the involvement of CSOs in the planning, evaluation, and monitoring stages of public funds. Only in cases deemed necessary by the Sectoral Monitoring Committees, which are responsible for ensuring the effective and appropriate use of funds defined in the Presidential Decree No. 2019/20 regulating the management of financial support under the Instrument for Pre-Accession Assistance (IPA), it is stated that CSO representatives may participate. However, the participation of CSOs is subject to the discretion of the relevant public authorities.

## **Practice**

In the 2020 Presidential Annual Program, the lack of financing and fundraising is listed among the fundamental structural problems of CSOs. In addition, the 2021 Presidential Annual Program also emphasizes the challenges faced by CSOs in accessing resources, employment capacity, project development, grant utilization, and fundraising, alongside the Covid-19 pandemic. The 11<sup>th</sup> Development Plan, covering the years 2019-2023, puts forward regulations to be implemented in the financial domain that are relevant to CSOs. However, these policy documents do not define concrete policies/measures or outline the essential steps to be taken for the development of regulatory mechanisms responsible for public funds or their allocation.

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<sup>72</sup> For detailed information on the sub-items/organizations covered by the transfer item made to non-profit organizations, see The Presidency of Türkiye, Presidency of Strategy and Budget. *Guide to Analytical Budget Classification*.

According to the Central Government Consolidated Budget Expenditures table prepared by the Ministry of Treasury and Finance, the total current transfers and capital transfers made to associations, unions, institutions, organizations, funds, and similar entities under the title “Transfers to Non-Profit Organizations” amounted to 1,097,514,000 TL in 2020 and 866,037,000 TL in 2021. According to the Activity Reports published annually by the Presidency of Türkiye, Presidency of Strategy and Budget, a total of 969 million TL was disbursed for current transfers to associations, foundations, unions, and similar organizations in 2020<sup>73</sup>, and a total of 770 million TL in 2021<sup>74</sup>. The same reports state that the total amount of capital transfers made for the purpose of assistance to associations, foundations, unions, and similar organizations was 129 million TL in 2020 and 96 million TL in 2021.

### **Ministry of Interior - Project Support to Associations**

The sole public financing program established by the central administration to provide structured support to CSOs is implemented by the Directorate General for Relations with Civil Society under the Ministry of Interior. According to the Directive on Providing Aid to Associations from the Ministry of Interior Budget, published in 2017, associations can submit their applications electronically through the Project Support System (PRODES) by preparing projects on topics determined by the ministry each year. The application announcement and guideline are accessible throughout the year on the DGRCS website. Financial and in-kind support can be requested within the scope of projects. CSOs have no involvement in determining the supported areas of work. Although the Directive mentions the possibility of benefiting from experts and organizations in the evaluation process, there is no regulation or approach that guarantees the participation of civil society in this process. It is mandatory to sign a protocol between the approved association and the governorate of the registered province. Governorships are responsible for monitoring and supervising the implementation of projects according to the procedures, and there is no regulation or de facto implementation regarding the participation of CSOs in these processes. The Ministry of Interior, Directorate General for Relations with Civil Society, provided a total of 30,000,000 TL for 341 association projects in 2020 and a total of 42,000,000 TL for 328 association projects in 2021, based on the evaluation conducted.<sup>75</sup> Considering that there are 121,987 active associations in Türkiye as of November 2021, it can be seen that the budget allocated to this program is extremely insufficient and limited, and only a limited number of associations benefit from this resource. Although it has been stated in the relevant legislation that the names of associations benefiting from project-based support, the purpose and scope of the supported activities, and the amount of assistance will be disclosed on the ministry's website by the end of February of the following year, detailed information on this matter cannot be accessed through the websites of the Ministry of Interior and the DGRCS. Only the Activity Reports of the Ministry of Interior provide data on the distribution of supported projects according to thematic areas and the general scope of activities. According to the disclosed data, it can be observed that CSOs working on issues such as human rights and gender equality, as well as rights-based advocacy and monitoring efforts, are hardly supported. The majority of resources are allocated to activities related to socialization, cultural promotion, and raising awareness on various topics.

73 The Presidency of Türkiye, Presidency of Strategy and Budget. *2020 Activity Report*, p.33.

74 The Presidency of Türkiye, Presidency of Strategy and Budget. *2021 Activity Report*, p.31.

75 Ministry of Interior. *2021 Activity Report*, p. 116-117.

There is no concrete, continuous, and sufficient public funding mechanism for supporting the institutional infrastructure, activities, and financial sustainability of CSOs. The sole public financing program established by the central administration to provide institutional support to CSOs is implemented by the Directorate General for Relations with Civil Society under the Ministry of Interior. In addition, ministries can establish grant programs for projects within various fields of work. Under the Youth Projects Support Program, which the Ministry of Youth and Sports implemented in 2020-2021 and allowed CSOs to apply, a total of 90,000,000 TL was provided to 774 projects in eight different areas of work such as volunteering, environmental and animal protection, and personal development.<sup>76</sup> However, there is no disaggregated data available on the number of CSOs benefiting from the program and the amount of assistance provided to CSOs. Ministries can also indirectly provide public funding to CSOs. In accordance with the Regulation on Aids for Accommodation and Meals to Students Residing in Higher Education Dormitories of Foundations Granted Tax Exemption and Public Benefit Associations, the Ministry of Youth and Sports, within the limits of the budget allocation amount, is able to provide financial support from the budget as accommodation and meal assistance to students residing in higher education dormitories owned by tax-exempt foundations and public benefit associations. As of January 11, 2022, it is stated that a daily nutrition allowance of 19 TL and a monthly accommodation allowance of 280 TL are provided to 52,769 students accommodated in 475 dormitories belonging to 18 foundations and associations operating nationwide, with a total capacity of 82,336. However, the total amount of funding cannot be accessed from public sources.<sup>77</sup> Another unit that provides resources to CSOs through collaboration or project-based partnerships is the Development Agencies, which are affiliated with the Ministry of Industry and Technology. However, the extent to which CSOs benefit from the total funding provided by the 26 development agencies operating nationwide between 2020 and 2021 has not been disclosed.

Publicly available data on public funding for CSOs is extremely limited. No data has been obtained from information requests made to ministries and relevant public institutions on this matter. As a result of desk research, it has been possible to access the total amount allocated to associations, unions, institutions, organizations, funds, and similar entities in the central government budget under the categories of current transfers and capital transfers. Additionally, the amounts allocated by the Ministry of Interior and the Ministry of Youth and Sports for project support have also been identified.

**Table 8**

|  |                  |
|--|------------------|
| The total amount of current transfers and capital transfers made to associations, unions, institutions, organizations, funds, and similar entities in the central government budget in 2020-2021 | 1,963,551,000 TL |
| The total amount of project support provided by the Ministry of Interior and the Ministry of Youth and Sports in 2020-2021.  | 167,000,000 TL   |

The identified structured public support for CSOs during the two-year period amounted to only 167 million TL. It is not known for which activities and to what extent CSOs benefited from the mentioned current and capital transfers since the budget item covers aids provided not only CSOs but also foundation universities, political parties, unions of employers and public employees etc. This situation demonstrates the absence of a structured public support system and the difficulty in monitoring public financing.

<sup>76</sup> Ministry of Youth and Sports. *2021 Activity Report*, p. 15.

<sup>77</sup> Ministry of Youth and Sports. *2021 Activity Report*, p. 222.

The amount of public support allocated to CSOs, the conditions and procedures of public fund distribution are separately defined by the relevant authorities. Annual public funding transferred to CSOs by ministries and local administrations is mostly not pre-planned. The regulations specify that the determination of fund amounts is left to the discretion of the minister in ministries or the highest executive in other authorities. The methods of fund allocation and the supports transferred to CSOs vary from year to year. The lack of a standard approach, code of conduct, or legislation concerning public funding mechanisms to support the capacities and activities of CSOs makes it difficult to monitor where the allocated supports are concentrated, how they are utilized, and to what extent they generate benefits. As a result, there is no data available on the total amount of annual public funding, the specific area of work, objectives, and the CSOs that utilize the funds. The requested data has not been shared in response to information requests made to ministries and DGRCS.

There is a lack of common strategy and coordination among ministries. This results in the inability to identify overlaps and gaps in the support provided to CSOs. Consequently, resources fail to meet the evolving needs of civil society, and certain areas of work, projects, and CSOs receive excessive support while others receive no support at all. Furthermore, the absence of a common strategy leads to the lack of a standardized criterion for fundraising capacity, variations in application and evaluation rules across administrations. As a result, it inhibits the effective implementation of the transparency principle, also jeopardizes the establishment of conditions for impartiality, equal treatment, and free and fair competition. The failure to adopt a shared understanding of mutual accountability in project implementation and evaluation exposes CSOs to different reporting and monitoring obligations.

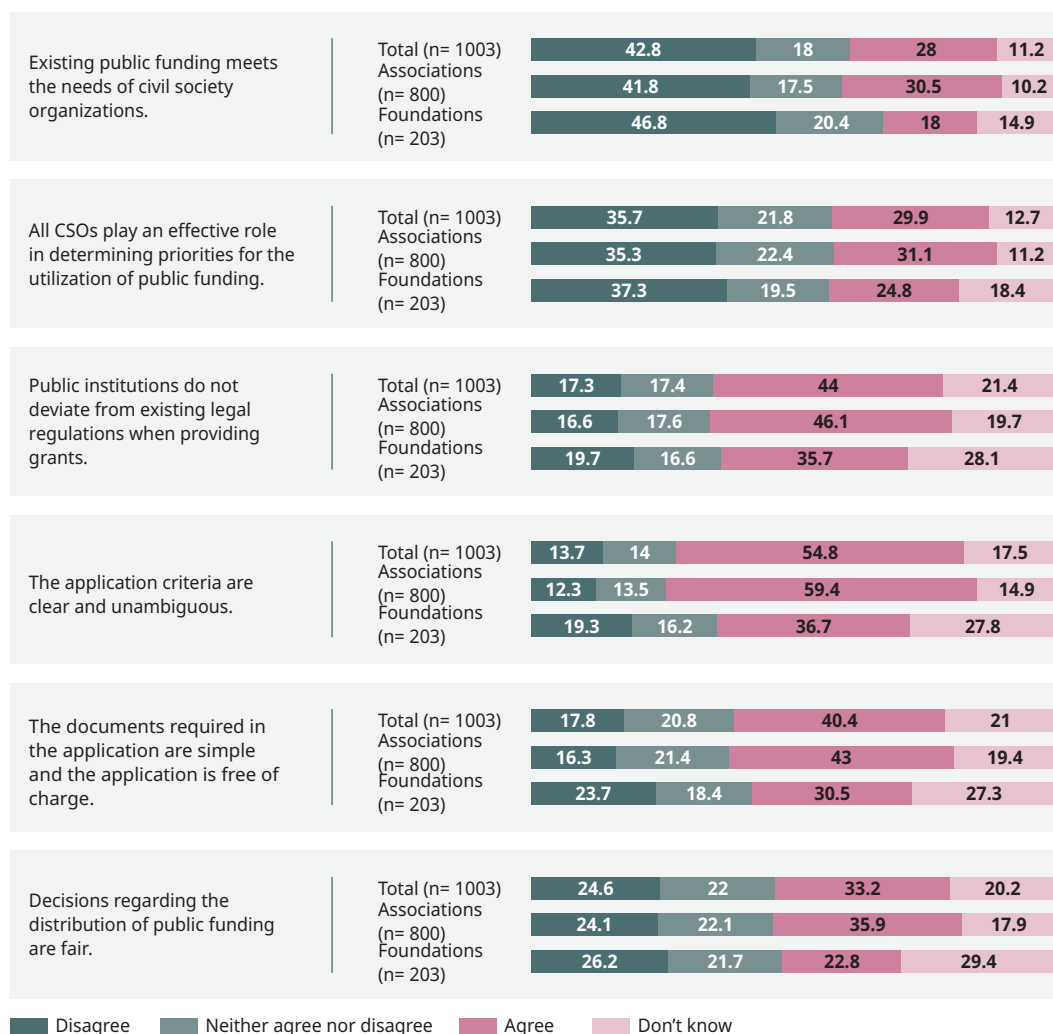
While there is no specific administrative mechanism supervising public funding for CSOs, funding agencies are responsible for conducting monitoring and evaluation processes. General budget audits are carried out by the Ministry of Treasury and Finance, the Court of Accounts, and the Grand National Assembly of Türkiye.

There are no defined rules regulating and securing the participation of CSOs in the programming and distribution of public funds.

One of the findings identified in the field research is the lack of structured public funding for civil society. Among the CSOs participating in the quantitative research, only 6% reported receiving in-kind or financial support from central or local public administrations in 2020 or 2021. Among the organizations receiving public support, 67% indicated that they received funding for specific projects or activities, while 28% received resources in exchange for service procurement contracts.

The quantitative research sought evaluations from CSO representatives regarding public funding for civil society. The analysis of the related questions reveals that approximately 35% of the participants either did not provide an evaluation on the subject or lacked sufficient knowledge. While 43% of CSOs believe that public funds do not meet the needs of civil society, 28% believe that they do. Regarding the funds given by public institutions, 44% stated that they think these institutions comply with existing legal regulations, while 17% believe that the institutions deviate from these regulations. More than half of the CSOs find the application criteria to be clear and transparent, while 40% find the required documents for application to be simple and cost-free. Only one out of three organizations believes that CSOs play an important role in determining how these resources should be used.

Figure 2.2 Evaluations of public funding for CSOs (%)



Evaluations of CSOs regarding public funding have been further analyzed based on their financial and institutional capacities. It has been observed that as CSOs' financial and institutional capacities improve, their evaluations of public funds tend to become more negative.

Not every CSO has equal access to public resources. Besides financial and institutional capacity, factors such as the target audience, objectives, and scope of work of a CSO are decisive in accessing public funding. In terms of the adequacy and utilization of public resources, the evaluation of CSOs working with "minorities," "members of the press," "environment," "disabled individuals," "ethnic and cultural groups," "victims of human rights violations," "workers," "women," "LGBTI+," "prisoners," "refugees/immigrants," or "CSOs", differ from other CSOs participating in quantitative research. 54% of these organizations consider that public funds do not meet the needs of CSOs, while 43% think that CSOs do not play an effective role in determining how the funds should be used.

The insights shared by CSOs representatives participating in qualitative research explain why the remarks and experiences of CSOs working in specific areas and with specific groups diverge from the overall civil society. It is commonly shared that the existence and function of civil society are not fully understood by the state officials, CSOs are often not recognized as necessary stakeholders, and there is a prevailing perception that the state wants to be main and only service provider in all areas. As a result, instead of allocating resources to civil society in certain areas of work, the public institutions prefers to carry out the activities on its own. Additionally, there is a highlighted political will not to allocate resources to certain areas of work such as LGBTI+ rights.



*"[We don't apply.] Because they don't open any calls targeting the field we focus on."* **(Association-LGBTI+ rights)**

*"Public funding is not available in the field of migration anyway. There are funds opened by the Turk Kızılay, but these are in-kind support funds. For example, if they want to implement an education project, the Ministry of National Education prefers to do it themselves. And they mostly prefer to do it through the United Nations. They don't choose to do it through all the associations."* **(Association-Press)**

In-depth interviews revealed that some participants stated their applications for public funds were not accepted.

*"There was a fund provided by the Ministry of Interior for civil society. There was also one from the Ministry of Youth and Sports. We applied to them. They were also not accepted. We didn't even receive any feedback on the results. It's usually like that with them."* **(Association-Right to the city)**

*"...We applied to the Development Agency, but our application was rejected. We already knew there was a 90% chance we wouldn't get it...They told us they received better applications and accepted a more suitable one."* **(Association-Law, advocacy, and politics)**

*"That of the Ministry of Interior... That was a very interesting response... They told us that due to a limited number of staff reviewing projects and the absence of a dedicated contact person, we are unable to receive any feedback, whether positive or negative. Most of our projects are not reviewed."* **(Association-Women's rights)**

Among the CSOs that document state violations of human rights and monitor public services, there are those who state that they cannot receive public funding due to the nature and objectives of their activities, and therefore they do not apply for it. Some also mention that they would face pressure and interference if they were to benefit from public funds, hence their decision not to apply. Examples have been provided of organizations that have applied for such funds and subsequently faced restrictions and interventions by the government. There are also those who, as a matter of principle, declare that they do not apply for public funds, preferring not to rely on public financing to maintain their independence. While the negative relationship between the independence of CSOs and public funds primarily concerns grants provided by the central administration, it is also applicable to some participants when it comes to municipalities. However, collaboration with local administrations or receiving various in-kind support is generally viewed more favorably. Furthermore, it is widely believed that the state would not provide funding to CSOs it already seeks to restrict.

*"The purpose of civil society organizations is to exert pressure on the state... to limit its power on the basis of human rights and freedoms. Therefore, we do not consider it appropriate to seek funding from the government or public institutions in the form of grants."* **(Foundation-Human rights and democracy)**

*"I mean, collaboration with municipalities, yes, but getting funds or money or something, I think it is necessary to distance ourselves in that regard."* **(Association-Human rights and democracy)**

*"Municipalities are also considered a public, a legal public. But we have never asked for funds from them, such as from local municipalities, or from the provincial directorate of associations, or from other state institutions, and we have never made any requests to ministries."* **(Association-Law, advocacy, and politics)"**

*"...we saw that there were CSOs requesting. They faced extensive interference in their activities, including what they can discuss and work on. Based on our past observations, we have chosen not to apply for funding at all. What would we say if we applied? Feminism is mentioned five times in our applications, gender is mentioned ten times... They won't give it anyway. We've never even tried."* **(Foundation-Women)**

*"We also do not see any benefit from the state or public institutions. I don't think I need to explain, the reason is too long. Our field of work is LGBTI+s."* **(Association-LGBTI+ rights)**

One participant also stated that receiving funding from the state would not compromise their independence if the correct methods were employed, and they claimed to have achieved this. According to this viewpoint, if the received funds are transparently divided among a wide range of stakeholders, organizations can maintain their independence to that extent.

*“(There is an example where EU funding is given through public institutions) If you are applying for Türkiye, Brussels gives the money to the Ministry of Treasury. It comes to you through the Ministry. So, of course, you have to write this as it is, in the activity report. ... Imagine, “they gave a million, with conditions from the state (treasury) to this (foundation). I wonder what the foundation will do with that money?” After all, it’s the state who gave them the money in this example. ...Indeed, the government also acts according to its own interests, so if your work benefits their agenda, they will continue to collaborate with you. ...There are numerous think tanks that produce reports with results that are pleasing to the government. However, if our reports are being read alongside theirs and taken more seriously, there must be a reason for it. It is because of the methodology. By having different partners for each project, you have already ensured your independence. By dividing 10 liras into 6 or 7 parts... it becomes evident that you have no special relationship with any of them. It is about impartiality, the methods employed, and the expertise of the professionals involved.” (Foundation-Human rights and democracy)*

Some participants, however, believe that in a democratic society, under normal circumstances, the state should support civil society. According to them, civil society is performing a public service.

*“We believe that public institutions should allocate a certain percentage of taxes to support civil society and finance them, taking into account that they are actually working for the public good. We are not opposed to this idea. We believe it should happen. However, due to the current objective situation, there is a potential risk that seeking support from any public institution could have a negative impact on the information we produce or the work we do. Therefore, we have not applied for such support.” (Association-Human rights and democracy)*

## 2.2.2. Public Funding Distribution

### Legislation

The regulations and guidelines established by ministries regarding the allocation of funds to CSOs include provisions that govern the distribution of funds. As per Article 8 of the Regulation on Providing Aid from the Budgets of Public Institutions within the Scope of General Administration to Associations, Foundations, Unions, Organizations, Institutions, Endowments, and Similar Entities, public institutions are required to disclose the list of recipient organizations, their information, the purpose and subject of the funding, and the amount of provided funding by the end of February of the following year. However, the method of sharing this information with the public is not specified in the relevant regulation.

Some ministries publish project application guidelines that outline selection criteria. However, the discretion to determine the procedures and principles for implementation lies with the respective public administrations and can vary.

There are no detailed regulations in the legislation concerning the distribution of public funds by ministries regarding disputes arising from selection criteria. For example, while the Ministry of Interior does not define an appeals mechanism for applicants in case of disputes, the Ministry of Youth and Sports, in its Project Management Regulation, assigns the responsibility of resolving doubts and deficiencies arising from the implementation of the legislation to the ministry.

### Practice

In many cases, the total budget, selection criteria, and evaluation conditions for funds allocated to civil society by ministries and other relevant public administrations are not specified. Apart

from EU funding, there are no common practices for ministry funds. Even if the total allocated and distributed budget is announced, commission decisions, information about projects that have been awarded funding, their budgets, evaluation scores/results, are not shared with the applying CSOs or the public. Consequently, it is extremely difficult to track how resources are distributed to CSOs.

There is no common understanding or practice among ministries regarding providing financial support to CSOs. Some ministries provide direct project support, while others work based on collaboration frameworks established through protocols with CSOs. Particularly in protocol-based collaborations, there is no standard approach or procedure regarding the selection criteria for protocols and CSOs. In terms of the information requests made to relevant public administrations, inquiries have been made regarding whether any CSOs have encountered problems in the implementation of project application and selection procedures and whether they have lodged official complaints, but the responses did not provide any information on these matters.

Applying for public funds does not create an additional financial burden for CSOs. The application requirements may vary. It is possible to apply electronically for support programs of the Ministry of Interior and the Ministry of Youth and Sports.

According to the field research, while only 33% of participants found the distribution of public resources to be fair, 25% of CSOs expressed that the decisions were not fair. However, the fact that the percentage of those who did not express an opinion or lacked sufficient knowledge was almost equal to those who expressed positive or negative views (45%) indicates that CSOs face significant challenges in accessing sufficient information about the distribution of public funding. In fact, during desk research, official documents such as activity reports were scanned to track the resources transferred to CSOs by both central government units and local and other municipal administrations, and it was observed that adequate information was not shared.

In-depth interviews revealed that the prevailing view among CSOs is that public funds are not distributed fairly and transparently. It is believed that CSOs that take a critical approach to the government and advocate for rights are not supported or rarely receive support, while those operating within the boundaries set by the political will are generally supported. This situation is said to apply not only to the central government but also to local administrations. Furthermore, some CSOs argue that the lack of disclosure regarding which organizations receive funds and how they are distributed hinders the monitoring of these processes. One participant mentioned that in the past, funds were publicly announced, but this practice has been abandoned in recent years.

*"...let me put it this way, over the past 15-20 years ... Turkish society has become polarized, and the possibility for those who oppose or critically approach public policies to receive funding or support from the state is close to zero or even below zero. ... Examples of this can be observed in local administrations. ... for instance, who are the ones awarded with projects by local administrations in major cities? Who gets support from there? I mean, can any CSO that is not close with the government or ... can any CSO with opposing views receive support? Mostly not."*  
**(Foundation-Human rights and democracy)**

*"I remember it changed in 2010, 2012 or something. The Ministry of Youth and Sports used to give grants to the projects that applied. Then he would announce those grants. We would see which CSOs received grants. So, as I said, either 2011 or 2012. They said it's a state secret. ... Therefore, we think that legislation is needed for transparency."* **(Foundation-Children's rights)**

According to one participant, despite transparency and merit issues, there is also a prevailing sense of unease. Public officials perceive providing resources to specific topics and CSOs as risky and approach it with caution. This situation may also apply to the collaboration with CSOs or the employment of experts from civil society in public projects.

*"... I think that if I work on the productivity of the cow in agriculture, I will probably get [public support]. But when I'm working on rights violation, when I'm working on official language policy, when I'm working on how the conflict ends or how much women are affected in this, they won't like it. So, the public institutions don't want to put themselves at risk. It's something that I, as a civil servant, can understand. In other words, those fears should disappear so that people can freely discern between good projects and bad projects, good ideas and bad ideas. ... "XX organizations will definitely not be granted; others can be collaborated with..." "we will choose one that we know, so it'll come back to us"... Transparency is indeed a problem, meritocracy is a problem, but there is also another dimension, which is the element of unease."* **(Association-Law, advocacy, and politics)**

Another participant pointed out that many ministries have allocated funds for civil society, and these funds have been distributed to numerous civil society organizations without discrimination. According to the participant's account, many familiar civil society organizations in their circles are benefiting from these funds.

*"There are public funds. For example, the Ministry of Youth and Sports can provide funds to CSOs. In particular, work is being done in some sectors. ... is given by the Ministry of the Interior. ...There are many around us, there are CSOs that receive funding in this sense. I don't think there is any discrimination. Is it possible? There may be abuses. Could it be discrimination? It may be partially, but I see it given, I see it on the field. It is given to many associations."* **(Foundation-Aid)**

Participants were also asked about how public funds should be distributed. The prominent view is that there should be a change in mentality and approach. Therefore, solving the identified problems is not only related to legislation but also to changes in practices. It is noted that the state does not fulfill its positive obligations for the development of democracy, pluralism, civil society, and human rights. According to the participants, firstly, this approach should change, and a fair approach that supports discriminated groups systematically, covers every organization and issue, ensures transparency and accountability, and eliminates distrust in civil society should be embraced. The problems that need to be addressed regarding the distribution of public funds are defined as the effective and transparent distribution of resources, meeting the needs of CSOs, diversifying the areas of activities to which funds are allocated, and eliminating the existing discriminatory approach. Suggestions for solving the problems in the distribution of public funds were also shared during the interviews. Making the evaluation of project applications by independent auditors a standard practice and involving civil society representatives in the mechanisms responsible for the distribution of public funds are some of these suggestions.

*"For example, independent evaluators take charge in other EU projects, and they review and score the project. But in the public sector, people appointed by the institution itself do it. So, when they say to give funds to this association this year, they can and do give whatever projects come from that association, regardless of their content. I don't think it is reviewed very seriously."* **(Association-Right to the city)**

*"I believe that public funds should be allocated equally, encompassing every civil society organization, every field, and every working area, distributed throughout the year based on defined quarters... in a manner that does not leave most CSOs and fields behind. When evaluating the applications, it is necessary to consider that there should be no malicious intent towards working areas that may contradict Türkiye's political agenda. Instead, the assessment of these applications should be carried out without any ulterior motives."* **(Association-LGBTI+ rights)**

## 2.2.3. Accountability, Monitoring and Evaluation of Public Funding

### Legislation

Each public administration that provides public funds to CSOs determines and announces their accountability, monitoring, and evaluation procedures through regulations, guidelines, and application guides prepared in accordance with relevant legislation. There is no general regulation or common approach in this regard. Measures to prevent the misuse of funds are also regulated by the respective public administrations within the framework of the relevant legislation, in a manner that is not contrary to the law. The measures to be applied in such cases are proportionate to the violations.

The Directive on Providing Aid to Associations from the Ministry of Interior Budget (03.03.2017), prepared by the Ministry of Interior, introduces certain regulations to ensure that the support is used for their intended purposes. Associations supported through project-based funding are required to submit information, documents, records, and progress reports demonstrating how the funds were utilized to the local governorship within the specified periods stated in the protocol. When deemed necessary, project monitors or auditors may be assigned to monitor and audit scientific, technical, administrative, and financial aspects of projects. The local governorships are responsible for implementing monitoring, evaluation, and accountability procedures. However, DGRCS is authorized to fill in implementation gaps and regulate matters deemed necessary in the application guideline. Additionally, in accordance with the legislation, direct approval from the minister allows for providing assistance. In the event of misuse of funds, measures such as suspending the aid, canceling the project, and reclaiming improperly made expenditures are envisaged.

The monitoring and evaluation of support provided by the Ministry of Youth and Sports are regulated by the Ministry of Youth and Sports Project Regulation. According to the regulation, progress reports showing the activities carried out within the scope of the project and the stage the project has reached must be submitted to the Directorate General of Project and Coordination by the project manager every three months from the date of signing the contract. For the conclusion of the project, a project completion report, including expenditure information and documents, as well as evidence of activities carried out, must be submitted to the ministry within two months from the project end date. Unlike the procedures of the Ministry of Interior, the qualifications and duties of the organs and individuals responsible for evaluating applications, selecting projects, and monitoring and auditing them are also defined in detail in the regulation. If funds are not used in accordance with the procedures and reporting processes are not followed, the projects may first be suspended, and if it is determined that the errors will not be rectified, they may be canceled, and the unspent amount may be returned in accordance with the procedure.

The Regulation on The Aid to Projects of Local Administrations, Associations, and Foundations, prepared by the Ministry of Culture and Tourism, was amended in 2020 to introduce new measures aimed at ensuring the proper expenditure of grants. Accordingly, in order to monitor and evaluate projects, it is necessary to assign rapporteurs. The beneficiary of support should prepare a project outcome report where all information, documents, and records regarding the project's expenditures and activities are submitted. Furthermore, in conjunction with the provincial director, the rapporteur responsible for overseeing the project must prepare an activity report that assesses the project as a whole. Although the regulation is not detailed, it also includes provisions regarding the commission that will evaluate applications, evaluation criteria, and measures to be taken in case of non-compliance with procedural requirements during the project implementation process.

## Practice

Within the scope of the field research, a series of questions were directed regarding the monitoring of projects carried out by organizations with in-kind or financial support from national or local authorities by the public funding agencies. According to the findings, 47% of those benefiting from public funding stated that they were subjected to monitoring by the respective public institution during the project implementation process. Approximately half of these organizations mentioned that the monitoring processes were conducted based on predefined criteria, and monitoring visits were announced in advance. There is a difference between associations and foundations in this regard; while one out of every two associations benefiting from public financing stated that their projects were monitored, this rate is lower for foundations (34%).

Although some public administrations include general information in their annual activity reports regarding how funds are allocated to different areas of work, impact assessment reports related to the use of public funds are not publicly available.

## 2.2.4. Non-Financial Support

### Legislation

The legislation regulating the provision of financial support to CSOs by public administrations also allows for in-kind support. However, there is no regulation in place to ensure the transparent and objective distribution of such support.

### Practice

In recent years, in-kind support provided by public administrations to CSOs has been an important agenda. This includes municipalities allocating offices, buildings, or similar spaces, providing equipment and vehicles, or ministries entering into protocols with CSOs under joint projects and activities. Monitoring in-kind support provided by the public sector is much more challenging than monitoring financial support. Information on this topic cannot be obtained from open sources, and information requests made to the relevant public administrations have been denied. The distribution of support in completely closed conditions, without public monitoring and scrutiny, and the absence of objective criteria in determining the supported CSOs and areas of work make it difficult to address unequal treatment in the provision of in-kind support.

According to the field research, only 6% of the participants mentioned receiving financial and/or in-kind support from the state, while 42% of stated that they benefited from in-kind public support, such as access to office space for activities or work, free training, provision of equipment, or protocol agreements with public administration within the scope of projects/activities. This rate indicates that in-kind support, like cash support, is also highly inadequate.

All participating organizations were asked to evaluate a series of propositions regarding non-financial public support, considering the years 2020 or 2021. One out of every four organizations believe that accessing non-financial support is difficult, while the percentage of those who find it easy is 32%. The percentage of organizations that consider CSOs to have an advantage in accessing in-kind support compared to commercial enterprises or sports clubs is 37%. Approximately 30% of participants believe that CSOs critical of the government policies can benefit from this support and consider the decisions fair, while the opposite view is held by approximately 22%. However, as with financial support, the percentage of those who are unaware of or do not express an opinion on in-kind public support is also extremely high at 45%. This percentage indicates a significant lack of information within the civil society regarding the criteria for accessing in-kind support, such as how it is distributed and who can benefit to what extent. When participants are grouped according to their institutional and financial capacities, low-capacity CSOs tend to evaluate the support more positively, even though they may not benefit from in-kind support at all. On the other hand, as capacity increases, evaluations tend to become more negative. The evaluation of low-capacity CSOs regarding financial and administrative sustainability is mostly influenced by hearsay or perception, while high-capacity CSOs base their evaluations predominantly on experience and data, as indicated by the findings of the field research.

#### *EU Guidelines Assessment*

**Finding 4.2.a.** With the onset of the pandemic in 2020, the tools and opportunities for financial sustainability for CSOs have significantly decreased, while there has been no change in public funding for civil society. Public funding is highly limited, and transparency criteria have not yet been met. There is no data available on total public financing. The selection criteria for supported organizations and projects are still unclear, and the absence of guiding standards gives the administration broad discretionary power. When examining the projects funded, it can be observed that rights-based organizations critical of the government policies are rarely supported. There is no nationally binding strategy that clearly defines and standardizes the procedures for implementing legislation regulating public funding to CSOs, ensuring transparency and accountability for both central and local governments.

**Finding 2.4.b.** There is no general and objective framework or mechanism regulating public funding to CSOs, but financial or in-kind support can be provided to CSOs through specific programs administered by different public authorities. The Ministry of Interior has a special program (PRODES) that provides funding to CSOs, and in 2021, 0.5% of the ministry's budget was allocated to support CSOs under this program. Although there is a guideline published by the ministry regarding the selection of supported projects, final decisions are not justified with evaluation reports. There is a lack of detailed and accurate information regarding the content, budgets, beneficiaries, or outcomes of supported projects. Public funds should be planned clearly based on concrete and publicly available data related to the civil society sector, and they should be distributed transparently and systematically monitored. There is a need for (multi-year) institutional capacity support to ensure the flexible and effective implementation of projects and the institutional development of CSOs.

## Sub-area 2.3. Human Resources

### 2.3.1. Employment in CSOs

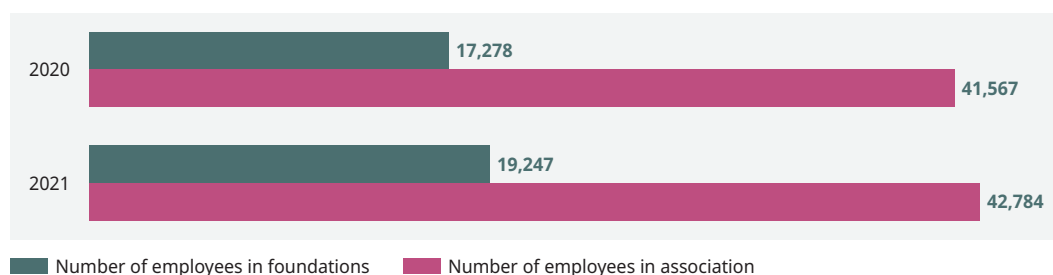
#### Legislation

CSOs, like all other employers, are subject to the Labor Law. There is no specific regulation or practice regarding the employees of CSOs.

#### Practice

CSOs are subject to the same employment procedures as other employers, but there are no employment incentives or programs specific to the sector. In response to the negative impacts of the Covid-19 pandemic in 2020-2021, economic stimulus packages were announced to support businesses in preserving their human resources (such as short-time work allowances, etc.). However, most CSOs were unable to benefit from these supports as their field of activity did not fall under the eligible classifications. Employment data in the civil society sector is maintained by DGRCS and DGoF. According to DGoF data, the total number of personnel employed by foundations was 17,278 in 2020 and 19,247 as of August 2022. According to data published by DGRCS, the total number of paid employees in associations was 41,567 in 2020 and 42,784 in 2021. In 2020, the distribution of a total of 77,870 paid employees and volunteers based on their involvement in association activities was as follows: 40,830 full-time, 4,580 part-time, and 32,460 project-based individuals. In 2021, a total of 76,765 individuals participated in association activities as paid employees and volunteers, with 42,797 individuals working full-time, 6,561 individuals working part-time, and 27,407 individuals working on a project basis.<sup>78</sup> However, the distribution of paid employees and volunteers under different working durations is unknown. The average number of employees per association is 2.8. Considering the total number of employed individuals nationwide for those years, the proportion of individuals employed by CSOs is only 0.15%.

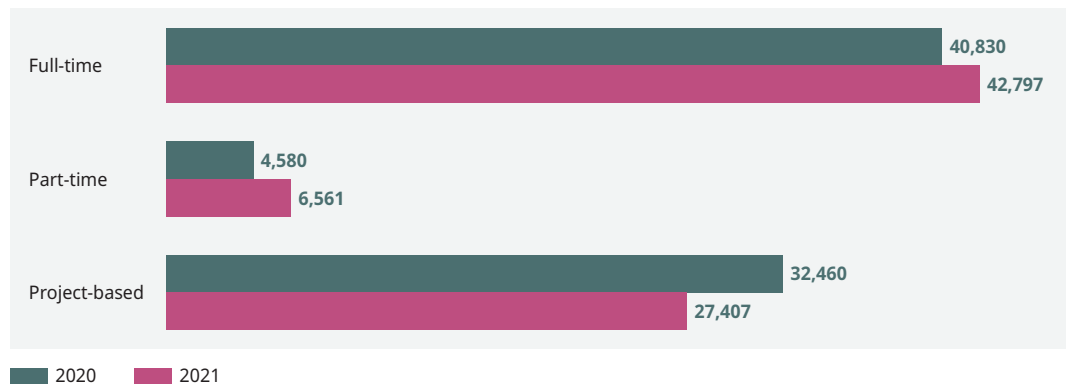
**Figure 2.3a Number of paid employees in associations and foundations**



(Source: Directorate General for Relations with Civil Society. *Civil Society Statistics*; Directorate General of Foundations. *Foundation Statistics*.)

<sup>78</sup> Directorate General for Relations with Civil Society. *Number of employees and volunteers of associations by province*.

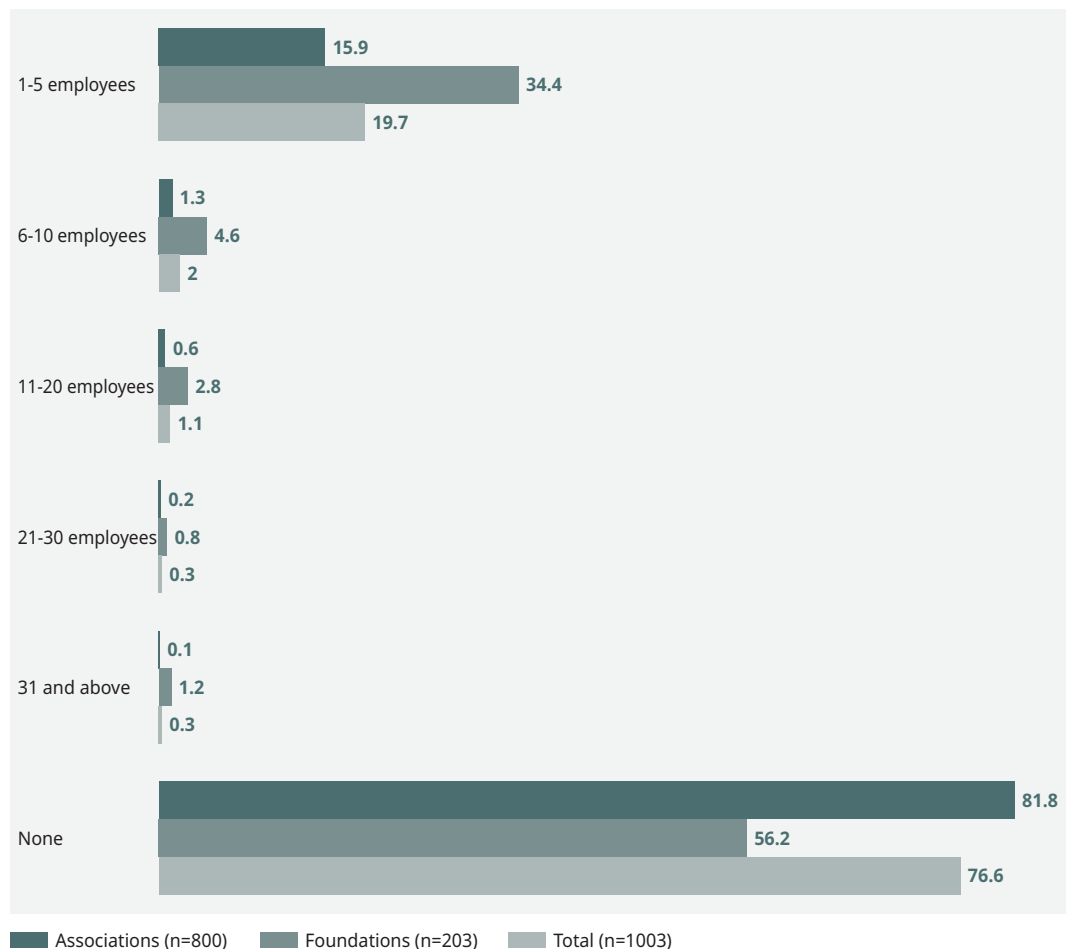
**Figure 2.3b Distribution of paid employees and volunteers according to their participation in the activities of the association**



(Source: Directorate General for Relations with Civil Society. Civil Society Statistics.)

One of the issues negatively affecting the administrative and financial sustainability of CSOs in Türkiye is their inability to employ regular paid staff. Among the CSOs participating in the field research, 77% do not have full-time paid employees. The average number of employees is 1. The number of part-time paid employees is even lower, with 93% of organizations not having part-time employees. Three out of four organizations stated that they do not engage external services for a fee. Foundations employ a higher number of full-time paid staff compared to associations. The average number of paid employees in associations is 0.7, while in foundations, it is 2.5. Another reflection of this situation is the percentage of organizations without paid staff. 82% of associations do not have full-time employees, while this rate is 56% for foundations.

**Figure 2.4 Number of full-time paid employees (%)**





Organizations with one, two or more full-time employees have been operating for a longer period compared to organizations with no full-time staff. Among organizations with two or more full-time employees, the percentage of those established before 2000 is 30%, which is also significant among organizations with one employee (23%). In this time frame, the percentage of CSOs without full-time employees is 12%.

As the number of full-time employees increases, there is a significant increase in both the number of part-time employees and the number of individuals providing services externally for a fee. In organizations with two or more employees, an average of 3.1 individuals are contracted externally, whereas this number decreases to 0.5 in organizations with a single employee and 0.2 in organizations without full-time staff.

Approximately 80% of organizations without full-time employees operate at the neighborhood/district and provincial levels. As the number of employees increases, the geographical scope of organizations' activities also expands. For instance, while the percentage of organizations without full-time employees operating nationwide is 15%, this percentage increases to 26.5% for organizations with one full-time employee and up to 32% for those with more than two employees.

It is observed that organizations without full-time employees or with only one full-time employee are more active in the field of "Culture, Education, and Entertainment Activities," while organizations with two or more employees are more engaged in "Civil Society, Advocacy, Political, and International Activity" areas. The field of "Environmental Conservation and Animal Welfare" stands out as an area where organizations without full-time employees are more concentrated compared to other organizations.

When considering the findings of the field research in conjunction with the sub-areas under the area "Financial Viability and Sustainability of CSOs," it is evident that the problem of having professional human resources poses a significant obstacle to the development of civil society. The heavy reliance of CSOs on irregular efforts of members and volunteers, for even the most fundamental matters like engaging in economic activities, seeking funds, and administrative tasks, hampers sustainability. In in-depth interviews conducted during the research, numerous CSOs representatives draw attention to this issue and emphasize that one of the fundamental conditions for strengthening CSOs is the long-term employment of qualified individuals. Otherwise, without generating internal resources, an adequate number of qualified individuals cannot be employed. Moreover, in the absence of a sufficient human resource base, accessing alternative financial sources becomes challenging, leading to a vicious cycle. Some of the interviewed CSOs also define the employment of staff through project-based funds as a problem. The strict allocation of budget for human resources in such funds, employing project staff for limited durations, and the need to primarily focus on project activities often result in challenges for CSOs to implement their strategies and plans outside of projects or place higher expectations on project staff.

## 2.3.2. Volunteering in CSOs

### Legislation

There is no overarching regulation that can be designated as the legal framework for volunteering or volunteer services.<sup>79</sup> However, certain laws and regulations, such as the Law on Special Provincial Administration and the Municipality Law, regulate the participation of volunteers in providing public services.

In 2020-2021, volunteering was among the supported areas of work in funds opened by the Ministry of Interior and the Ministry of Youth and Sports. The Ministry of Interior has supported a total of 18 projects related to volunteering in two years.

There is no specific regulation defining the mutual rights and obligations between CSOs and volunteers. It is known that some CSOs develop their own volunteering policies.

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<sup>79</sup> DGRCS published a draft law on volunteering and the relationship between CSOs and volunteers on its website in August 2022, seeking the opinions of relevant experts, academics, and the public.

The absence of a legal framework regulating volunteering in CSOs creates constraints and financial challenges in practice. Due to the lack of a clear legal distinction between paid labor and volunteering, some CSOs have been penalized with financial fines for “employing uninsured workers” following inspections, albeit sporadically.

The health and safety measures and relevant procedures that CSOs should provide for their volunteers have not been defined. However, there are examples of CSOs taking measures in this regard, such as providing private personal accident insurance.

## Practice

The Report of the Specialized Committee on Civil Society Organizations in the Development Period, prepared in line with the consultations during the preparation process of the Development Plan stated that a legislative effort is needed regarding volunteering. However, the 11<sup>th</sup> Development Plan objectives are limited to promoting the participation of university students in volunteering and CSOs activities, as well as facilitating internship opportunities in CSOs. The 2020 and 2021 Presidential Annual Programs also identified the need for administrative and financial regulations in the field of volunteering and recognized the importance of establishing an inclusive framework to strengthen civil society and volunteering. The ongoing efforts of the administration in this regard are in progress. Additionally, DGRCS has launched a website with informative resources and public service announcements to increase awareness of volunteering and promote its practice.

The public policies on volunteering are limited to specific areas of work and target groups. Key areas of focus include disaster and emergency response, social services for disadvantaged groups such as children, youth, the elderly, and people with disabilities, as well as poverty alleviation and social assistance. There is no centralized unit responsible for increasing volunteering activities and coordinating volunteers. However, there are ongoing efforts by various institutions and authorities in thematic areas. For instance, the Disaster and Emergency Management Authority (AFAD), Ministry of Youth and Sports, Ministry of Interior, and local administrations are engaged in activities related to volunteering. AFAD organizes national-level training for AFAD volunteers and accepts volunteer applications electronically through the e-government system for those interested in volunteering during disasters and emergencies. However, areas such as the development and advocacy of human rights are excluded from the government’s volunteering promotion efforts.

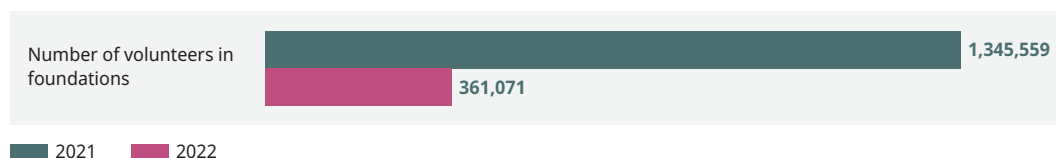
In Türkiye, there is no widespread culture of volunteering. According to the World Giving Index 2021 Report, Türkiye ranked 48<sup>th</sup> out of 114 countries in terms of helping a stranger with a rate of 59% and 99<sup>th</sup> in time spent on volunteering with a rate of 10%. In the Individual Giving and Philanthropy in Turkey 2021 Report, which was updated with the data collected by TÜSEV in 2021, an increase in volunteering activities in CSOs is identified. This increase, compared to the 2019 report, is influenced by significant factors such as the Covid-19 pandemic that started in March 2020 and the subsequent lockdown measures that deeply impacted social and economic life until mid-2021. Another contributing factor to the rise in volunteer participation is the motivation generated by numerous disasters in Türkiye (such as earthquakes, floods, and forest fires) that have fostered societal solidarity. Correspondingly, the report highlights an increase in the perception that CSOs are effective in addressing health issues and responding to natural disasters, reflecting the growing recognition of their role in addressing social issues.

The National Volunteering Committee (UGK), which brought together more than 35 CSOs in 2012 to create a volunteering policy, takes part in meetings held on current issues in the field of volunteering and in preliminary studies to regulate volunteering relations within CSOs. The working group established under UGK has published comprehensive recommendations on volunteer legislation in 2021. UGK invites the authorities to engage in a legislation preparation process actively involving CSOs. It emphasizes that the prepared legislation should primarily aim to promote volunteering, focus on measures to protect volunteers and CSOs, and define the distinction between paid work and volunteering. It also highlights the need to avoid practices such as mandatory registration for volunteers.

According to the data released by the Directorate General of Foundations (DGoF) on August 13, 2021, the number of volunteers involved in the activities of new foundations was 1,345,559, while in August 2022, this number decreased to 361,071. While there is no clear information available

in open sources about the source of this significant decrease, it is likely that the decrease is more related to changes in data collection methods rather than a decline in the number of volunteers participating in activities. According to DGRCS data, 35,089 individuals participated as volunteers in association activities in 2020, and this number decreased to 32,929 in 2021.<sup>80</sup> However, it is unclear how these data were collected and how the concept of volunteering was defined, so it does not provide a clear picture of the current situation regarding volunteering in Türkiye.

**Figure 2.5a Number of volunteers involved in the activities of foundations**



(Source: Data presented by DGoF on 13.08.2021 indicating the number of volunteers involved in the activities of newly established foundations)

**Figure 2.5b Number of volunteers involved in the activities of associations**



(Source: Directorate General for Relations with Civil Society. Number of employees and volunteers of associations by province.)

Both quantitative and qualitative phases of research include evaluations of CSOs on number of volunteers, their relationships with volunteers, and the government's approach to volunteering. Accordingly, almost all participating organizations in the research have volunteers, unlike the number of paid employees. The percentage of organizations with no volunteers is only 5%. The average number of volunteers is 67. The percentage of foundations with no volunteers is 9%, while for associations, it is 4%. Associations have a higher average number of volunteers compared to foundations. Specifically, associations have an average of 72 volunteers, while foundations have an average of 50 volunteers.

CSOs with more than 100 volunteers tend to have fewer activities at the neighborhood/district level, with approximately half of them operating at the provincial level and one-third operating nationwide. These organizations are mostly engaged in "Culture, Communication, and Entertainment Activities" (29%), followed by "Education Services" (15%) and "Civil Society, Advocacy, Political, and International Activities" (12%) Approximately 60% of these CSOs were established after 2011. Although the income levels of organizations with more than 100 volunteers vary, around one-fourth of them have an income of over 100,000 TL.

The number of volunteers in CSOs and the nature of their relationships with volunteers vary according to their field of activity and purpose. The findings regarding the volunteer profile in the field study are consistent with the findings of the Turkey Volunteering Survey conducted by Istanbul Bilgi University's Center for Civil Society Studies and the Migration Studies Application and Research Center at the end of 2019 in many aspects. Both studies have found that institutions working nationally and internationally on education and empowerment for young people and children, search and rescue, humanitarian aid, or nature conservation have a higher number of volunteers. Among the interviewed CSOs with a particular area of work have fewer volunteers. Organizations primarily involved in monitoring and research activities state that they do not require volunteers or prefer to work with interns instead. Some CSOs require specialized volunteers for certain matters. These types of institutions establish volunteer networks and collaborate with volunteers when needed.

<sup>80</sup> Directorate General for Relations with Civil Society. Number of employees and volunteers of associations by province.

*"We don't really need such a volunteer army anyway. Because of the work we do. For example, sometimes we work on a project for an entire year, and the outcome is just a report ... because our main job is to influence public policy. We often receive requests like 'Can we do an internship at your organization?' We don't really prefer having interns for just making tea or coffee. If there is a real need, we accept those from pending applications." (Foundation-Human rights and democracy)*

*"In fact, our volunteering structure has also changed during the pandemic and the subsequent period. As from March 2022, during the period when digitalization was anticipated, we now have more than 1,400 volunteers, including e-volunteers, who want to share their skills, knowledge, ... with children in different regions of Türkiye and the world. The majority of our volunteers are between the ages of 14 and 30, but we have volunteers from all age groups, ranging from 7 to 70." (Foundation-Children's rights)*

The relationships between CSOs and volunteers can be defined and governed by rules, but they can also vary periodically depending on the conditions. For instance, it has been observed that organizations working in the field of violence against women or children's rights organize training programs for volunteers and even limit the number of volunteers they can accept annually. In organizations with broader areas of work, the qualifications of volunteers may vary, ranging from providing support for certain tasks to carrying out specific activities, leading to fluctuations in the number of volunteers.

*"We fix it at 200 people for each province... We already have prerequisites for being a volunteer, first of all, they must have completed the awareness groups. After that, we need to come to an agreement on volunteering. Then, we continue." (Foundation-Women's rights)*

*"I can't give a number, but our volunteer profile changes according to the activities we do. Sometimes, we have volunteers that support the issues that they are more aware of, especially for right violations. According to them, of course, we try to include them in the work we do." (Association-Human rights and democracy)*

Many CSOs have stated that their volunteers primarily consist of university students. It has been reported that young people often join small-scale monitoring and research organizations as interns based on their field of study or participate as volunteers after receiving basic volunteer training from the CSO. Furthermore, there are examples of the connection established through volunteering with young people and university students evolving into a long-term relationship, where they become employees or members of the CSO. The findings of the 2019 Turkey Volunteering Survey also indicate that university graduates play a significant role among volunteers, and the rate of volunteering increases with higher levels of education. Additionally, university students and paid employees are the two groups that engage in volunteering the most.

In in-depth interviews, two different groups of volunteers are identified: expert volunteers and activist volunteers. Expert volunteers are those who provide support to the CSO as volunteers in specialized fields such as lawyers, psychologists, accountants, etc. Activist volunteers, on the other hand, are individuals involved in various activities of the CSO. When it comes to relationships with activist volunteers, priority is given to getting to know and trust each other over time. In the case of expert volunteers, besides these factors, their ability to contribute to the CSO within their area of expertise is also important.

Only one out of every five organizations participating in the quantitative research has policy documents such as volunteer agreements or principles of working with volunteers. The CSOs that formulate internal policies in this regard are predominantly organizations with stronger institutional and financial capacities, working with target groups such as rights-based or minority groups, members of the press, environmental activists, individuals with disabilities, ethnic and cultural groups, victims of human rights violations, workers, women, LGBTI+, prisoners, refugees/migrants, or CSOs. Qualitative research results are consistent with this finding. The majority of CSOs participating in in-depth interviews have prepared a policy document regarding volunteers. These documents outline the responsibilities of both the organization and the volunteer, set mutual boundaries, and may also include the organization's stance on fundamental rights and freedoms. Some organizations mentioned signing contracts with volunteers to protect both parties, while others mentioned that the documents do not have official validity. Therefore, instead of signing formal documents, mutual understanding is often reached through verbal agreements.

*“When a volunteer signs the policy document, they are implicitly accepting the binding nature of the child safety policy document as well. Because we provide it together with the volunteer policy document. It is not only the volunteer policy document but also documents such as the gender equality policy and child protection policy that serve to document the binding nature and limitations of the volunteer.” (Association - Children’s Rights)*

Among the participants in the quantitative research, the rate of CSOs that faced sanctions due to their volunteers being classified as uninsured workers by the Social Security Institution is 2%. The rate of organizations indicating problems due to the lack of insurance to protect volunteers in case of accidents is 5%. One out of every four organizations reported difficulties in recruiting volunteers, while 13% of organizations mentioned challenges in managing the volunteers who applied to them. Approximately one out of every three organizations stated that the pandemic had a negative impact on their relationships with volunteers and in recruiting volunteers. In-depth interviews indicate that although some CSOs faced challenges in managing their relationships with volunteers during the pandemic, there was not a significant decrease in the number of volunteers. In fact, some CSOs even expanded their volunteer networks. It has been suggested that the increase in online activities during the pandemic or the societal reactions arising from political, social, and economic developments played a role in this increase. According to the results of TÜSEV’s “The Impact of Covid-19 Outbreak on Civil Society Organizations Operating in Turkey Survey - II Report” published in September 2020, among the participating organizations, 16% of those who declared having volunteers stated that the number of volunteers increased during the pandemic, while 27% reported a decrease in the number of volunteers. 57% of the respondents stated that there was no change in the number of volunteers. According to the research conducted during the early stages of the pandemic, 21% of those who stated that they worked towards empowering disadvantaged groups reported an increase in the number of volunteers. Among the participants, 28% of organizations mentioned trying new methods to carry out volunteer-based activities, and half of those who reported an increase in the number of volunteers belonged to this group. The data provided by the report strengthens the finding that more CSOs were able to sustain their relationships with volunteers through methods such as e-volunteering and online activities in the subsequent period.<sup>81</sup>

82% of the CSO participating in the quantitative research stated that the lack of legal regulation in the field of volunteering did not have a negative impact on their work. In the qualitative research, participants shared their assessments of the potential effects of the absence of legislation and the preparation of legislation on volunteering. Most of the interviewed CSO representatives are unaware of any legislative preparation by public institutions regarding volunteering. While agreeing on the need for a framework law to protect the rights of volunteers, it was emphasized that the necessary political conditions for drafting a regulation that aligns with international standards are not currently in place. It was also noted that recent legislative changes related to CSOs serve as an indicator, and that a law prepared during this period could include restrictive provisions that limit freedoms, such as mandatory registration of volunteers, posing a risk of narrowing the civic space. The interviewees draw attention to the perception that membership in an association is not often seen as prestigious, and in some cases, being a member of an association can pose a problem for individuals when seeking employment in public institutions or the private sector.

*“We want gerontology students, or sociology and social sciences students who want to specialize in gerontological issues to work voluntarily in the association. This could be under the name of volunteer work, it could be an internship... There are no regulations. The lack of regulation can bring about certain issues. For instance, concerns may arise regarding insurance coverage or whether they will be compensated financially. Unfortunately, such matters cannot be resolved in Türkiye without a legal regulation in place.” (Association-Elderly Rights)*

*“Just as we can establish certain rules and documents to protect the rights of employees in employer-employee relationships, I believe that a similar process can be implemented for volunteers in a democratic country.” (Association-Human rights and democracy)*

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81 Third Sector Foundation of Turkey (TÜSEV). *The Impact of Covid-19 Outbreak on Civil Society Organizations Operating in Turkey Survey - II Report, September 2020.*

There are also those who believe that it is not appropriate for the state to intervene in the relationship between CSOs and volunteers, and that this field should be left to the initiative of civil society. They argue that issues such as the rights of volunteers or violations of their rights should be independently addressed by civil society. It is suggested that a contract between the volunteer and the CSO would be sufficient, but that the act of contracting should not be turned into an obligation.

*"We do not find it quite normal for there to be a specific effort to regulate and establish a legal status for the relationship between a volunteer and an organization. We believe that such matters [i.e., determining the working hours of volunteers] should be entirely left to the discretion of CSOs. I do not believe that this is an issue that can be resolved through state regulation... I mean, I highly doubt that a legal status can be conferred through top-down intervention."* **(Association-Human rights and democracy)**

Three representatives from CSOs involved in preparation of draft law on volunteering have been interviewed during the qualitative research. According to their statements, these efforts began with the declaration of 2019 as the Year of Volunteerism by the Ministry of Youth and Sports and aim to promote the widespread practice of volunteering. One of the initial proposed measures is to introduce a course on volunteerism in universities. Collaborative work has been carried out with members of the National Volunteering Committee (UGK) to determine how this course should be taught and how the theoretical and practical aspects of the field should be incorporated into its content. The first participant expressed their support for a legislative change in this regard. The second participant explained that the aim of the draft legislation on volunteering is to establish a digital system where all organizations will record their activities and volunteers will register for the activities they wish to participate in through this system. However, the participant voiced their opposition to this system during the consultation meeting, as they believed it could potentially enable the state to monitor and profile activities and participants it deems problematic.

*"There was only one question we asked there. Okay, so I'm going to open an event there, for the protest defending the northern forests and a few volunteers will register there; and you won't be profiling them? That's not possible. Then they said, are you accusing us of profiling? After that, we were not invited to any consultation meeting since we asked about it..."* **(Association-Youth rights)**

The third representative from a CSO who participated in the meetings expressed that they saw the legislative changes as beneficial for insuring volunteers. However, they also expressed concerns about the collection of volunteer data by the state, considering it risky. Furthermore, the same participant mentioned that the ministry aimed to define volunteerism, but they conveyed their opinion to the ministry that volunteerism is not something easily definable.

*"We see it as somewhat risky. An accumulation of such vast amounts of information, data being centralized in a single location, and the requirement for individuals to first be logged into a centralized platform before making their choices is a topic that we may not prefer or wish to have. Therefore, regarding this matter, we agreed with other CSOs through UGK, and published a letter, a statement expressing our stance. Yes, health insurance is fine. Let's talk about that. But don't monopolize that much."* **(Foundation-Children's rights)**

According to a representative from an CSO involved in search and rescue activities, there is a need for a law that both protects the rights of volunteers during their volunteering activities and allows them to take leave from their workplaces without experiencing income loss when their assistance is required. The participant emphasized that this legal regulation is necessary to safeguard the rights of CSOs. Currently, under the existing practice, if a volunteer has an accident resulting in death, the CSO may face public prosecution.

*"... when something happens during search and rescue, or training. A volunteer may fall, lose their life, or get injured. For example, you face public prosecution, okay? Now here the volunteer contract should put you at ease. Yet, it doesn't actually. This always carries a risk, so this needs to be resolved clearly... It should be clear whether the organization has taken the necessary precautions in terms of occupational safety and occupational health while working with the volunteer. In other words, with the clarification of mutual responsibilities, this is something that can be solved. But since it is not clear, you are making an agreement."* **(Foundation-Aid)**

According to the qualitative research findings, 76% of CSOs stated that they have not benefited from any public policy aimed at promoting volunteering. One reason for it is the lack of a comprehensive policy to promote volunteerism. Another reason is that CSOs consider their relationships with volunteers as part of their internal policies, and they do not actively follow the public policies on volunteering. The research shows that very few of the interviewed CSOs are aware of government programs and incentives for volunteering. Some participants who were aware of these programs expressed concerns that incentives under public funding, are not distributed objectively and fairly or that they may not be eligible for incentives due to working on issues that do not align with government policies, such as gender equality.

A few interviewees mentioned that they are familiar with the government's policies and even collaborate in the policy-making process. One actively involved participant in such activity expressed the importance of policymaking for the development of volunteering. Another CSO representative mentioned receiving informative emails directly from ministries and benefiting from them when needed.

*"We have based our experience in 76 provinces on this. ... Particularly, integrating volunteerism as a course in universities, promoting volunteerism, and supporting the efforts made by ministries in this regard... Meanwhile, as the National Volunteering Committee, we have also published legislation and content on our website." So, we're closely following it." (Foundation-Children's rights)*

*"There are already notifications coming from the Ministry of Family and Social Policies, AFAD, I don't know, the Directorate General for Relations with Civil Society of the Ministry of Interior, constantly sending e-mails. We have something, it is sent in a nice way all the time. How often, how much is enough? That is debatable. If we need it, we definitely use it." (Foundation-Aid)*

#### **EU Guidelines Assessment**

**Finding 1.2.a.** Due to Covid-19 restrictions and lockdown measures, many activities of CSOs have been hindered, leading to a decline in both volunteer and paid human resources. Although the number of employees in associations increased by over 20% in 2020 compared to 2018, it decreased by over 15% compared to 2019. Full-time employees constitute the majority (53%) of the workforce in associations, while the proportion of part-time employees is around 5%. Among the employees, the share of project-based workers generally ranges from 10% to 20%, but it exceeded 40% in the 2019-2020 period. Considering the total number of employed individuals in Türkiye in April 2021 (28,083,000), the proportion of those employed by CSOs corresponds to 0.28%. This indicates a very slight increase compared to previous years.

**Finding 1.2.b.** According to the data published by DGRCS based on declarations made by associations, 35,967 people volunteered in associations in 2020. Both the number of paid employees and the number of volunteers in associations decreased compared to 2019. According to DGRCS data, there was an approximately 20% decrease in the rate of volunteer work in associations in 2020 compared to the previous year. Although the 11<sup>th</sup> Development Plan aims to make comprehensive regulations to strengthen civil society and volunteering, there is still no legislation that forms the basis for volunteering. Therefore, it is surprising that there is public data available on volunteering.

**Finding 1.2.c.** There is no specific regulation regarding employment in CSOs. There is no legal basis for volunteering in CSOs. Since the Labor Law does not mention voluntary work among the exceptions, there may be situations where volunteers are considered illegal workers. The only official program that promotes volunteering is the Disaster and Emergency Management Authority's Disaster Volunteer program, where all citizens over the age of 15 can be registered as disaster volunteers.

## Area 3: Public Sector–CSO Relationship

The third and final area focuses on the relations between public authorities and CSOs. While the principles in this area are primarily evaluated based on the relationship between CSOs and the central administration, they can also be applied to CSOs' interactions with the parliament and municipalities. The third area is divided into three sub-areas. The first sub-area addresses legislative framework and practices for collaboration, and the fundamental standard emphasizes the establishment of a strategic approach and institutional mechanisms that serve as the basis for public sector-CSO collaboration, aiming to foster the development of civil society organizations. The second sub-area highlights the assurance of citizen and CSO involvement in policy and decision-making processes. The third sub-area, which is a new sub-area, focuses on the delegation of various services (such as healthcare, social services, and research etc.) to CSOs through tendering and similar methods, and increased collaboration with CSOs through the provision of services.

### Sub-area 3.1. Framework and Practices for Collaboration

#### 3.1.1. State Policies and Strategies for the Development of and Collaboration with Civil Society

##### Legislation

There is currently no specific legal framework or binding policy document dedicated to regulating public sector-CSO relations or contributing to the institutionalization of these relationships, aimed at enhancing the development of civil society.

In the preparation phase of the 11<sup>th</sup> Development Plan, covering the years 2019-2023, the Specialized Committee on Civil Society Organizations in the Development Period was established for the first time.<sup>82</sup> During the commission meetings, topics such as making legislative changes to strengthen the legal and fiscal infrastructure of CSOs to enable their active participation in the development process, and implementing regulations that encourage their involvement in decision-making mechanisms at local and national levels, have been discussed. The Specialization Commission Report, published in 2018, emphasized the need for a framework legislation to define the relationships between public institutions and CSOs, as well as the preparation of legislation and implementation strategies to support the development and empowerment of CSOs. However, in the 11<sup>th</sup> Development Plan, these issues were addressed to a limited extent, and concrete steps to implement them were not specified.

In line with the objectives of the 11<sup>th</sup> Development Plan, preparations are underway to develop policy documents at the ministry level to regulate relations with civil society and contribute to its development. In 2021, the Ministry of Interior carried out activities to draft the 2023-2027 Civil Society Strategy Document and Action Plan, while the Ministry of Family and Social Services conducted activities to establish the 2022-2023 Civil Society Vision Document and Action Plan. While the Ministry of Interior focuses on objectives and goals that concern the broader civil society, the Ministry of Family and Social Services primarily concentrates on enhancing collaboration with CSOs operating within the ministry's areas of responsibility, specifically in the planning of social policies and the delivery of social services.

According to the regulations, these documents should include specific objectives aligned with the general purposes, activities and measures for each objective, performance indicators related to these objectives, and the responsible organizations for achieving the objectives. However, the allocated share from the public budget for the effective implementation of these policy documents is not disclosed.

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<sup>82</sup> The meetings of the Specialized Commission for Civil Society Organizations for the 12<sup>th</sup> Development Plan began in December 2022.



There is no policy or strategy recognizing the importance of participation in decision-making processes of CSOs, defining or promoting participation processes. Although the Regulation on the Procedures and Principles of Legislation Preparation includes provisions on consulting with CSOs, it does not guarantee the right to participation for CSOs in the process of law and policy making, leaving the initiative to the relevant public administration.

## Practice

Both the Ministry of Interior and the Ministry of Family and Social Services organized consultation meetings with CSO representatives during the preparation process of their respective strategy documents. However, these meetings were not announced in advance, and the participants were limited to invitations from the ministries. The relationships established between ministries and CSOs and the methods followed to involve CSOs in the process vary greatly in these cases. In this regard, these serve as examples of the consequences of the lack of binding legislation regulating the participation of CSOs in decision-making processes.

It is known that during the preparation of the Draft Civil Society Strategy Document and Action Plan by DGRCS, which is affiliated with the Ministry of Interior, a meeting was held with the Civil Society Advisory Board, whose members are entirely determined by the Minister of Interior. It cannot be determined whether there are any other structured consultation processes. However, although not within the scope of the Monitoring Matrix, it is a significant development that DGRCS published the Draft Civil Society Strategy Document and Action Plan on its website in August 2022, making it open to feedback from CSOs, relevant experts and academics, and the public.

Within the scope of the preparations for the Civil Society Vision Document and Action Plan by the Ministry of Family and Social Services, five separate meetings titled "Civil Society Gatherings" were organized in Ankara, Istanbul, Hatay, and Batman. These meetings involved the participation of 215 civil society representatives and focused on the themes of "women, children, migration and humanitarian aid, persons with disabilities and the elderly, as well as families of martyrs and veterans." However, the list of participating CSOs, reports of meetings, and recommendations resulting from consultations have not been publicly disclosed, and the response to the information request made to the ministry to compile this information did not provide sufficient information. It is known that in addition to meetings, an online survey was conducted to gather the opinions of CSOs. Interviews were also conducted with some CSO representatives and public personnel. As a result of fieldwork, the "Report on the Assessment of the Status in Strengthening Collaboration and Coordination with Civil Society Organizations Operating within the Scope of the Ministry of Family and Social Services' Area of Responsibility" was prepared.<sup>83</sup> However, this report is not publicly available, and it is unknown to what extent the individuals and institutions participating in face-to-face meetings, online survey work, and interviews reflect the diversity of civil society or how much the views and suggestions of CSOs are incorporated into the Civil Society Vision Document and Action Plan.

Although these strategy documents are considered policy programs, they do not have legal binding force, and the responsibility to demonstrate the due care in practice is entirely left to the discretion of the relevant ministries and public personnel. In addition, no measures are taken to ensure the qualified participation of CSOs in monitoring the implementation's impact and results. Since both documents are planned to be implemented in 2022 and beyond, there is currently no data on the implementation and monitoring stages.

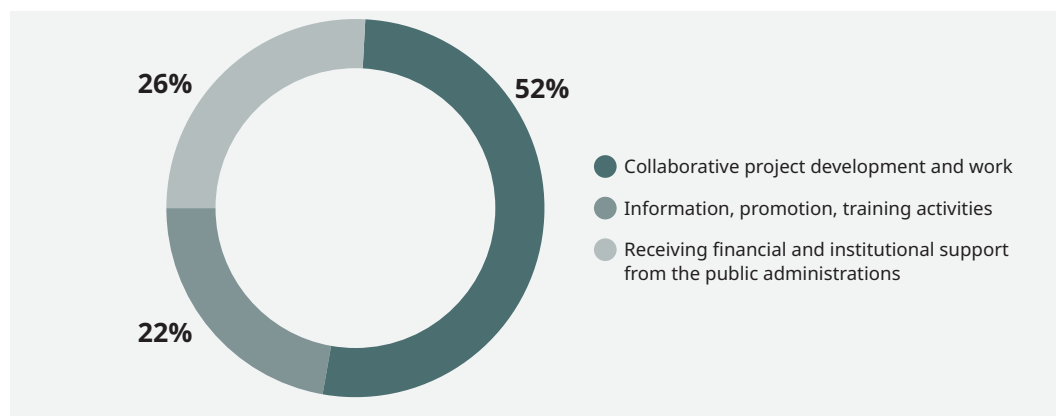
Among those participating in the quantitative research, the percentage of those who collaborated with a public institution in 2020 or 2021 is 16%. The foundations are found to collaborate more with the public authorities compared to associations. Among the organizations collaborating with the public authorities, those with higher financial and institutional capacities and stronger rights-based approaches are more prevalent. Additionally, CSOs facing various restrictions and challenges in terms of freedom of expression and association have a higher rate of collaboration compared to those who do not encounter such issues. Qualitative research also provided findings that confirm these data. Specifically, it is observed that CSOs working on rights-based issues closely monitor policy development processes, even if they are not included in them by the public authorities. They track policies and practices, prepare opinions and recommendations, and disclose them to the public.

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83 The Ministry of Family and Social Services. *Civil Society Vision Document and Action Plan*.

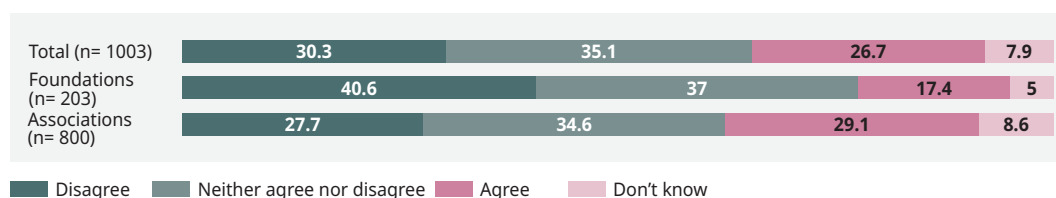
In terms of the scope of the collaborations with the public authorities revealed in the quantitative research, the most prominent title is project development and collaboration (52%). While 22.5% of respondents mentioned collaboration in information dissemination, promotion, and training activities, the remaining participants described institutional or financial support from the public sector as state-CSO collaboration. While three out of four organizations do not make any attempts to collaborate with public institutions, 9% of organizations have expressed their desire to collaborate but have been unable to do so. Non-response from public institutions to applications for collaboration, pandemic conditions, and rejection of requests are among the main reasons for this.

**Figure 3.1 Areas of collaboration between the public sector and CSOs (%)** (Only respondents who engage in collaboration were included, n=164)



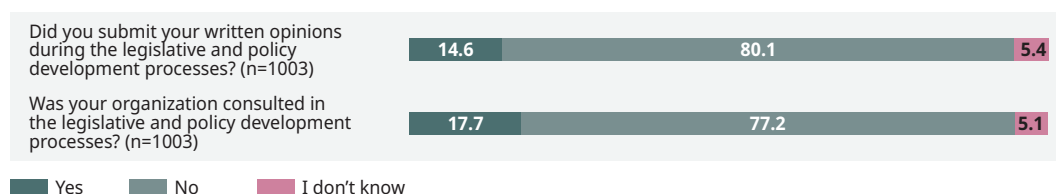
In the quantitative research, the percentage of those who do not agree with the statement “decisions of public institutions are based on the recommendations and contributions of CSOs” is 30%, while the percentage of those who agree is 27%. 43% of the participants stated that they were undecided or had no knowledge about this issue. Considering the limited dialogue and information exchange between civil society and the public sector, it is not unexpected that this percentage is very high. Furthermore, the percentage of those who do not agree with this statement rose to 41% in foundations that have more experience in collaborating with the public authorities, 51% in CSOs with higher institutional capacities, 42% in those with stronger rights-based approaches, and 43% in those facing various restrictions and challenges regarding freedom of expression and association. Among these groups, there are also individuals who do not express their opinions or have no knowledge, while the percentage of those who agree with the statement is lower, averaging around 22%.

**Figure 3.2 Evaluations of CSOs regarding the statement “Decisions of public institutions are based on the recommendations and contributions of CSOs” (%)**



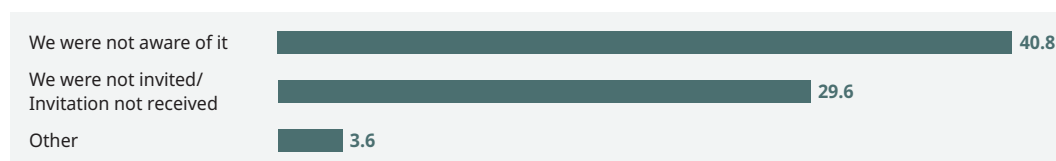
The percentage of organizations that were consulted by the public authorities and participated in meetings held within the scope of legislation and policy development in 2020 or 2021 is 18%, while the percentage of those who expressed their views in writing during these processes is 15%. The reasons for non-participation stand out, especially in two cases: 41% of CSOs stated that they were not aware of such meetings, and 30% mentioned that they were not invited. Additionally, the percentage of those who give recommendations and contribute to legislation and policy development processes is 35%. The distribution of this 35% is as follows: Only 3% stated that all their opinions and suggestions were taken into account, 11% said that the majority were taken into account, 10% mentioned that some were taken into account, 7% stated that none were taken into account, and 4% were unaware of whether their opinions and recommendations were taken into account.

**Figure 3.3a Providing input in the legislation and policy development (%)**

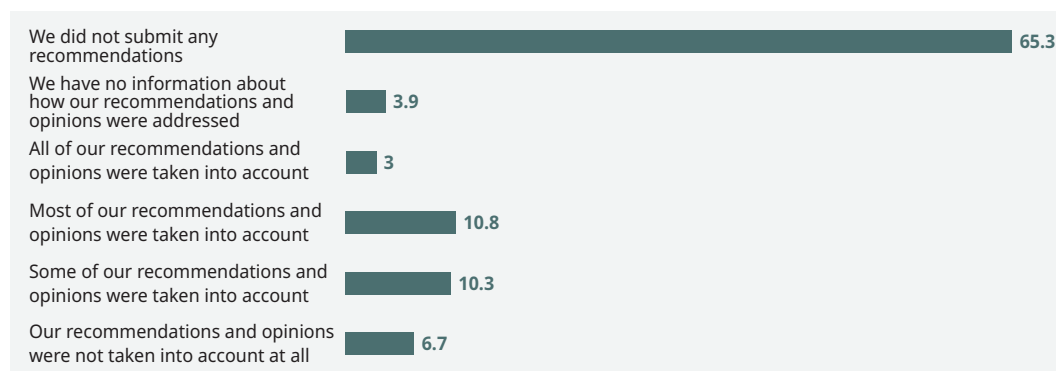


**Figure 3.3b Reasons why CSOs did not participate in legislation and policy development (%)**

(Asked only to non-participants. n=775)



**Figure 3.3c Responses to the question "To what extent were your recommendations and contributions taken into account by the public authorities?" (%)**



In the qualitative phase of the research, CSOs were asked to share their experiences of collaboration with the public authorities and evaluate the implemented practices. The interviewees addressed this topic over a period of time and highlighted the changes that have occurred over the years. The most striking finding from the discussions is the difficulty in establishing partnerships with the public authorities compared to ten years ago. There is a shared emphasis on the narrowing of channels for dialogue that facilitate joint organization of training sessions, advisory meetings, and legislative and policy work. Several respondents operating in various fields referenced their previous collaborations with the public sector, but they also noted that similar partnerships cannot be established today. Interviewees explained the reasons for this transformation in different ways: Some of the prominent views include deviating from the EU accession goals, the lack of legislation and mechanisms to establish permanent and sustainable channels of dialogue with CSOs, the reliance on personal connections and acquaintances to initiate and advance relationships, the predominance of security-oriented policies in the civic space, and the consideration of certain fields of activity and CSOs as "problematic" by public authorities, as well as the government's preference to collaborate with organizations that are close to its own stance.

*"It's not the civil society that changed, it is the state. Initially, they thought they needed to communicate with civil society in line with the progress report and goals of the European Union. Then, I think they gave up on this goal and formed their own civil society."* (Association-Law, advocacy, and politics)

*"For example, I remember that a group of CSOs in Ankara was able to meet with ministers in parliament several times. It seems very unreal now, but it was something that could have happened 10-15 years ago. Then, even though we were not at the desired level, we were somehow part of participation mechanisms... we could be considered as part of national-level participation mechanisms. But now, in my opinion, we are definitely not part of it. Nobody asks for our opinion on any of these topics. Neither about the functioning and legislation of civil society, nor about the issues that civil society itself deals with. Nobody reads what we write or even cares."* (Association-Human rights and democracy)

Collaboration can still be achieved in activities such as joint training with organizations that have national recognition and strong social legitimacy in the field of women, children, and youth. Long-term relationship and partnership experiences with the public institutions have been expressed by CSOs with high institutional capacities and spheres of influence, working on humanitarian aid or 'supra-political' issues such as children and health. Through long-term collaboration practices, these CSOs have been able to influence key personnel within public institutions, freely express their opinions and recommendations, and succeed in being taken into consideration.

*"We came up with the solution and presented it to them, and we pushed for the legal amendments... This is also in the latest Regulation on Associations. This happened thanks to our efforts." (Foundation-Aid)*

*"Well, we can immediately contact any public institution for any area of need, both for us, our donors, and our volunteers, based on our needs. For example, this can be the Ministry of Environment and Urbanization, and based on the needs of the institution, there may be a need to consult with the Ministry of Interior regarding volunteer needs. In this regard, we can establish communication with all public institutions." (Foundation-Aid)*

*"Participating a program for parents... changes the approach of the person (public officials) there, and the bureaucrat you consider insignificant can actually make a very important decision later, work with you, invite you to a meeting. I think we have had such a function for years. There are also other organizations like us; we are not the only ones in this field... Because the issues they deal with are not human rights issues, but issues related to children, health, special needs, etc., [some organizations] can be supra-political." (Foundation-Children's rights)*

Some CSOs have also reported collaborating with provincial directorates of ministries at the local level, or public institutions specialized in certain areas. These relationships are established based on activities such as training or institutional capacity building. However, it is evident that both at the central and local levels, the public sector has become more cautious in recent years, preferring to work with trusted CSOs approved by high-level executives and opting for partnerships based on verbal permissions rather than signing protocols or obtaining written approvals. Among the interviewees, there were those who state that local-level relationships facilitate interaction with the central government, as well as those who provide examples of how relationships with the central government facilitate work at the local level.

*"Well, you need an intermediary between you and Ankara. But at the provincial level, relationships usually go through associations. For example, with the mayor and governor, you go through the association. We don't have any trouble getting appointments with them. But when it comes to Ankara, we need to find a contact point, a local politician." (Association-Nature conservation)*

Rights-based CSOs participating in the research have reported that, apart from the exceptional cases emphasized above, the public sector excludes them from collaboration and decision-making processes. This was also confirmed by organizations that continue to collaborate with the public administrations in various ways. One participant also noted that approaching civic space within the scope of security policies has resulted in the political stance of CSOs playing a significant role in their selection. A participant further mentioned that collaborations with CSOs that exhibit a critical attitude towards legislation and policies are often terminated by public authorities.

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

#### Legislation

There is no agency or cooperation department at the national level that engages in dialogue with stakeholders and addresses the issues and advancements of civil society, while possessing adequate resources. However, some ministries have units at the level of general directorate or department for relations with civil society.

Within the Presidential Government System, nine boards have been established within the Presidency to ensure the participation of CSOs, academia, and sector representatives in the decision-making process and to develop policy recommendations. The members of the committees, consisting of at least 3 people, were determined by the President on October 8, 2018. However, the working methods of these committees with public administrations and civil society have not been clearly defined.

The Directorate General for Relations with Civil Society was established within the Ministry of Interior in September 2018, through a Presidential Decree. According to the regulation issued regarding its organizational structure and responsibilities, it has been tasked with determining and enhancing strategies related to civil society relations, ensuring, and strengthening coordination and collaboration between the public and civil society organizations.

The administrative, regulatory, and supervisory activities of the Directorate General for Relations with Civil Society primarily focus on associations, with certain exceptions. The responsible public institution for foundations is the Directorate General of Foundations (DGoF), which operates under the Ministry of Culture and Tourism. According to the Law on Foundations and Regulation on Foundations, the highest decision-making body of the DGoF is the Foundations Council. Out of the 15 members of the Council, 10 are appointed and 5 are elected. Three of these members are elected by new foundations, while foundations covered, and minority foundations have the right to select one member each. The tasks of the Foundation Council mainly involve carrying out administrative and supervisory procedures and decisions, such as evaluating immovable properties belonging to established and affiliated foundations, determining the minimum amount of endowment required for the establishment of new foundations, initiating legal actions for the removal of foundation administrators in cases mandated by law, and determining the salaries of contractors employed at the DGoF. However, draft regulations, bylaws, and matters deemed necessary by the General Directorate are also discussed and decided upon in the Council.

There is no specific structure within the Parliament responsible for civil society relations.

## Practice

Due to the lack of binding legislation and equitable, sustainable, and accessible mechanisms, it is not possible to speak of a comprehensive practice in terms of CSO participation in decision-making processes. CSOs rarely participate in legislative and other decision-making processes, and when they do, the consultation process is one-sided. The Presidential Annual Programs of 2020 and 2021 list the development of CSOs' institutional capacities, legal framework, and administrative structure, as well as the enhancement of civil society-public sector collaboration as key objectives. However, upon examining the policies and measures included in the program, it is revealed that there is no mention of mechanisms that need to be developed within the public sector to ensure the participation of CSOs in decision-making processes. The specified measures have been limited to training and workshops for CSOs, examining case studies from different countries and national legislation, holding advisory meetings between public institutions, conducting needs analysis studies, and strengthening the human resources capacity of DGRCS. Additionally, although the program includes topics such as fundamental rights and freedoms, justice, women, children, and youth, it does not emphasize the contribution of CSOs to decision-making processes. However, collaboration with CSOs is envisaged for the implementation of certain activities.

DGRCS carries out activities to strengthen civil society in line with the 11<sup>th</sup> Development Plan. Information and capacity-building activities, visits to CSOs, surveys and research on specific topics, and preparation of legislation are carried out, mostly for associations. Additionally, within DGRCS, the Civil Society Advisory Board has been defined as a new mechanism for participation. The Duties and Working Directive of the Civil Society Advisory Board regulates that the Board should meet at least twice a year with the agenda determined by the Minister of Interior. The Directive also introduces general criteria for the selection of CSO representatives to be included in the Board. The criteria for determining whether an organization is a CSO include having a status, number of members, financial capacity, number of branches and offices, as well as the ability to provide solutions to societal issues at the local and national levels. Within the framework of these general criteria, CSOs are directly selected by the minister. It is not disclosed whether a budget allocation is made for the selected CSOs and the activities of the Board. The response to the information requests regarding this matter did not contain the requested data. The Board convened once in 2020 and once in 2021. Taking into account the exclusion of CSOs from the formation of the Board and the preparation of the Directive, as well as the absence of any influence by civil society on the working methods, it is concluded that the Civil Society Advisory Board does not adequately represent the diverse structure of civil society and fails to fulfill the necessary missions of consultation and collaboration required for the development of civil society.

The fact that some members of the Foundations Council are determined by foundations provides opportunities for foundations, albeit limited, to have an influence on decisions that concern them. However, the Assembly does not function as an effective participation and collaboration mechanism in line with international standards, due to the fact that the majority of the Assembly members are appointed persons, the Assembly is not open to consultation with broader participation, and the members to be elected are not expected to have expertise in the civil sector.

#### *EU Guidelines Assessment*

**Finding 3.1.b.** There is no structured mechanism or unit in place to maintain state-CSO relations. However, municipalities are establishing or revitalizing participation channels such as surveys, workshops, and city councils. The dialogue between civil society and public administration is established more through individuals than institutional mechanisms, therefore its sustainability also depends on the attitudes of public officials. There are no clear and objective criteria for the selection of CSOs to be included in collaboration mechanisms.

## Sub-area 3.2. Involvement in Policy- and Decision-Making Processes

### 3.2.1. Standards for CSO Involvement

#### Legislation

There is no public policy or strategy recognizing the importance of CSO involvement in decision-making processes, defining or promoting participation processes. The Regulation on the Procedures and Principles of Legislation Preparation foresees the utilization of CSOs' opinions regarding legislative drafts. However, it is at the discretion of the relevant public administration whether CSOs will be effectively included in legislative activities and non-legislative regulations and policy works. Although the transition to the Presidential Government System has brought changes to the law-making process, as of 2021, no regulation has been made regarding the legislative process and its procedural principles.<sup>84</sup>

The Rules of Procedure of the Grand National Assembly of Türkiye (GNAT) do not include provisions that guarantee the participation of civil society in the legislative process and define consultation processes. Only the specialized parliamentary committees established by law, such as the Committee on Equality of Opportunity for Women and Men and the Human Rights Inquiry Committee include provisions in their establishment laws stating that CSO opinions and contributions can be sought in committee work. However, the GNAT Rules of Procedures and other relevant legislation grant discretion to committee chairs in including CSOs in the activities of parliamentary committees.

The 11<sup>th</sup> Development Plan emphasizes the importance of creating social consensus through the participation of CSOs and other stakeholders in fundamental transformation decisions and highlights the need for effective CSO involvement in decision-making processes. However, the steps to be taken to achieve these goals have been limited to strengthening the institutional, human resources, and financial capacities of CSOs. There is no mention of the mechanisms and regulations that need to be developed at the public level.

Article 5 of the Regulation on Procedures and Principles for Strategic Planning in Public Administrations, prepared in accordance with the Public Financial Management and Control Law No. 5018, stipulates the participation of CSOs and the inclusion of their contributions as one of the general principles to be followed in the strategic planning process.

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<sup>84</sup> The new regulation was published in the Official Gazette on 24.02.2022 and the Regulation on the Procedures and Principles of Legislation Preparation which was put into effect with the Council of Ministers Decision dated 19/12/2005 and numbered 2005/9986, has been repealed. However, the new regulation has not brought about substantial changes in the participation of CSOs in legislation preparation processes.

Articles 13, 24, 41, and 76 of the Municipal Law ensure the participation of civil society in the decision-making and policy-making processes of municipalities. They regulate the inclusion of CSOs in council committees, city councils, and the strategic planning process of municipalities with a population of over 50,000, aiming to guarantee their involvement. In addition, some municipalities may set goals related to engagement with civil society and supporting civil society in their strategic and action plans and create policy documents and mechanisms specific to this matter. However, there is no standard approach or widespread practice in this regard.

## Practice

The relationship between the public sector and CSOs lacks continuity, and practices are determined unilaterally based on the approach of the relevant public institutions, especially senior executives, and politicians. There are no accessible mechanisms that regulate CSO participation in decision-making processes, provide defined and continuous representation for diversity within civil society, and ensure inclusivity. Due to the lack of official procedures and criteria regulating the collaboration, the participation of CSOs in consultation and engagement processes is not guaranteed independently of their political orientations. The 2021 Turkey Report by the European Commission highlights the observation that independent civil society organizations are often excluded from consultations that should be part of policy-making processes and monitoring activities.

The Regulation on the Procedures and Principles of Legislation Preparation, states that professional organizations in the nature of public institutions, and CSOs can submit their evaluations on the draft legislation within 30 days, otherwise it will be considered a positive opinion.<sup>85</sup> (This duration has been reduced to 15 days with the amendment made in the Regulation in 2022.) In practice, there are also examples where CSOs are given much shorter time than what is prescribed in the legislation, on rare occasions where their opinions are sought. There are no objective procedures and mechanisms determining feedback, negotiation, and collaboration methods regarding consultation processes. The general tendency in ministries and affiliated public administrations is not to include CSOs in drafting bylaws and similar legislative works. However, it is relatively more common to seek the opinions of CSOs in drafting processes of strategies and action plans in particular policy areas. There are a limited number of instances where CSOs expressed their opinions during the Committee discussions in the Grand National Assembly of Türkiye (GNAT) regarding draft laws. However, in these cases, the time interval between the submission of the draft law to the GNAT and its discussion in the Committee is often kept very short, and many CSOs are excluded despite their request to participate in the discussions. In response to information requests submitted to ministries, relevant public authorities, and the Presidency of the Grand National Assembly, no answer was obtained regarding how many of the laws and bylaws that came into effect in 2020-2021 involved taking into account the opinions of CSOs during the drafting process.

Due to the lack of feedback and information mechanisms, consultation processes are one-way and, with rare exceptions, occur as one-time activities. As a result of consultations, relevant public institutions can conduct internal reporting activities, but these are not shared with the public and stakeholders. There is no written notification regarding the extent to which the opinions and recommendations of CSOs are taken into account.

The relevant ministry and public institutions provide various training to public personnel in the process of preparing strategic documents. Ministries did not provide answers in response to freedom of information requests, which included questions regarding the details of these training courses and the number of personnel trained in 2020-2021.

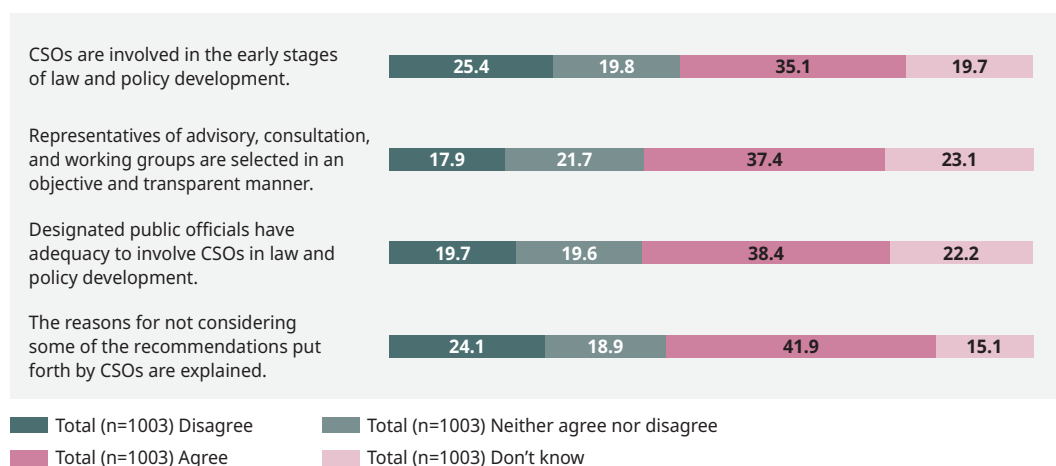
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<sup>85</sup> With the amendment made in the Regulation in 2022, the time for submitting opinions on drafts has been reduced from 30 days to 15 days. Additionally, while previous regulations required CSOs to review regulatory impact assessments and evaluate whether the issues stated in the analysis are valid, the new regulation completely removes this provision. The Prime Ministry Circular on Implementation of Regulatory Impact Analysis No. 2007/6 explicitly included civil society organizations among the stakeholders to be consulted in regulatory impact analysis studies. In the Presidential Decree published in the Official Gazette on June 4, 2022, regarding the implementation of Regulatory Impact Analysis, all references to civil society were completely removed, stating that regulatory impact analysis studies will be conducted with relevant stakeholders. However, the identification of these stakeholders was left ambiguous, without specifying who they will be. These changes in relevant legislation expand the discretionary power of public institutions to include CSOs in decision-making processes and further narrow down the already limited participation opportunities for CSOs.

While it is generally believed that there is a lack of capacity among civil servants regarding the participation and including civil society in decision-making processes, there is no specific data on this. The requests for information submitted to the ministries contained questions about the number of personnel trained on civil society, participation, and other related issues; yet no response was received.

In the quantitative research, participants were asked to evaluate the standards for CSO participation in decision-making processes. Among the participants, the percentage of those who did not express their opinions and stated that they did not have an opinion on the questions asked on this matter was quite high (between 34% and 45%). Considering the low participation rate in advisory and consultation processes, this data strengthens the finding that a significant portion of civil society remains excluded from policy development and decision-making processes. On the other hand, regardless of whether they have ever participated in a consultation process, 42% of organizations believe that CSOs are involved in the process of developing legislation, while 24% believe they are not. The percentage of those who had negative views is higher among foundations compared to associations. The percentage of those who found the assigned public personnel competent in managing these processes is 38%. The percentage of those who believe that members of advisory and working groups are determined objectively and transparently is 37%, while the percentage of those who disagree with this view is 18%. The percentage of CSOs who reported being informed by the public about the reasons why their recommendations were not considered is 35%, while 25% reported otherwise. However, as in the answers to other questions about right to participation, the rate of those who think negatively is higher among organizations that have experience in collaboration with the public institutions and used consultation and dialogue methods. It requires keeping in mind that a significant portion of the participants may not have sufficient knowledge and experience about these processes, but there may be an indirect tendency not to express negative opinions about the practices of the public sector.

**Figure 3.4 Responses to the question “To what extent do you agree with the following statements regarding the participation of civil society organizations in legislation and policy development?” (%)**



Participants in the qualitative phase of the research were asked about their participation experiences in decision-making processes. Most CSOs stated that they are largely excluded from these processes, but they regularly monitor legislation, policy development, and public practices related to their own fields of work. Some CSOs shared that they are invited to meetings in policy development processes, while others become aware of decision-making processes through platform-like umbrella organizations that they can participate in.

*“In general, the Ministry of Health invites us to many meetings. For example, we extensively trained the personnel of the Ministry of Health. They directly requested training from us. We trained family physicians, and again, their own experts, physicians, psychologists, nurses, we trained all of them, and they themselves requested it. [So, because there is such a relationship, information is already provided.] Yes.” (Association-Children’s rights)*

*“Due to our current political position, we generally have a seat at the table in any youth discussions in Türkiye. In those settings, we have adopted a more confrontational stance in order to be invited again next time. We either point out publicly that we were not invited. In a way that everyone can hear. Or we invoke the request for information mechanism. We ask, “We were not invited, who was invited?” (Association-Youth rights)*



*"I think UGK is an important platform for this, a meeting area. That is why we often receive support from CSOs with similar areas of work as ours, or we share information on this issue. Other than that, we try to take part in international workshops and meetings via umbrella organizations we are a member of. And of course, we try to follow the developments regarding volunteerism, education, and the future policies that the Ministry of National Education will implement." (Foundation-Children's rights)*

Most of the interviewees stated that although communication with the public authorities has become more difficult compared to the past, they strive to maintain communication at different levels. The primary responsibility for convincing the public sector to establish these relationships lies with civil society. It was observed that CSOs continue to share their views and recommendations with the public through various means, even if not invited, and insist on attending meetings. However, some have stated that CSOs can be included in decision-making processes, albeit insufficiently, thanks to individuals within the public sector who are knowledgeable about and familiar with participation processes. Some CSOs also believe that they are sometimes invited to consultation and negotiation processes, even if only 'merely symbolic', because they represent a strong societal base. The fact that they can only express their opinions in a very short time frame, and the absence of a bilateral dialogue environment, supports the finding of this "symbolic" nature. The fact that most CSOs believe they can no longer reach the authorities they used to reach, such as deputy ministers or ministers, further reinforces this observation. Nonetheless, many CSOs continue to share their research, findings, and opinions with public institutions regularly in the form of reports, information notes, etc., as advocacy remains one of their core activities. There are very few people who think that the opinions and recommendations of CSOs are taken into account in board-like structures at the ministries or in the parliament. Upon documenting and sharing instances of non-compliant practices with the public or directly with public institutions, there is a potential risk of legislative amendments being introduced to legitimize these misconducts, thereby undermining the processes of policy and legislative development that should be carried out in the public interest.

*"The last time this censorship proposal was being discussed, representatives [from an umbrella organization in media] went to the committee meeting. ...They promised 5 minutes in a meeting, they did not let them speak in rest of them... The tradition of listening to relevant CSOs, especially for such legislative proposals, has been almost abandoned in recent years. CSOs can go and share their opinions with the push from the opposition..." (Union-Press)*

*"... sometimes we are invited too. Well, we are listed among 100 others. By the way, just as we are audited because we receive funding from the EU, the government is also audited externally, for the funds it receives. In this sense, and as far as I understand, there is an obligation to take opinions. But to what extent do they integrate these views or the data they present into their own policies?" (Association-Children's rights)*

Those who think that there are no objective criteria in the selection of CSOs for advisory and consultative processes are in the majority. Regardless of the effectiveness of decision-making mechanisms, the condition for participating in these mechanisms is believed to be largely dependent on working in harmony with the public policies and not 'sticking out.' It is considered that as a result of the political stance becomes a selection criterion, some organizations are included in these processes even if they lack experience and expertise, while many social groups that are affected by decisions and policies are excluded. It is stated that although there may be some rights-based CSOs that can surpass this practice, CSOs specifically engaged in monitoring and reporting human rights violations, advocating for LGBTI+ rights, peace, minority rights, and politically controversial issues such as the Kurdish question are in no way involved in the decision-making processes. Under these conditions, CSOs are trying to influence decision-making processes or gain information about these processes by following binding international mechanisms for public institutions, monitoring the outcomes of meetings organized by the public institutions at the national level, and using other methods.

*"We insistently and repeatedly state that we are not present in such processes, as we have been active in reporting, international mechanisms, shadow reports to CEDAW, the Istanbul Convention, the European Court of Human Rights, and similar avenues, and we emphasize the structure and scope of the organizations who are involved in." (Foundation-Women's rights)*

*"Either they say something, and I oppose, or they don't give me the floor at all. They make a presentation; we did this and that. ...There is no productivity, you don't feel good about these meetings. It wasn't like that in the past."* (Foundation-Women's rights)

*"Perhaps some women's organizations are being included, but I believe it is merely symbolic. In that case, even there, I don't think that the opinions of women's organizations are taken into serious consideration in terms of the outcomes and benefits. However, LGBTI+ organizations are not included anywhere."* (Association-LGBTI+ rights)

## 3.2.2. Public Access to Draft Policies and Laws

### Legislation

The Regulation on the Procedures and Principles of Legislation Preparation states that if a draft regulation is of public interest, the relevant public institutions may make it available to the public through the internet, press, or other media for their information, and the collected opinions may be evaluated. However, it does not explicitly mandate this as a requirement.

All draft laws submitted to the Presidency of GNAT are published on its official website. The schedule of meetings is usually announced shortly before a draft law is discussed in the relevant committee, and the public mostly obtains this information through the press. However, generally, the time period is not sufficient for CSOs to review proposals and prepare opinions.

The Law on the Right to Information regulates the principles and procedures for individuals' access to information and documents. Article 7 of the Law provides public officials with a broad discretion to reject information requests if the requested information and documents require separate special work, research, or analysis.

Applicants whose information requests are rejected or who do not receive a response within the legal timeframe have the right to appeal to the administrative court or the Board of Review for Access to Information. The Law on the Right to Information has established penal provisions for officials and other public servants found to have negligence, fault, or intent in the implementation of the law.

### Practice

There is no national portal where the Presidency, ministries and affiliates publish draft legislation and policies, or a separate electronic system dedicated to this issue on the websites of the institutions. Drafts are rarely announced and open to evaluations on the websites of relevant administrations. In cases where opinions and evaluations will be received from the CSOs regarding the drafts, closed consultation methods are mostly adopted with the CSOs selected by the ministries. Although not commonly encountered, it is known that some public institutions conduct survey-like studies to gather the opinions of the public or CSOs and identify their needs before drafting policies. Regardless of whether they participated in the consultation process or not, all participating CSOs in the quantitative research were asked to evaluate their participation processes. In this context, nearly one out of every two organizations stated that the advisory meetings were announced on time, sufficient time was given for the preparation of the opinions, and the relevant information and documents were accessible. However, CSOs with experience in engaging with the public sector, monitoring, and attempting to influence policy and lawmaking processes, have a higher rate of negative perception than in general.

Laws adopted by the parliament, presidential decrees, bylaws, etc. must be published in the Official Gazette in their final form, and all of them can be accessed online.

In the qualitative research, interviewees were asked how they monitor law- and policy-making processes. CSOs mostly referred to draft laws as drafts of legislation and policy and pointed to media outlets close to the government as one of the main sources from which they monitor developments. In some cases, it was noted, that academics, experts, professional chambers, or opposition party members who work on specific issues might have knowledge and share it with CSOs. Legislative and policy drafts, such as regulations, circulars, and presidential decrees, other than draft laws, are not accessible in advance, and CSOs access the final versions of these regulations from the Official Gazette or the Presidency's Legislation Information System. Among the interviewees, there are very few CSOs that can access these sources by requesting them from public institutions.

*"Before the proposal [draft law] came to the committee, information about its content began to emerge in the pro-government media. That's where we found out from. After all, we are journalists, and we learn from our own sources. Then, of course, when the proposal arrived, we all saw it and were very surprised."*  
**(Union-Press)**

*"First, from the Official Gazette... Second, if it's a specific issue or a focused topic, information primarily comes from academics who follow that topic, activists who follow that topic, or professional associations working on that specific issue, etc." Occasionally, inside information, particularly from opposition parties, might be communicated."*  
**(Platform-Right to the city)**

*"We don't hear about amendments to bylaws etc. from the inside, that is, they come together directly behind closed doors and make the amendments. But if it is a process happening through the parliament... there we have established good relations. As soon as a law is brought up, we receive information through the members of parliament."*  
**(Association-Human rights and democracy)**

In addition to following official channels, one of the most important ways for civil society to monitor policy and legislation development processes is to form flexible networks and platforms dedicated to working on these issues. Many organizations indicate that they acquire information about policy and legislation drafts through the work of umbrella organizations and platforms. These networks, composed of CSOs, experts, academics, and activists working in specific fields of activity, come together at national or regional levels. They form working groups that monitor and examine draft laws, newly enacted laws, decrees, and regulations, and share information with their members and constituents for the purpose of advocacy.

*"... Platform is again a women's organization. Some of the women who take part in legal monitoring and, for example, organizing for the hearings of the Council of State, organizing things against decision of withdrawal from the Istanbul Convention, are women who have also organized for the penal code amendments, that is, they have a lot of experience. We follow all of these..."*  
**(Association-Women's rights)**

*"We specifically track through the ... Platform. We have both professional colleagues and an executive committee formed by association presidents. We discuss new draft laws there and discuss what we can do, always drafting joint reports."*  
**(Association-Law, advocacy, and politics)**

Both individuals and legal entities, can submit information requests to public institutions and professional organizations with public entity status through the CİMER system within the scope of the right to information. According to Article 30 of the Right to Information Act, the Board of Review for Access to Information submits data on applications made during the year to the Presidency of the GNAT under the name of the General Report on Information Access. These reports are published annually by the Grand National Assembly of Türkiye.

**Table 9 - Exercising the right to information in 2020-2021**

|   | 2020      | 2021      |
|---|-----------|-----------|
| Total number of information requests  | 2,043,467 | 2,006,608 |
| Applications where access to information or documents is granted  | 1,723,379 | 1,627,634 |
| Applications where access to information and documents is partially granted and partially rejected      | 166,978   | 150,256   |
| Rejected applications   | 143,940   | 221,043   |
| Applications where access to information and documents is granted, with classified information redacted | 9,170     | 7,675     |
| Applicants who appealed to the judiciary after their applications are rejected                          | 2,628     | 1,306     |

*(Source: GNAT General Reports on Requests for Information, 2020 and 2021)*

Those who requested information can appeal not only to the administrative court but also to the Board of Review for Access to Information against the responses provided by public institutions and organizations. In 2020, 1,140 appeal applications were made to the Board, a total of 1,853 applications, including the applications made in previous years, were decided, but detailed information about the decisions was not shared. In 2021, the number of appeals made to the Board was 1,314, and the number of decisions taken by the Board was 1,396. Out of these decisions, 610 were rejections, 321 were rejections on procedural grounds, 222 were partial approvals and partial rejections, 181 were approvals, 4 were approvals on procedural grounds, and 52 were decisions for further examination. Disciplinary penalties are stipulated for violations of legislation, but there is no available data on its implementation.

This data indicates that approximately 80% of information requests were responded to positively, resulting in access to the requested information and documents. However, during the preparation of the Monitoring Matrix, although 22 public institutions received information requests regarding issues related to civil society, the majority of the questions were left unanswered even though a response was given by relevant institutions. Public institutions have often cited Article 7 of the Law on the Right to Information No. 4982 as the reason for not responding to inquiries, as stated in their generic responses. This article states that "Public institutions and organizations may provide negative responses to requests for information or documents that could be generated as a result of separate or special work, research, investigation, or analysis." Furthermore, despite the absence of interpretive questions and the potential for providing specific, data-driven responses, some institutions have responded by referencing Article 27 of the law, stating that "requests for recommendations and opinions fall outside the scope of this Law." Instances have been encountered where responses to information requests were provided after the legally determined timeframe or where the shared information in positive responses was inadequate. Only two institutions partially met the requests in the applications and provided relatively informative responses by sharing data given by multiple departments within the institution. There are also other examples where standardized responses were given and the right was not effectively exercised.

To evaluate the exercise of the right to access information, which is one of the fundamental tools for effective and meaningful participation, monitoring, and advocacy in decision-making processes, questions were asked to the participants in the research. Among the CSOs participating in the quantitative research, only 6% used the means for information requests in 2020 or 2021.

Of those who made requests, 61% had their requests answered, a quarter had their requests rejected, and some are unaware of the outcome of their application. Of those who reported receiving a response to their applications, 82% stated that they received the requested information within a reasonable timeframe, and 71% indicated that the response was clear and contained the necessary information. Only 20% of organizations whose requests were rejected were provided with an explanation for the rejection decision, and only 19% were informed about the appeal process after a rejection response. Among the 15 organizations that were rejected, half of them appealed the decision, and six appealed the relevant administrative court.

These descriptive ratios indicate that the right to information is not intensively and functionally exercised. Therefore, it is important to understand how CSOs that make information requests differ

from those who do not. Among the participants, the CSOs that reported making requests have a stronger rights-based approach and higher institutional capacity. This group also consists of CSOs that are more knowledgeable about decision-making and consultation processes, more critical of existing participation mechanisms, and more actively involved in these mechanisms. Furthermore, when examining the target audiences of the CSOs that indicated use of information channels, it can be observed that half of them consist of minorities, members of the press, environmental activists, individuals with disabilities, ethnic and cultural groups, victims of human rights violations, laborers, women, LGBTI+, prisoners, refugees/migrants, and those engaged in work related to CSOs. It is worth noting that three-quarters of the rejected applications belong to this particular sub-group.

### **3.2.3. CSOs' Representation in Cross-Sectoral Bodies**

#### **Legislation**

Mechanisms responsible for establishing sectoral collaboration and coordination for ministries and affiliated public institutions can be established pursuant to the legislation. These structures primarily serve as advisory bodies rather than decision-making authorities and can function on a permanent or temporary basis. Some of the mechanisms established through laws, regulations, circulars, and communiqués, such as committees, councils, and working groups, also stipulate the participation of CSOs.

CSOs and citizens can be involved in participation processes at different levels within municipalities. In the relevant legislation, reference is made to the participation of CSOs and their views during the preparation of strategic plans and annual programs, city councils, neighborhood administrations, preparation of city plans, and development and management of projects. Additionally, CSO representatives can also be part of specialized commissions formed with the participation of municipal councils, metropolitan municipal councils, and provincial general assemblies, which are decision-making bodies at the local level. However, the participation of CSOs is limited to specialized commission meetings where only issues relevant to their areas of work are discussed due to the criterion of "duties and area of work" in the legislation. Besides, it is not always possible to determine the scope and activities of a particular CSO due to the possibility of having multiple areas of focus.

There is no general regulation ensuring that civil society is represented in these structures in an appropriate and equitable manner. Some regulations do not specify any standards for determining the selection measure, number, or roles of CSOs that will be included in similar bodies to be established.

#### **Practice**

Various ministries can establish permanent or temporary committees or working groups that include representation from CSOs within the scope of policy and strategic planning activities under different ministries. However, such decisions are mostly at the discretion of the relevant ministries, and there is no common practice in identifying the CSOs that will participate in the advisory bodies or working groups. At the central government level, the general approach is to directly invite specific CSO representatives to these committees rather than issuing open calls. When examining the websites of ministries, it was observed that almost none of them publish pre-notification and invitation/application announcements for the establishment of such boards. Moreover, there is a tendency to select CSOs for collaboration based on their status of public benefit or tax-exemption, rather than their expertise and competence in the respective subjects, as indicated in the guidelines regulating the working procedures and principles of these bodies.

It was noted that Civil Society Advisory Board was to consist of the relevant Deputy Minister, the General Director for Relations with Civil Society, members of academia, representatives of public institutions and organizations, as well as CSO representatives. However, it is not known which members constitute the Board since its establishment.

In 2021, the Ministry of Family and Social Services established the Social Partners Cooperation Board, which includes representatives from CSOs, universities, international organizations, and the private sector, with the aim of collaborating and developing projects. According to the Duties and Working Directive of the Social Partners Cooperation Board, the Board must meet at least three times a year. The selection of CSOs to be included in the Board is decided by the Directorate of Strategy Development under the Ministry to which the Board is affiliated and submitted for the Minister's

approval. The criteria taken into consideration in the selection of CSOs include whether the CSO has a legal status, its membership size, financial magnitude, the number of projects it carries out using national and international funds, the number of branches and representative offices it has, and its engagement in activities that provide solutions to the problems of the community at the local and national levels. However, the list of selected CSOs is not shared with the public. As of 2021, the Board has not yet convened.

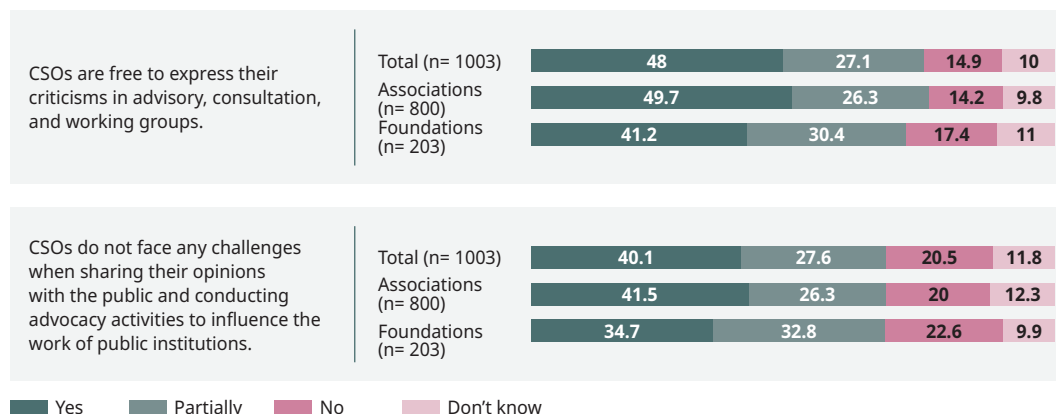
There are no measures or guarantees in place to ensure favorable conditions for CSO representatives to freely express their views in advisory boards.

While there are a total of 1,391 municipalities in Türkiye, there are approximately 400 city councils.<sup>86</sup> Although the number of city councils is lower compared to the number of municipalities, collaboration mechanisms within local governments are more recognizable and accessible to CSOs compared to mechanisms under central administration. In the report of Strengthening Civil Society and Effective Cooperation in Democratic Urban Governance, published by the Turkish Economic and Social Studies Foundation in 2020, it is stated that 81% of the CSOs participating in the survey know the city council and 20% are members.<sup>87</sup>

The quantitative research conducted within the Monitoring Matrix also reveals a similar result. The percentage of those who stated that they participated in the activities of any advisory, consultation, or working group established by the public in 2020 or 2021 is 13%. The CSO representatives who responded positively were asked about the public institutions they participated in the activities of. Some of these CSOs mentioned at least two institutions, and 42% mentioned municipalities. Other institutions include governorships, the Directorate General for Relations with Civil Society, the Directorate General of Foundations, city councils, and ministries (all approximately 22%).

All organizations participating in the research were asked two questions about their direct participation in the activities of advisory, consultative, or working groups, regardless of their involvement. Accordingly, while one of the two organizations believes that CSOs are free to express their criticisms in such meetings, 27% believe they are partially free, and 15% believe they are not free. Fewer respondents (40%) believe that CSOs face challenges in their advocacy activities to influence public institutions. The proportion of those who face challenges or somewhat facing challenges is 48% (20.5% and 27.5%, respectively). The perception of associations on this matter can be considered more positive compared to foundations. One out of every two associations believes that criticisms can be freely expressed in such meetings, while this rate is 41% for foundations. Similarly, associations that stated they faced no obstacles while conducting advocacy activities have a relatively higher percentage than that of foundations (41.5% and 35%, respectively). Among the organizations that describe their priority field of activity as civil society, advocacy, and political activities, have a strong rights-based approach, and are experienced in public sector-CSO collaboration, the rate of those who express a positive opinion is also lower.

**Figure 3.5 Evaluations of CSOs regarding their participation in consultation, dialogue, or working groups (%)**



<sup>86</sup> Ankara City Council. *What is City Council?*

<sup>87</sup> Turkish Economic and Social Studies Foundation. *Strengthened Civil Society and Effective Cooperation in Democratic Urban Governance.*

In qualitative research, some CSOs have reported that they find it easier to participate in local-level decision-making processes compared to the central level. CSOs are able to communicate their opinions, criticisms, and recommendations within mechanisms such as action plans, city councils and provincial coordination boards more easily and systematically and can be effective in doing so. This may be attributed to the fact that unlike governorships and district governorships, which represent executive power, municipalities are elected. Additionally, local administrators are more accessible and accountable compared to central bureaucracy.

*"It's easier. The municipality, you know, because it knows that it will gain publicity and visibility from these projects, it is more active or more positively inclined towards these types of projects. When you go to the governorship... You know, they have many other requests from different fields. They become a bit reserved."* **(Association-Nature conservation)**

*"While you are expressing yourself, demanding something, that is, if I am going to talk about, for example, cobblestone, the local can understand it, but it takes much longer for you to explain it to the central, why that cobblestone is missing, why the problem there is actually."* **(Association-Law, advocacy, and politics)**

However, some argue that municipalities invite CSOs in certain cases due to legislative requirements, and such participation is not meaningful and effective enough. The lack of a standard practice and the fact that municipalities are governed by different political parties are important reasons for the differentiation of experiences from one locality to another. For example, CSOs working in the field of LGBTI+ rights reported that they are not included in any consultation or advisory boards by the central government, although they are able to participate to some extent in decision-making processes of certain municipalities. It is stated that compared to central government, the participation mechanisms of local governments are more effective. However, it is also criticized that the established relationships are not regular, two-sided, and independent of individuals.

*"But we are only included in the local equality action plans... They are actually approved. ...approved by the governorship. But, as I said, we don't make much progress. We can't make much progress."* **(Association-Women's rights)**

*"I am part of this city council. Many association chairs also participate, and I do too. I am also involved in the women's council. We had a workshop for the development of the local equality action plan."* **(Association-Women's rights)**

*"You need an acquaintance or something. I think that the civil society desks, civil society directorates in municipalities etc. should expand their scope to include civil society organizations outside their inner circles."* **(Association-Human rights and democracy)**

The variation in relationships with municipalities across regions can be attributed to the appointment of trustees by the Ministry of Interior to a total of 48 municipalities, including three metropolitan municipalities, five provincial municipalities, 33 district municipalities, and seven township municipalities that were governed by People's Democratic Party, following the 2019 elections. This situation has led some CSOs to reassess their relationships with these municipalities, as there is no active collaboration established with them. Another criticism of participation mechanisms in municipalities is the failure to involve CSOs with expertise in the specific issue being addressed, despite the heavy representation of the public sector, and efforts not made to benefit from alternative approaches and suggestions of the civil society. Due to the lack of an institutional structure, relationships are formed with the same CSOs, resulting in limited discussions during decision-making processes. It is also widely believed that, both at the central and local levels, the primary responsibility of persuading public sector to collaborate and involve CSOs in decision-making mechanisms lies with civil society. Interviewees shared that when they themselves are not persistent in establishing relationships and using participatory mechanisms, municipalities do not make efforts to seek their opinions and involve them.

*"On all sides. But if you make an effort, it's okay. We are making progress with some institutions. We are getting somewhere. But there is a closed-off attitude. There is no problem on an individual level, but everyone is afraid for themselves, let me put it that way. You see people [public officials] that you can personally establish good relationships with, but then they think, 'I might get harmed,' and they shut themselves down." (Association-Refugee rights)"*

#### **EU Guidelines Assessment**

**Finding 3.1.a** There is no official data on CSO participation in decision-making processes. When it comes to collaboration between civil society and the state, the number and scope of consultation and advisory processes are far from meaningful and encouraging. The 2020 Presidential Program emphasizes the need for stakeholders to conduct a needs analysis and make amendments to the secondary legislation to develop, strengthen, and support state-CSO relations and civil society. Although, the 11<sup>th</sup> Development Plan and the Presidential Programs emphasize the need to develop participation mechanisms, significant steps were not taken in this regard in 2020. Not only has there been no improvement in the participation of CSOs in decision-making processes over the years, but there has also been a regression. DGRCS has carried out a project with the aim of improving civil society legislation and enhancing the institutional capacities of CSOs, organizing various meetings and workshops with "invited" CSO representatives. The Civil Society Advisory Board held its first meeting on volunteering in November 2020. Local governments, unlike the central government, provide more opportunities to increase participation in decision-making processes. Some municipalities have started to develop and utilize participatory planning and decision-making methods.

## **Finding 3.3. Collaboration in Service Provision**

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

#### **Legislation**

Relevant laws and regulations allow CSOs to collaborate with the public sector and provide services in various fields. There is no specific regulation in the legislation regarding the provision of services by CSOs. The provisions in the relevant regulations are also binding in terms of the additional services provided by CSOs. The relevant legislation and regulations do not discriminate between CSOs and other legal entities.

#### **Practice**

From a legislative perspective, there are no barriers for CSOs to compete. However, there is no general regulation or incentive regarding the participation of CSOs in these processes. Although there are some examples in practice, the instances where services are provided by CSOs are limited. The practice of licensing before providing services to CSOs, as seen in various countries, is not present in Türkiye.

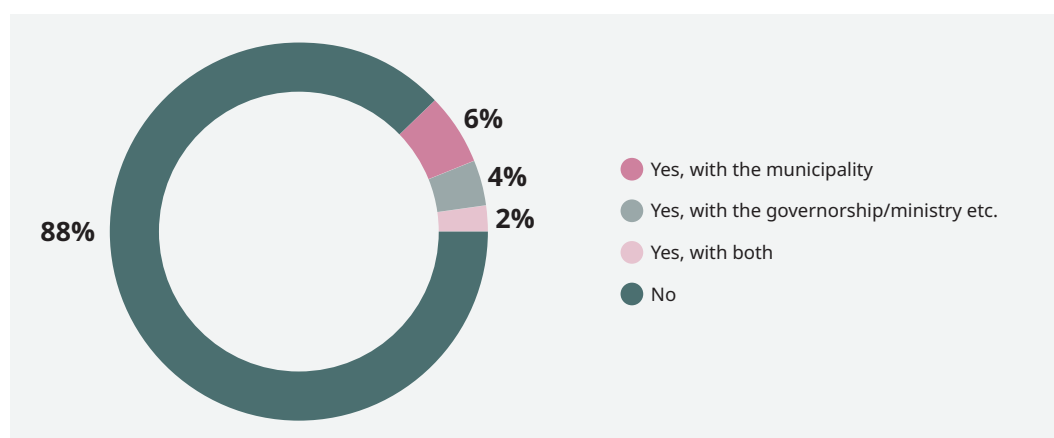
Due to the lack of accessible, publicly available, and sufficient data, information requests were made to relevant public institutions to obtain information on this matter. There have been unanswered inquiries regarding several aspects, such as the number of protocols established with CSOs for services provision in the year 2021, the quantity of service delivery tenders/contracts, the number and qualifications of appointed public officials responsible for managing the procedures related to the tendering of public services, and the criteria used to monitor the enforcement of contracts and protocols.



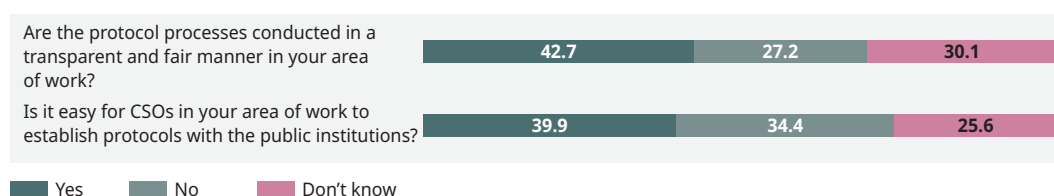
There is a limited number of research and publications focused on the provision of public services by CSOs and the protocols established between public administrations and CSOs. However, reports such as the “Civil Society in the 10<sup>th</sup> Year of Syrian Migration: Actors, Processes, and Insights”<sup>88</sup> published by the Association of Migration Research provide insights into the experiences of civil society in various fields. According to the report, organizations working with migrants faced significant challenges, particularly in the areas of health and education. Protocol requirements have been introduced for home visits and other out-of-office activities. CSOs must sign protocols with ministries, directorates, AFAD, or Türk Kızılay at the national, provincial, or district level in order to continue their work. However, uncertainties in the application and operational procedures and the confusion of authority among the public institutions to sign protocols have rendered CSOs unable to operate.

Quantitative research provides significant findings for general trends in this sub-area. According to research data, 12% of CSOs stated that they signed protocols with public institutions for the purpose of collaboration in 2020 or 2021. 8% of the collaboration protocols have been signed with municipalities, while 6% have been signed with governorships. These results indicate that collaborations between the public sector and CSOs are generally ad hoc, while structured collaborations are rare and mostly established at the local level. Although the experience of CSOs working with the public sector is quite low, 40% of the CSOs participating in the research states that it is easy to establish a collaboration protocol with the public sector in their respective fields, while 35% find it difficult. A quarter of the participants do not have an opinion on this issue. The percentage of those who believe that protocol processes are transparent, and fair is 43%, while the percentage of those who disagree is 27%, and the percentage of those who are uninformed on this issue is 30%. Data analysis shows that CSOs without prior experience of collaboration with the public sector have a positive perception of state-CSO collaboration, while the views of those engaged in collaboration are more negative.

**Figure 3.6a Responses to the question “Do you have protocols with public institutions (ministries, municipalities etc.) for cooperation?” (%)**



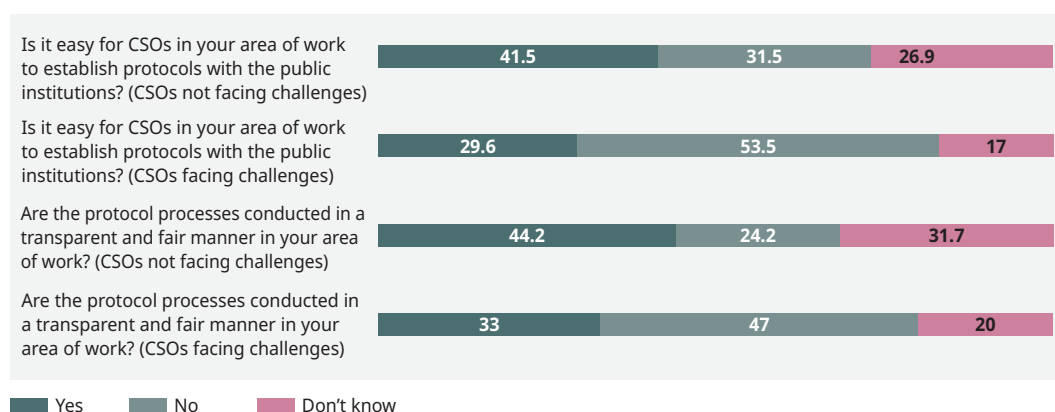
**Figure 3.6b Evaluation of CSOs on signing protocols with the public institutions (%)**



88 The Association for Migration Research. *Civil Society in the 10<sup>th</sup> Year of Syrian Migration: Actors, Processes, and Insights*.

Upon analyzing the inclinations of various CSOs in different groups, it is observed that the opinions of organization subgroups identifying their target audiences as “minorities, members of the press, environmental advocates, individuals with disabilities, ethnic and cultural groups, victims of human rights violations, workers, women, LGBTI+, prisoners, refugees/migrants, and CSOs” tend to be more negative compared to other organizations in this regard. The percentage of subgroups stating that it is difficult to make protocols with the public institutions is 42%, while among organizations outside of this subgroup, the percentage drops to 31%. Organizations that have signed more collaboration protocols with official institutions are those facing “challenges in the freedom of association/expression” (challenges: 21%, no challenges: 10%), and they tend to establish these collaboration protocols more often with municipalities. Despite this, those who are closer to the opinion that it is not easy to make a protocol are “organizations facing challenges in freedom of association/expression” with a rate of 53.5% (31.5% those who do not face any challenges). Similarly, 47% of these organizations disagree that protocol processes are conducted fairly, while this percentage is 24% for organizations that do not face challenges.

**Figure 3.7 Evaluation of CSOs facing/not facing challenges in freedom of expression/ association regarding signing protocols with the public institutions (%)**



In terms of the provision of public services and the role of CSOs in the provision of these services, there is a difference of opinion between the organizations that face challenges and those that do not. Organizations facing challenges are somewhat hesitant about these services being provided by civil society organizations in addition to the public institutions (52% of those facing challenges believe that CSOs should also provide these services, compared to 70% among those not facing challenges). Nevertheless, both groups are somewhat more supportive of the view that providing these services together with the public institutions would improve the quality of their services (55% of those facing challenges, 73% of those not facing challenges). Approximately one in every four organizations facing challenges believes that collaboration with the public sector, especially when using public support, would harm the independence of CSOs. However, this view is less accepted among organizations that do not face challenges (13.5%).

In-depth interviews and focus groups reveal that there are only a few institutions that have engaged in long-term collaboration with the central government. These organizations have been conducting joint work with ministries for a long time, providing training to various groups of public officials, or developing new trainings that can also be used by public institutions. Due to these long-term relationships, they have a certain recognition by public institutions.

*“We had a long-standing protocol with the Ministry of National Education. For example, within the framework of our joint protocol, we implemented a collaborative project to disseminate ...s programs in Ministry of Education schools through MEB teachers. As you know, we have a project with GAP administration that we transferred to them. We are actually implementing it.” (Foundation-Children’s rights)*

*“The Ministry, not directly financially, but for example, if we are working on something related to children in schools, we enter into a protocol with the Ministry of National Education.” (Foundation-Children’s rights)*

*"We worked in partnership with UNICEF on the child-friendly interview rooms project with the Ministry of Justice, Victim Rights Department." We tried to introduce them to global examples... We organized training sessions on children's rights for lawyers and prosecutors working under the Ministry of Justice, aiming to enhance their capacity. ... Similarly, at the Ministry of Health, we provided training to family physicians, specifically focusing on capacity-building related to vaccination, breastfeeding, and infant nutrition." (Association-Children's rights)*

Some CSOs have expressed that ministries have become more cautious since the attempted coup in 2016, and they now prefer to work with the CSOs they trust, aiming for collaborations based on verbal permissions rather than signing protocols or obtaining written approvals.

*"The issue with the Ministry of National Education is ... They used to sign protocols with CSOs until the attempted coup. We used to do it too. We also had discussions with the minister and his advisors after 2015. We decided not to establish a protocol, but 'we know (the foundation), we are familiar with it, and if you knock on our door about your activities, we can grant permission for that specific project without establishing a formal protocol. Given the circumstances, it is safer,' they said. We also agreed willingly." (Foundation-Children's rights)*

Some participants also claimed that there is no engagement with CSOs that carry out activities conflicting with government policies. A participant stated that a project they had been working on for three years was canceled following a critical statement they made.

*"...We went to the meeting at the General Directorate of Forestry ... here we are working for oak forests. ...Then, we were at the stage of signing the protocol. A public official in fear, asking "did you participate in Gezi or not? Please don't tell anyone." They said, "If our department head hears about this, the project will be in jeopardy." After that, we didn't mention it, but when there was a major forest fire in Izmir that year, we issued a press release. Following our press release, we received a call from Ankara. They said, 'we are cancelling your protocol.' Gone. After three years of effort, they simply nullified it with a single sentence." (Association-Environment)*





## **Conclusion and Recommendations**

In this section, based on the monitoring indicators set forth by the Monitoring Matrix methodology, the identified findings are presented, along with concrete steps that need to be taken for the effective implementation of the principles, recommendations for changes and policies to be adopted in legislation and practice. The background information regarding the topics addressed in the recommendations is summarized at the end of each recommendation.

## AREA 1

### Recommendation 1: Recommendations and Findings Regarding Freedom of Association

The regulations that impose restrictions and bureaucratic obstacles on the free exercise of the right to freedom of association by all individuals, such as the minimum number of founders required for an association, short deadlines for holding the first general assembly, specific number of members required for executive and supervisory boards, and prohibition of the formation of associations based on ambiguous grounds, need to be thoroughly examined. Legislation must be implemented within a framework of impartial, non-arbitrary, and non-political criteria. The definition of civil society should be expanded to include various models such as platforms, initiatives, social enterprises, and grant-giving foundations, instead of being limited to associations and foundations; and should be included as such in policy papers and legislation. The definition should also not exclude new social movements. The government should adopt a liberal approach towards the freedom of association instead of a restrictive and supervisory one.

The processes and administrative requirements for making changes to statutes of associations and by-laws of foundations should be simplified.

The legislation concerning freedom of association should eliminate restrictions that rely on ambiguous grounds, such as general morality and public order, or define and clarify such vague terms.

The process of establishing CSOs should be simplified to include digital methods as well.

The absolute bans imposed on professionals should be lifted, and replaced with restrictions on organizations they can't join that are specific to their duties as public officials. These restrictions should be kept as narrow as possible and should not be vague or ambiguous.

To enhance the freedom of association for children, the requirement of obtaining permission from a legal representative should be abolished and harmonized with international legislation.

The registration process for foreign CSOs should be simplified and regulated and implemented in a manner similar to the procedures applied for national CSOs.

The number of registered CSOs required to establish a federation or confederation should be reduced, and the condition of identical purposes should be eliminated or at least allow for similar CSOs to form an umbrella organization.

Platforms should be allowed to conduct activities and carry out work similar to those of associations.

*There are existing barriers stemming from legislation and practices that hinder the exercise of freedom of association. According to quantitative research findings, a significant portion of CSOs established after 2016 have reported encountering various challenges during the establishment phase. According to the research findings, 20.8% of CSOs expressed that impartial and non-political criteria were not followed during the registration process, 16.8% encountered difficulties due to legal regulations, and 11.5% reported being required to provide additional documents beyond what is stipulated by the law. Organizations facing challenges in freedom of association/expression and rights-based organizations encounter such situations more frequently. The establishment of unincorporated associations that have come together through a different form of organization, apart from associations and foundations, has been limited within a specific framework. The possibility of establishing not-for-profit companies has not been enabled. CSOs are required to clearly specify the activities they intend to carry out in documents such as statutes of associations and by-laws of foundations. Moreover, when a CSO decides to change the scope of its activities, it is obligated to complete a series of formalities and bureaucratic steps. The restriction on establishing CSOs over the internet and the presence of such restrictive measures create a constrained environment. The restriction of*

*the freedom of association due to ambiguous reasons such as “national security, public order, prevention of crime, general health, and protection of others’ freedoms” can potentially lead to arbitrary practices. The fact that CSOs tend to focus on carrying out their own core activities due to a lack of sufficient financial resources, the high requirement of membership for the establishment of federations and confederations, and the mandatory requirement for organizations with the same objective to come together, are limiting factors for the umbrella organization efforts of CSOs. Although CSOs develop various solidarity relationships around different networks, when necessary, these structures are often not permanent. In the quantitative research, 79.4% of the participating CSOs stated that they are not members of any umbrella organization, while 17.9% mentioned that they are members of only one organization. Foreign CSOs face significant bureaucratic obstacles when applying for permission to open representative offices or branches in Türkiye due to the lack of clear definitions of procedures and criteria for the registration process. While 143 foreign CSOs had permission to operate in Türkiye in 2020, according to the list published by DGRCS, as of October 2021, this number has decreased to 132. There are restrictions on the right to establish associations for members of the Turkish Armed Forces, law enforcement personnel, and civil servants working in public institutions and organizations. Restrictions exist for children with maturity who have reached the age of 15, and non-citizens of Türkiye. The minimum number of founding members for associations, the number of board and supervisory board members, and the minimum number of organizations required to establish umbrella organizations are significantly higher than the standards set forth in the Council of Europe Recommendation, making it difficult to exercise the right to freedom of association. On the other hand, the Covid-19 pandemic prevented many administrative procedures, including the establishment of CSOs, from being completed within the planned or required timeframe. During a period of one and a half years, the Ministry of Interior has issued circulars to postpone or restrict broad-based activities of CSOs, including administrative meetings such as general assemblies. Administrative obligations such as general assembly meetings were disrupted for CSOs because of the lack of necessary infrastructure for conducting such activities electronically.*

## **Recommendation 2: Recommendations and Findings Regarding State Interference**

Legislation and practices that enable the intervention of the administration in civil society need to be reassessed, the legal framework of public oversight should be clarified, and as a result, audits should be conducted in an objective manner that does not lead to discrimination. Measures should be taken to prevent discrimination faced by rights-based organizations or those working with specific groups during audits. Since sanctions have been regulated for activities that constitute crimes in the Turkish Penal Code and related laws, the articles of the Law on Association that provide for imprisonment or fines should be repealed.

The broad and ambiguous definition of “terrorism” in the Anti-Terror Law should be restructured in a way that eliminates its negative impact on freedoms and safeguards fundamental rights and freedoms.

The legal framework of audits should be made transparent to ensure that they are conducted in a non-discriminatory and objective manner.

Deficiencies in the definition of audits and penalties in the relevant legislation should be addressed. To ensure equal conditions for audits for all CSOs, the frequency and duration of audits, as well as the scope of powers granted to auditors should be clearly defined in the legislation. CSOs should be informed of the audit date in advance and given reasonable time for preparation.

The number of books associations are obliged to keep should be reduced. Bookkeeping should be made easier, and in cases where books cannot be processed or have been processed incompletely/incorrectly due to unintentional errors or lack of information, a warning approach should be preferred.

The information requested from CSOs should be simplified to avoid bureaucratic obstacles and restrictive measures.

A separate and simplified accounting method should be adopted for CSOs. Simple accounting practices should be implemented, taking into account the structures and characteristics of smaller or local CSOs.

Warning mechanisms that allow CSOs the opportunity to make corrections should be introduced before imposing penalties, and in cases where penalties are necessary, they should be determined proportionally. Penalties stipulated for CSOs in the legislation should be diminished.

The regulation that obliges associations to register not only their board members but also all their members with the local administrative authority and DERBİS should be repealed.

The Law No. 7262, titled “Prevention of Financing of the Proliferation of Weapons of Mass Destruction,” enacted in the year 2020, and the subsequent amendments to the relevant regulations, should be repealed due to their imposition of restrictions on the freedom of association. As the national legislation is being aligned with international standards, it is imperative to engage in negotiations with civil society.

The criteria that can be invoked as grounds for the closure and temporary suspension of foundations and associations should be proportionate, and the implementation of sanctions should follow a progressive approach. Ambiguities concerning the objectives of foundations, as outlined in the Turkish Civil Code, need to be eliminated, and the discretionary power in the closure of foundations due to prohibited purposes should be restricted. The measure of closure should be employed as a last resort for foundations and associations, with efforts focused on ensuring compliance with international standards by aligning the legislation accordingly. The obligation to report funds received from abroad should be removed, and the legal reporting of these funds should be stated in annual reports.

CSOs should be able to carry out their activities freely without being targeted or subjected to defamation campaigns by politicians, public officials, or non-governmental actors. For this purpose, legal and administrative measures should be taken to protect CSOs.

*The legislation does not provide safeguards to prevent state interference. While internal auditing is fundamental for associations and foundations according to the relevant legislation, both substantive (purpose of activity) and formal (books kept, etc.) audits are conducted. Associations can be audited by the Ministry of Interior or the local administrative authority to determine whether they operate in accordance with their objectives and maintain their records and registers in compliance with the legislation. Disproportionate criminal and administrative fines have been imposed without defining any preventive warning mechanism in case of non-compliance with the legislation. Associations, as they keep multiple books, often receive penalties due to the improper maintenance of these records and failure to submit timely notifications. Provisions related to the dissolution and liquidation processes of associations and foundations, including their voluntary termination, temporary suspensions, and terminations, are included in the legislation. If associations and foundations include elements that threaten national security, public security, disrupt peace and order, constitute criminal acts, or pose threats to health and morality in their statutes/by-laws and operations, legal action may be taken to close them. The legislation gives the relevant authorities the power to introduce special accounting standards for associations and foundations, and there are only two basic accounting standards, one based on business accounts and the other based on balance sheet, that are applicable. With the amendment that came into effect on March 26, 2020, associations are obliged to register personal information of newly admitted and terminated members within forty-five days. It is mandatory for those who continue their membership to report their full name, date of birth, and National Identification Number to the local administrative authority within six months. 16.6% of the associations participating in the quantitative field research indicate that they have encountered situations such as members resigning, difficulties in finding new members, termination of membership due to inability to reach certain existing members and facing sanctions for non-compliance with the mandatory notification requirement. Regional disparities and disproportionate administrative and judicial practices are observed when it comes to audits and penalties. According to the findings of the field research conducted for the Monitoring Matrix, organizations facing challenges in freedom of association/expression are subject to much more scrutiny than those who do not. According to quantitative research findings, 15% of audited organizations believe that these audits are conducted for purposes other than determining the compliance of the organization's activities, records, and transactions with legal regulations. Similarly, the percentage of those who perceive the audits conducted as excessive and disproportionate is also 15%. Additionally, 12% of the organizations believe that the audits were conducted with the intention of exhausting the organization. The rate of organizations where members or administrators resigned as a result of audits is 8%. Although a relatively limited number of organizations indicated that they were negatively affected by audits, it should be noted that the research was conducted with a representative sample of Türkiye, and most of the organizations interviewed were not active and therefore did not undergo detailed audits. For example, as their financial situation improves or their capacity increases, the percentage of organizations finding their audits excessive and disproportionate also increases. On the other hand, organizations facing challenges in freedom of association/expression are subject to more frequent audits. While 79% of these organizations were audited during the years 2020-2021, only 28% of the organizations that faced no challenges were audited. Similarly, organizations facing challenges with freedom of association/expression, organizations with a strong rights-based approach, and organizations with high-capacity face more frequent and detailed audits, often considering them as excessive and disproportionate. During in-depth interviews*



*conducted as part of qualitative research, CSOs have highlighted several issues related to audits. These include a lack of information regarding the justifications for audits, facing multiple and extensive audits that can last for several days or even up to a month within a year, extending the audited period up to ten years, demanding a significant amount of information and documents covering long periods, assignment of auditors from different public institutions who may not be familiar with the civil society field and its legislation, biased attitudes from auditors, and the impact of the audit process on CSOs' workforce and time, leading to disruptions in their routine activities. On the other hand, the amendments made by Law No. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction make the audits and legal framework for fundraising more restrictive for CSOs. The regulations increase penalties and introduce new sanctions for individuals working in associations. The regulations regarding the suspension of associations' activities and the filing of closure cases expand the limits of interference with the freedom of association. With Law No. 7262, it is envisaged that associations will be categorized as low, medium, or high-risk based on the assessment of the risks associated with money laundering and the financing of terrorism, and they will be subject to different frequencies of audits depending on their risk status. The failure to collaborate with CSOs in determining the risk analysis method and evaluation criteria, as well as the inadequacy of information and guidance to address uncertainties regarding the new implementation, has raised concerns among CSOs that audits will be utilized in a manner that restricts freedom of association. While there have been no cases of large fines or removal of association executives in audits following the enforcement of Law No. 7262, audits are believed to have turned into a tool of repression. One of the essential conditions for freedom of association is that CSOs can operate without state interference. In the field research, 72 CSOs stated that they have been threatened or targeted by politicians and/or public officials, while 71 CSOs reported facing defamation campaigns carried out by non-governmental actors (such as media organizations and companies). 16 CSOs have reported encountering interventions such as police/gendarmerie raids and searches conducted, for example, based on a prosecutor's decision. There are also organizations that face pressure in the online environment. 43 of the CSOs have reported experiencing harassment or restrictions targeting social media groups, email addresses, and websites, while 27 of them have indicated partial encounters with such issues.*

### **Recommendation 3: Recommendations and Findings Regarding the Security of Financial Resources**

The economic activities of associations and foundations should be facilitated and encouraged.

The fundraising activities of CSOs should be excluded from the scope of the Law on Collection of Aid. If it is deemed necessary to have a special law on collection of aid that also concerns CSOs, the requirement for permission should be waived, and notification should be considered sufficient.

Aid collection activities should be tracked through the official statements of associations and foundations. The requirement for CSOs to separately report each donation received from abroad should be abolished, and additional audit procedures should be abandoned. If a separate monitoring mechanism is deemed necessary, methods that comply with international standards and uphold the freedom of association should be established rather than violating the freedom of association.

The practice of transferring all collected donations or the excess amount to organizations approved by the competent authority when the desired amount of donations is not reached or exceeded should be abandoned.

Instead of categorizing support for CSOs as donations or aid, a single concept should be used in line with international standards, and legal regulations should be amended accordingly.

Policies and practices should be developed to encourage corporate and individual donors.

*The fundraising activities of CSOs are an integral part of the freedom of association. However, the barriers and procedures introduced by the Law on Collection of Aid make it difficult for CSOs to generate income and constitute a heavy interference with their rights to association and property. The evaluation process for permits for fundraising activities is demanding and restrictive for CSOs. The relevant provision of the Law on Collection of Aid, which mandates the transfer of all collected aids or any excess amount to the approved organizations in the event that the desired amount of aid is not reached or exceeded, disregards the will of donors and the autonomy of CSOs. Furthermore, it violates both the right to property and freedom of*

association. As a result of the amendment made by Law No. 7262, which was adopted on December 27, 2020, fundraising activities conducted on the internet have also been brought within the scope of the Law on Collection of Aid, thereby subjecting them to permission. There are very few CSOs that are able to establish economic enterprises. The use of foreign funds is not subject to permission, but relevant authorities must be notified. Even in cases where small amounts are donated from abroad or membership fees are sent, the obligation to notify imposes a disproportionate administrative burden on CSOs. On the other hand, some CSOs receiving funding from abroad face smear campaigns. Lists of CSOs are being published on social media or certain media outlets using accusatory and stigmatizing language, targeting both funding organizations and the CSOs themselves, as well as their managers and employees, with allegations such as “supporting terrorism” or “espionage.” Almost all of these CSOs focus on issues such as human rights, women’s rights, or work in areas such as violations and discrimination against LGBTI+, ethnic groups, and migrants. In-depth interviews revealed that some CSOs that were targeted after smear campaigns have undergone audits. As a result of these practices, concerns about accessing foreign sources of funding are increasing, and foreign funds have the potential to become a pressure factor on CSOs.

#### **Recommendation 4: Recommendations and Findings Regarding the Right to Assembly and Demonstration**

Due to containing numerous provisions that are not in line with international standards, the Law on Meetings and Demonstrations, which was adopted during the period of September 12 and has undergone only a few amendments since then, should be repealed. Instead, a new law on the freedom of assembly, aligned with international standards and based on the principle of freedom with restrictions being the exception, should be enacted. This law should guarantee the freedom of assembly and demonstration without restrictions in terms of time and place and without arbitrary limitations imposed by the authorities.

Measures taken by law enforcement agencies to prevent interventions due to public security or by third parties should be carried out in a manner that does not violate the freedom of assembly.

The Action Plan for the Prevention of Violations of the European Convention on Human Rights should be updated to ensure compliance with international standards, particularly regarding freedom of expression and freedom of assembly.

Disproportionate intervention should not be allowed in meetings and demonstrations, and necessary measures should be taken to ensure the freedom of rights holders to exercise their liberties. Impartial and effective investigations should be conducted against all allegations of excessive use of force by law enforcement, and perpetrators should be held accountable.

*The freedom of assembly is limited by the Law on Meetings and Demonstrations. The requirement of prior notification by law indirectly prohibits spontaneous, unplanned demonstrations. Current legislation also imposes limitations on the location and timing of meetings and demonstrations. The majority of the bans on meetings, demonstrations, and marches are justified based on the potential for acts of violence before, during, and after the gatherings. However, since the onset of the Covid-19 pandemic, the most commonly encountered justification for the prohibition of meetings and demonstrations, or the dispersal of an ongoing gathering or protest, was the pandemic itself. There have been numerous incidents in which demonstrations, meetings, and marches were obstructed during the years 2020-2021. The vague statement regarding the limitation of the right to assembly and demonstrations by law, based on the grounds of “national security, public order, prevention of crime, protection of public health and general morality, or the rights and freedoms of others,” can lead to the restriction of the exercise of this right. Many individuals who seek to exercise their right to assembly and demonstration face administrative fines under the Misdemeanors Law for allegedly participating in or organizing gatherings/demonstrations deemed unlawful. Moreover, investigations and legal proceedings can be initiated against individuals for violating the law regulating assembly and demonstrations. According to the findings of field research, organizations experiencing challenges in terms of freedom of association/expression are subject to greater pressure, increased scrutiny, and feel the “presence” of the administration more in other aspects as well. However, this group organizes and participates in a higher number of public meetings/protests. Regulations have been introduced to hinder journalists’ freedom to report. In the qualitative research, two issues highlighted by the interviewees were the denial of press cards to journalists working for independent media organizations and the prevention of capturing footage of law enforcement officers.*

## Recommendation 5: Recommendations and Findings Regarding Freedom of Expression

In order for CSOs to be able to carry out their activities and publications without self-censorship and without feeling threatened by investigations or the imposition of administrative and criminal sanctions, the restrictive legislation should be brought in line with international standards, and arbitrary practices should be eliminated.

The provisions within the Anti-Terrorism Act and the Turkish Penal Code that restrict freedom of expression, particularly Article 301 of the Turkish Penal Code concerning “insulting the Turkish nation, the State of the Republic of Türkiye, its institutions, and organs,” Article 216 regarding “incitement to hatred or hostility among the public,” Article 299 concerning “insulting the President,” Article 220 regarding “committing crimes on behalf of an organization without being a member,” as well as Articles 6 and 7 of the Anti-Terrorism Act concerning “propagating the terrorist organization’s ideology,” should be reformed.

The definition of terrorism should be regulated in accordance with international standards, concretizing the elements of the crime and aligning it with freedom of expression.

Classification of “terrorist propaganda” should be narrowed down. The provision regarding “making propaganda for a terrorist organization” that entails punishment under the Anti-Terror Law for individuals who merely participate in a demonstration and not explicitly incite or provoke violence, should be abolished. The provision that aggravates the punishment if the offense of “terrorist propaganda” is committed in the premises, facilities, offices, or attachments of an association or foundation should be abolished.

*In Türkiye, freedom of expression is limited by arbitrary and restrictive interpretations of legislation, repression, dismissals, and frequent lawsuits targeting journalists, writers, and social media users. This leads to self-censorship among activists and deters individuals from joining CSOs and actively participating in civil society. According to the Justice Statistics reports prepared by the Ministry of Justice based on data from judicial units, the number of individuals prosecuted and convicted for the offense of “insulting the President” has significantly increased in Türkiye. On the other hand, in the quantitative research, only 3.5% of organizations reported facing pressures targeting their statements, expressions, or reports. The percentage of organizations that believed they practiced self-censorship was 6.5%. It should be taken into account that most of the organizations that participated in the quantitative research do not have statements, disclosures, or reports that may be subject to repression or self-censorship. Indeed, in in-depth interviews and focus group discussions with rights-based organizations, a trend contrary to the survey findings is observed regarding censorship. The higher percentage of those who believe they have experienced censorship in rights-based organizations, compared to the general sample, indicates that rights-based organizations working with specific groups or in specific regions are more heavily affected by explicit and direct human rights violations such as repression, targeting, and self-censorship. According to qualitative research findings, a significant portion of rights-based organizations practice self-censorship at least at some stage of their activities. The political climate, changes in laws, and repression faced by other rights-based organizations have been cited as reasons for self-censorship. Factors that lead CSOs to engage in self-censorship include prioritizing the protection of their organization, members, and boards.*

## Recommendation 6: Recommendations and Findings Regarding Access to Information

The Law No. 5651 on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications (Internet Law) should be revised to ensure freedom of expression without restricting it and guarantee proportionality and equality before the law. Laws allowing the blocking and removal of online content without a court order should be reviewed and brought into compliance with international standards. Measures should be taken to prevent obstacles in practice arising from individual decisions made by judges.

Anti-Terror Law, Turkish Penal Code, and Internet Law should be amended in accordance with international standards to ensure that they do not restrict freedom of expression, while guaranteeing the principles of proportionality and equality before the law.

In the protection of freedom of expression online, the principle of “what is valid offline should also apply online” should be adopted and the restriction criteria should be determined according to the principles of legality, legitimacy, and necessity.

Data and statistics related to civil society should be collected in accordance with international standards, be reliable and comparable, and regularly shared with the public.

*The Law on Regulation of Publications on the Internet and Combating Crimes Committed by Means of Such Publications does not clearly define offenses related to content broadcast on the internet. This situation leads to arbitrary practices and significantly hampers freedom of expression. Law No. 7253, which amends Law No. 5651 on the Internet, has increased control over social media platforms. In the 2021 Freedom House Internet Freedom Report, Türkiye was categorized among “not free countries” due to factors such as the blocking of political, social, or religious content on the internet, manipulation of online discussions by pro-government commentators, the arrest or detention of information and communication technology users or bloggers, and technical attacks against dissenting voices. In 2020-2021, access to numerous news URLs and social media content was blocked by court decisions. Access to news agencies, newspapers, and internet news platforms were restricted. According to the quantitative findings of the field research conducted within the scope of the Monitoring Matrix, organizations that identify minorities, members of the press, environment activists, persons with disabilities, ethnic and cultural groups, victims of human rights violations, laborers, women, LGBTI+, prisoners, refugees/migrants, or CSOs as their target audience have a higher rate of experiencing harassment and restrictions on online platforms compared to the general population. Among the organizations facing challenges with freedom of association/expression, a significant portion reported encountering such situations.*

## AREA 2

### **Recommendation 7: Recommendations and Findings Regarding Tax Benefits**

The entire tax legislation relevant to CSOs should be comprehensively reviewed, and incentives should be put in place to promote the financial sustainability of CSOs.

Economic enterprises established by foundations and associations to fulfill their purposes should be exempt from corporate tax. Transfers made from profit-making economic enterprises to associations or foundations after the corporate tax from the remaining profit should not be considered as profit distribution and should not be subject to income tax withholding.

Categorization of CSOs’ economic enterprises should be based on whether their activities are aligned with their objectives rather than whether they pursue profit. The economic activities of CSOs that are aligned with their objectives should not be considered as commercial activities. Furthermore, income-generating activities such as bazaars, meals, balls, trips, concerts, organized by foundations and associations more than once a year should not be considered as economic activities requiring the establishment of an economic enterprise, if they meet certain conditions.

Taxes related to passive investments of CSOs should be abolished.

CSOs should be exempt from paying rental withholding tax or value-added tax (VAT) for the premises they lease as their headquarters. They should also be exempt from stamp duty in contracts they are a party to, as well as VAT, property tax, environmental cleaning tax, motor vehicle tax, special consumption taxes, establishment, and subsequent notary fees.

*One of the prominent findings of the Monitoring Matrix is that the current tax regime makes it difficult for foundations and associations established to create social benefits and serve the community to engage in economic activities and grow. Tax benefits for CSOs are extremely limited, and according to legislation, the majority of these benefits are only granted to a very small number of CSOs that have been recognized as serving the public benefit or granted tax-exempt status by the President. According to the quantitative research, half of the organizations participating in the research is aware of the tax incentives provided to CSOs, and among those who are aware, only 14% has benefited from any incentives within the past two*

*years. The extremely limited tax benefits, as well as the taxation of all income-generating activities, create significant barriers to the financial sustainability of CSOs. In the research, it was discovered that low and medium-capacity CSOs are not inclined to establish economic enterprises due to their tax obligations, and those with existing economic enterprises often keep them idle as they are unable to generate profits.*

## **Recommendation 8: Recommendations and Findings Regarding Public Benefit and Tax Exemption Statuses**

To promote the public benefit or tax exemption status, which are prerequisites for enjoying from tax benefits, an overarching definition should be established for CSOs working for the public benefit. The public benefit and tax exemption statuses should be linked to clear and objective criteria, their definitions should be kept as broad and flexible as possible, and they should not include restrictive purposes. The requirements and procedures for these statuses need to be reorganized. In order to ensure consistency in the legislation, the distinctions in criteria required for foundations and associations should be reviewed and minimized, the scope of activities for foundations should be expanded, and there should be no requirement to operate nationwide. The status of public benefit and tax exemption should be granted to organizations that meet certain criteria by an independent mechanism that is easily accessible to all organizations, rather than being determined by a difficult-to-reach position of political power like the Presidency.

*The requirements for obtaining the status of an association working for the public benefit or a tax-exempt foundation, and the fact that these statuses are granted through a Presidential decree, result in only a limited number of associations and foundations being able to benefit from these statuses. It leads to the majority of CSOs being unable to take advantage of tax benefits and creates inequality. Despite the challenging application and approval process, the privileges obtained through these statuses remain limited and do not provide sufficient ease for CSOs to establish sources for their financial sustainability. The research results indicate that a significant number of CSOs do not meet the required criteria, and many CSOs that meet the criteria do not consider the process of granting these statuses as objective and therefore choose not to apply, believing that they will not be granted.*

## **Recommendation 9: Recommendations and Findings Regarding Incentives for Individual/Corporate Giving**

Tax-deductible amount by individuals and legal entities should be increased.

The barriers preventing salaried employees from making donations should be removed. Employees on payroll should be allowed to deduct their donations to all associations and foundations, not limited to associations with public benefit statuses and tax-exempt foundations, from their tax base by declaring their donations to their employers.

Corporate Social Responsibility (CSR) policies should be promoted, and specific tax exemptions should be defined. Practices that encourage the contribution of the private sector through CSR policies and programs should be supported by public institutions.

The tax deduction earned for donations made to associations and foundations should not be limited only to CSOs with tax-exempt and public benefit status but should be expanded to include a wide range of organizations, including rights-based ones. By determining a comprehensive scope of activities, the number of CSOs eligible for tax deductions should be increased.

*There are no regulations promoting effective and strategic giving. The procedure envisaged for individual and corporate donors to benefit from tax deductions is not functional and convenient. There is no available data on the number of individual and corporate donors benefiting from tax incentives and the total amount of donations and assistance deducted from the tax base during the year. The current tax regime, which allows tax deductions only for donations and contributions made to CSOs with tax-exempt or public benefit status, results in only a few organizations that work on specific areas benefiting from public support through tax incentives. This restricts the donor's will and creates barriers for CSOs to benefit from donations on equal terms.*

## Recommendation 10: Recommendations and Findings Regarding Public Funds for CSOs

Relevant amendments should be made in the legislation to regulate the planning, distribution, and monitoring processes of public support to CSOs, and a national strategy should be developed. The participation of CSOs in all decision-making stages of public financing should be ensured.

A national structure/mechanism responsible for coordinating public funding and distribution of funds to CSOs should be established.

Detailed information on the annual budget allocated to CSOs, which CSOs and activities are supported, and how the provided resources are utilized should be disclosed by public institutions annually.

Public documents such as the Development Plan and the Presidential Annual Program only limit the goals related to the sustainability of CSOs to enhance their project writing and fundraising capacities. The scope of measures in public funding should be expanded. The ministries responsible for programming public financing for CSOs should be appointed. The allocation of public resources to CSOs should be increased, and in addition to project-based financing, core funds aimed at the institutional development of CSOs should be provided.

A mechanism that includes representatives from CSOs should be established in a manner that reflects the diversity of civil society. This mechanism should function as a specialized advisory body responsible for monitoring and evaluating the allocation of funds transferred from the public budget, as well as ensuring compliance with legislation pertaining to public financing.

The criteria for the distribution of public funding to CSOs should be made explicit, transparent and accountable, and a code of conduct should be developed to standardize and make independent the selection criteria for CSOs.

Decisions regarding project-based funding and selection of CSOs, and project management processes should be subject to independent audits.

An accelerated feedback and appeal procedure against rejection decisions should be explicitly regulated in the legislation for disputes during the selection process.

*In Türkiye, there is no comprehensive legislation that enables public support for the institutional development of CSOs, nor is there a central body or mechanism responsible for the planning and allocation of public funds to CSOs. As there is no budget item specifically allocated to the civil society sector in the budgets of central government and local administrations, it is not possible to determine the total resources allocated to CSOs and transferred to them throughout the year. However, the resources provided by the limited number of programs specifically aimed at CSOs are insufficient to meet the needs of civil society. The quantitative research findings also support this conclusion: Among the CSOs participating in the research, only 6% reported receiving in-kind or financial support from central or local public administrations in 2020 or 2021. While 43% of CSOs believe that public funds do not meet the needs of civil society, 28% believe that they do. There is no coordination among public institutions in the planning and distribution of public funds, nor is there a shared practice or understanding. As a result, support programs aimed at strengthening the civil society by taking into account the evolving needs of the sector as a whole are not being created, and financial support is mostly allocated to specific sub-sectors, making it difficult to identify overlaps and gaps in the support provided. One of the most striking findings from the Monitoring Matrix is that public resources are allocated to specific areas of work, projects, and CSOs, while certain areas of work and CSOs receive no support. The absence of a common strategy within public institutions leads to the lack of a standardized criterion for fundraising capacity, variations in application and evaluation rules across institutions. This situation, which creates an obstacle to the effective implementation of the transparency principle, also jeopardizes the establishment of conditions for impartiality, equal treatment, and free and fair competition. The lack of a shared understanding of mutual accountability in project implementation and evaluation exposes CSOs to different reporting and monitoring obligations. The failure to recognize CSOs as necessary and equal stakeholders by the public leads to the self-performance of activities by the public instead of allocating resources to civil society in certain areas. Moreover, there is a political will to withhold funding for certain areas of work, such as LGBTI+ rights, where the government adopts opposing policies.*

## Recommendation 11: Recommendations and Findings Regarding Employment in CSOs

To strengthen the institutional and financial capacities of CSOs, legislation should be amended to encourage employment in CSOs.

DGRCS and DGoF should collaborate to develop and share CSO statistics in a timely manner in a comparable and user-friendly format, including employment data, in line with international standards.

CSO statistics should be included in the official statistical program maintained by the Turkish Statistical Institute and regularly updated.

Regular, qualified, and secure employment plays an important role in the development of the institutional and financial capacity of CSOs and the formation and transfer of institutional memory. Public and other funding institutions should review and diversify grant programs in a way that addresses the need to strengthen human resource capacity in civil society.

*One of the issues negatively affecting the administrative and financial sustainability of CSOs in Türkiye is their inability to employ full-time paid staff. According to official data, the employment rate in CSOs in Türkiye is only 0.15%. According to the quantitative research conducted for the Monitoring Matrix, 77% of participating CSOs do not have full-time paid employees. The heavy reliance of CSOs on irregular efforts of members and volunteers, for even the most fundamental matters like engaging in economic activities, seeking funds, and administrative tasks, hampers sustainability.*

## Recommendation 12: Recommendations and Findings Regarding Volunteering

A volunteering status should be established, primarily consisting of protective measures, which clearly delineate the distinction between paid labor and volunteering, encompassing various forms of volunteering. Rather than regulating the relationship between volunteers and CSOs, a legal framework should be implemented with the aim of safeguarding the rights of both parties, ensuring their protection, and promoting volunteerism. Measures that could lead to hesitation in volunteering, such as mandatory notification or registration of volunteers, should be avoided, as they may contradict the principle of CSO autonomy.

The purpose and framework of the legal regulation on volunteering should be determined in a participatory manner with CSOs.

Easy insurance provisions should be determined for the health insurance that CSOs should provide for volunteers (provisions similar to the regulations on the insurance of household employees can be taken as an example). Regulations regarding the insurance of volunteers should not be equally mandatory for all CSOs, and opportunities should be developed to work with both public institutions and private insurance companies, taking into account the needs and risk factors.

Financial resources should be provided from the public budget for CSOs coordinating volunteering activities, and the sustainability of volunteering activities should be guaranteed.

Public awareness should be raised about volunteering, and volunteering should be included in formal education curricula in various forms. Volunteering opportunities should be created, and volunteering should be encouraged through various means and mechanisms.

Public policies aimed at promoting volunteerism should not limit it to specific fields such as disasters or solidarity activities but should encompass various approaches, including rights-based work, within a comprehensive policy framework that supports volunteerism. Consultation processes should be carried out with a group representing the diverse structure of civil society for the development of volunteering policies.

*There is no regulation that can be designated as the legal framework for volunteering or volunteer services. The absence of a legal framework may restrict and financially strain CSOs in practice. The lack of a clear definition distinguishing between paid work and volunteering leads to the interpretation by authorities that voluntary activities can be considered as employing uninsured workers, which can*

*result in sanctions. There is no widespread culture of volunteering in Türkiye, and public policies only encourage volunteering in specific areas such as disaster and emergency response, social services, poverty alleviation, and social assistance. 76% of the CSOs participating in the field research stated that they did not benefit from any public policies aimed at promoting volunteering. Standardized and comparable data are not collected on the number of volunteers, volunteer hours, and the activities and areas where volunteering is concentrated etc. Therefore, the data released by the administration does not provide a clear picture of the current situation regarding volunteerism in Türkiye.*

## AREA 3

### **Recommendation 13: Recommendations and Findings Regarding State Policies and Strategies for the Development of and Collaboration with Civil Society**

Framework legislation and relevant policy documents regulating the relationship between public institutions and CSOs, including agreed-upon principles, mechanisms, and mutual responsibilities should be prepared in a participatory manner.

To eliminate inconsistencies between policies and legislation and ensure greater participation and accountability, procedural rules and processes concerning decision-making should be clearly defined.

*There is currently no specific legal framework or binding policy document dedicated to regulating public sector-CSO relations or contributing to the institutionalization of these relationships, aimed at enhancing the development of civil society. However, the preparation work for the Civil Society Strategy Document and Action Plan is still ongoing. The responsibility to exercise due diligence in the implementation of these documents entirely lies with the relevant ministries and public officials. In addition, no measures are taken to ensure the qualified participation of CSOs in monitoring the implementation's impact and results. There is no policy or strategy recognizing the importance of participation in decision-making processes of CSOs, defining or promoting participation processes. The existing legislation is insufficient to ensure effective participation of CSOs in the law and policy-making processes and leaves the initiative to the responsible public administration. Due to the lack of legislation, policies, and strategies that promote collaboration between the public sector and CSOs and ensure the participation of CSOs, CSOs struggle to establish relationships with the public authorities, engage in collaboration, and influence policies regarding the civic space. Quantitative research results confirm this finding, showing that when it comes to collaboration between CSOs and public sector, three out of four organizations do not make any efforts to collaborate, and 9% of organizations, even if they wish to collaborate, are unable to do so. Research findings indicate that collaboration and engagement with the public sector have become more challenging in recent years.*

### **Recommendation 14: Recommendations and Findings Regarding Institutions and Mechanisms for Development of and Cooperation with Civil Society**

At the national level, an institution or mechanism (such as a collaboration department/unit, contact points in ministries, etc.) should be established to carry out public sector-CSO collaboration and promote CSO participation.

In determining the representatives of CSOs to be included in the committees established within the Presidency, an open call method should be adopted, and transparent criteria should be established.

The processes of determining policies for achieving DGRCS's objectives and monitoring and evaluating their implementation should be organized in a participatory manner.

The Civil Society Advisory Board should be structured to reflect the diversity of civil society in Türkiye. Representatives from CSOs should be identified through an open call method and transparent criteria, and an approach should be adopted where both the public and civil society actively participate in shaping the Board's work through dialogue.

*There is no agency or cooperation department at the national level that engages in dialogue with stakeholders and addresses the issues and advancements of civil society, while possessing adequate resources. Although the Presidential Annual Programs list the development of CSO's institutional*



capacities, legal framework, and administrative structure, as well as the enhancement of civil society-public sector collaboration as key objectives, concrete steps have not been taken in this regard. The Civil Society Advisory Board, defined as a new mechanism in DGRCS for participation, is far from having the function of shaping strategies and policies for the development of civil society and resolving its problems through public sector-CSO partnership. The authority to determine members, meeting dates, and work agendas is given to the minister. Civil society organizations were not involved in the establishment phase of the committee, and they have no control over its working methods. With its current structure, the Board does not represent the diverse structure of civil society and fails to fulfill the necessary roles of consultation and collaboration for the development of civil society.

## **Recommendation 15: Recommendations and Findings Regarding Involvement in Policy- and Decision-Making Processes**

Inclusive and concrete steps should be taken in law and policy-making. Necessary changes should be made in the Regulation on the Procedures and Principles of Legislation Preparation Principles to make it binding to seek the opinions of CSOs in legislation and policy development processes. Feedback mechanisms for the opinions provided should also be regulated in the Regulation.

Necessary amendments should be made to the Rules of Procedure of the GNAT to ensure effective and meaningful participation of CSOs in legislation. Similar regulations should be implemented in the Regulation on Legislation Working Committees issued by the Ministry of Justice.

The activities and mechanisms should be developed to enable CSOs to contribute with their expertise and knowledge, enhancing their impact in decision-making and legislation processes.

The participation methods (information, consultation, dialogue, active participation) of CSOs in decision-making processes should be pre-designed by public institutions in collaboration with civil society. Furthermore, the necessary technical and administrative measures (such as the duration for feedback provision and the location of the meeting) should be implemented to ensure the effective execution of these processes.

Regular and systematic training programs should be organized for public officials at all levels regarding public sector-CSO collaboration. The content of training programs should not be uniform and should include practical information on possible areas of collaboration between CSOs and relevant public institutions.

*Whether CSOs will be effectively included in the legislation or policy work of the legislative or executive body, or the administration is at the discretion of the relevant public authority. Therefore, the relationship between the public sector and CSOs lacks continuity, and practices are determined unilaterally based on the approach of the relevant public institutions, especially senior executives, and politicians. There are no accessible mechanisms that regulate CSO participation in decision-making processes, provide defined and continuous representation for diversity within civil society, and ensure inclusivity. Due to the lack of official procedures and criteria regulating the collaboration, the participation of CSOs in consultation and engagement processes is not guaranteed independently of their political orientations. The 2021 Turkey Report by the European Commission highlights the observation that independent civil society organizations are often excluded from consultations that should be part of policy-making processes and monitoring activities. Research results indicate that civil society has the primary responsibility of persuading the public sector to CSO involvement in decision-making processes, establish relationships, and collaborate.*

## **Recommendation 16: Recommendations and Findings Regarding Public Access to Draft Legislation and the Exercise of the Right to Information**

Public institutions should regularly share detailed and up-to-date information and documents related to work plans, draft laws, or policies on their websites. Necessary mechanisms should be developed to enable civil society to express their opinions, and a reasonable timeframe should be granted to CSOs for submitting their views.

Improvements should be made to the legislation by amending the provisions that limit the exercise of the right to information.

Public officials responsible for providing the necessary information in response to information requests should be supported through regular training programs. Measures should be taken within public institutions to facilitate coordination and information sharing, ensuring comprehensive and up-to-date information.

*There is no national portal where the draft legislation and policies are published, or a separate electronic system dedicated to this issue on the websites of the institutions. Drafts are rarely announced and open to evaluations on the websites of the relevant administrations. In cases where opinions and evaluations will be received from the CSOs regarding the drafts, closed consultation methods are mostly adopted with the CSOs selected by the ministries. Although not commonly encountered, it is known that some public institutions conduct survey-like studies to gather the opinions of the public or CSOs and identify their needs before drafting policies. The exceptions defined in the Law on the Right to Information are often broadly interpreted by public institutions, and requests for information from CSOs can be left unanswered by referring to these exceptions.*

### **Recommendation 17: Recommendations and Findings Regarding the Representation of CSOs in Cross-Sectoral Bodies**

To ensure the active participation of CSOs, the legislation should make it mandatory to establish advisory/consultation bodies in all decision-making processes at both central and local levels. The rules governing the establishment of these bodies should be clearly defined and not open to interpretation.

Amendments should be made to allow representatives of CSOs who wish to attend the meetings of specialized commissions to be established within the Municipal Council.

The procedure for determining the CSOs to be represented in decision-making and advisory boards should be made concrete and objective, and similar amendments should be made to other laws that include such provisions.

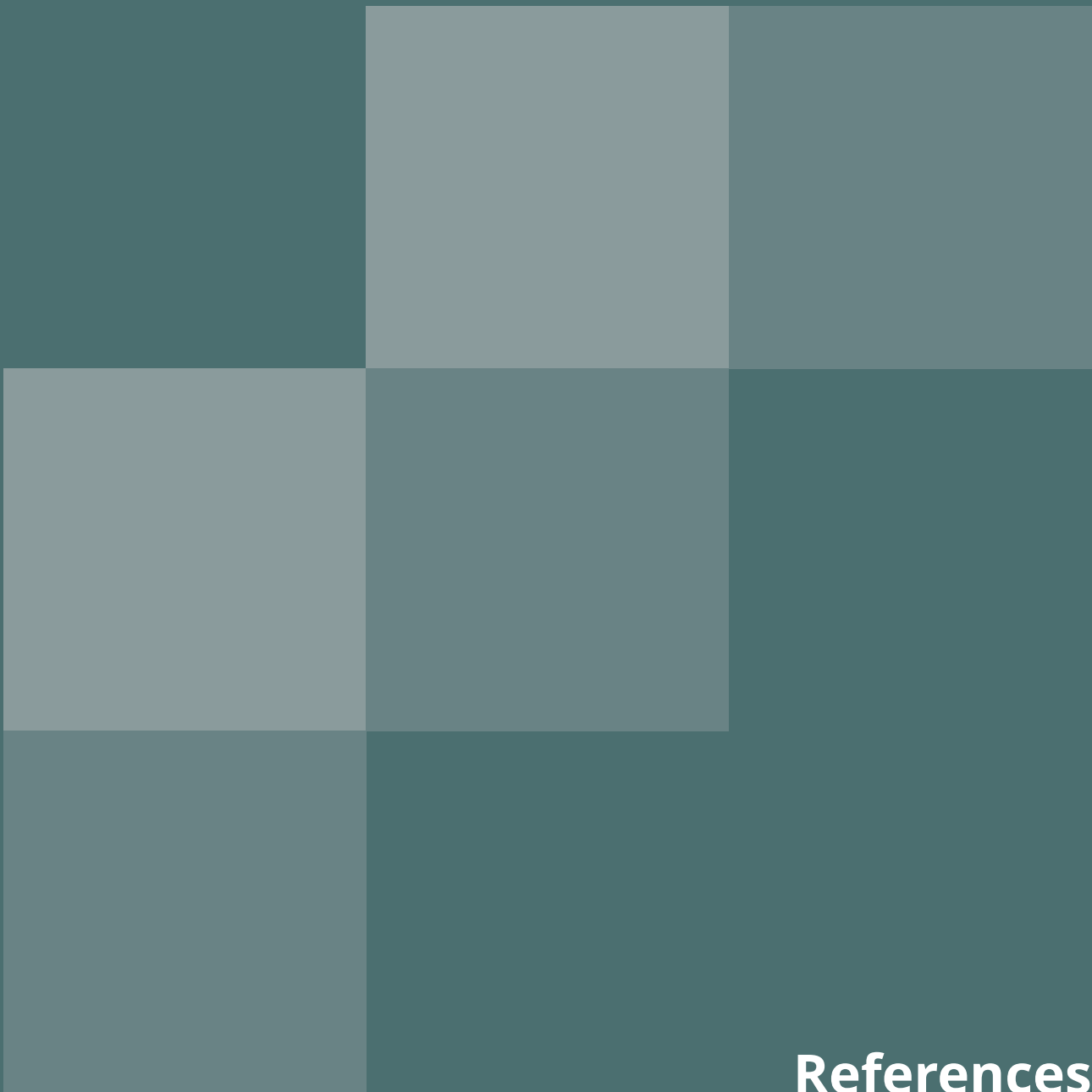
*Permanent or temporary boards or working groups, with representation from CSOs, are established by the administration. However, decisions regarding the establishment of organs are mostly at the discretion of the relevant ministries, and there is no common practice in determining the CSOs that will participate in the advisory bodies or working groups. The approach of the central administration is inclined towards directly inviting certain CSO representatives to these committees instead of issuing open calls. There is a tendency to identify CSOs for collaboration based on their status of public benefit or tax-exemption, rather than their expertise and competence in the respective subjects, as indicated in the guidelines regulating the working procedures and principles of these bodies. There are no measures or guarantees in place to ensure favorable conditions for CSO representatives to freely express their views in advisory bodies. One of the important findings of the research is that collaboration mechanisms within local governments are more recognizable and accessible to CSOs compared to mechanisms under central administration.*

### **Recommendation 18: Recommendations and Findings Regarding Collaboration and CSO Engagement in Service Provision**

Special provisions regarding the participation of CSOs in the delivery of public services should be determined in a participatory manner and relevant amendments should be made to the legislation.

Public institutions, both central and local, may not have specialized personnel for all the services they are responsible for. In such cases, transparent, inclusive, and accountable mechanisms should be developed to involve CSOs specialized in certain areas in the provision of services in their respective fields.

*Relevant laws and regulations allow CSOs to collaborate with the public sector and provide services in various fields. There are no specific provisions in the legislation regarding the provision of services by CSOs. The limited number of examples where CSOs provide services is due to the lack of incentivizing practices. However, information such as the number of protocols, the CSOs involved, and the focus areas of activities in these protocols are not publicly disclosed. Field research indicates that collaborations between public sector and CSOs are generally ad hoc, while structured collaborations are rare and mostly established at the local level. Another prominent finding is the increasing difficulty in entering into service-based protocols with the public authorities compared to previous years.*



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