

Pursuant to Article 38, paragraph 1 of the Law on the Planning System of the Republic of Serbia ("Official Gazette of the RS", No. 30/18),

the Government has adopted

the Strategy for Creating an Enabling Environment for the Development of Civil Society in the Republic of Serbia for the period from 2022 to 2030

## I INTRODUCTION

Civil society is a generic term for a set of diverse organizations that are different from the state and market-driven organizations acting in public interest or in the particular interest of their members, which is not contrary to the public interest. Civil society is usually considered to be an area of voluntary and autonomous action of citizens and private legal entities, organized to achieve (public) goals and general interest, or to achieve common (private) goals and interests that are not explicitly prohibited by the constitution and law. Civil society organizations are voluntary forms of citizens' organization that are established by a private or legal document (founding act), whose goal is to protect the interests of a certain group of citizens or the society as a whole and which are not part of the government structure.

Civil society is today considered a necessary component of any democratic order. The contribution of civil society in preserving and strengthening democracy, political stability and economic and social cohesion is recognized in all modern democratic societies. When it comes to the Republic of Serbia, there is almost no area of social activity in which civil society does not play an active role, and it has the greatest impact in its contribution to the development of democracy, local communities, social policy, environmental protection, reducing unemployment, reducing poverty, social inclusion, sustainable development, protection of minority rights, assistance to refugees from the former SFRY, internally displaced persons from Kosovo and Metohija, returnees under the Readmission Agreement, asylum seekers, irregular migrants and persons granted international protection, development of gender equality, public administration reform, anti-corruption, education and research, European integration, philanthropy, promotion of volunteering, social entrepreneurship, media literacy, regional development, climate change and other areas.

In order to achieve general interests, goals and values, the civil society primarily uses the principles and mechanisms of participatory democracy, in partnership, institutional and normatively regulated relations with public authorities at the national, provincial, and especially local level. Using the mechanisms of participatory democracy, citizens as individuals, or organized within a civil society organization, have the opportunity to influence decision-making processes and to participate in social and political life, not only during elections, but whenever they deem it necessary. In addition, the participation of citizens and civil society organizations in the processes of creating and implementing public policies increases both their quality and the positive effects of implementation. The civil society contributes to each of the key elements of *good governance*: transparency, citizen participation, responsiveness to citizens' needs, efficiency, equality, accountability and the rule of law. Democracy implies the sovereignty of the people, the citizens, and it is carried out either through freely elected representatives (representative democracy) or direct participation of citizens in the decision-making (direct, participatory democracy), where civil society organizations play a significant role, advocating for better practice of citizens' rights and better meeting of their needs.

The Republic of Serbia has ratified a number of international normative instruments of importance to civil society, including the International Covenant on Civil and Political Rights

with its protocols ("Official Gazette of SFRY", No. 7/1971, "Official Gazette of RS - International Agreements", No. 4/01), Convention on Access to Information, Public Participation in Decision-Making and the Right to Legal Protection in Environmental Matters of the United Nations ("Official Gazette of RS - International Agreements", No. 38/09), Convention on Human Rights and Fundamental Freedoms of the Council of Europe protocols ("Official Gazette of Serbia and Montenegro - International Agreements", No. 99/03, 5/05 and 7/05, "Official Gazette of RS - International Agreements", No. 12/10, 10/15 and 8/21), European the Charter on Local Self-Government of 1985 ("Official Gazette of RS - International Agreements", No. 70/07) and the Additional Protocol to the European Charter of Local Self-Government on the Right to Participate in Local Government Affairs "Official Gazette of RS - International Agreements", No. 8/18).

The most important international standards for civil society organizations in Council of Europe member states are the 2007<sup>1</sup> Recommendation of the Committee of Ministers of the Council of Europe to member states on the legal status of non-governmental organizations in Europe (Council of Europe Recommendation) and the Joint Guidelines on Freedom of Association of the Venice Commission and OSCE.

The Law on Associations ("Official Gazette of RS", No. 51/09 and 99/11 - another law and 44/18 - another law) and Law on Endowments and Foundations ("Official Gazette of RS", No. 88/10, 99/11 - another law and 44/18 - another law) create the legal framework for the operation of CSOs, which is largely in line with the Council of Europe Recommendation, which is the cornerstone of the functioning of civil society organizations in Europe. According to the Code of Good Practice for Civil Participation in the Decision-Making Process (2009) of the Council of Europe, which further elaborates the Council of Europe Recommendation, a supportive environment for civil society development includes the rule of law, adherence to basic democratic principles, political will, favorable legislation, long-term support and resources for a sustainable civil society, and a common space for dialogue and cooperation. The principles on which the partnership between government and civil society organizations should be based are participation, trust, accountability, transparency and independence. In addition, the Code of Good Practice elaborates specific steps in the political decision-making process - setting work programs, drafting, decisions, implementation, monitoring and reformulation, as well as levels of participation, ranging from lower to higher forms of cooperation. These are information, consultation, active participation/dialogue and partnership.

The application of the standards set in these documents is monitored by an expert body of the Council of Europe (*Expert Council on NGO Law*). The Expert Council on NGO Law was established in 2008 to support the implementation of the European Convention on Human Rights, the Council of Europe Recommendation and the Code of Good Practice, in order to create and improve a supportive environment for civil society development. It is important to underline that the Code envisages political consequences in case it is not applied, or is not

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<sup>1</sup> Recommendation CM/Rec (2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe, Strasbourg, 10 October 2007 - Council of Europe

applied in the prescribed manner, and the state of Serbia, as a member of the Council of Europe, should strictly adhere to these documents.

*An enabling environment for the development of civil society is considered to be a set of institutional and normative measures, as well as affirmative practices that enable and promote free and sustainable activities of civil society organizations in the Republic of Serbia, in accordance with the highest international standards and practices.*

From the perspective of Serbia's accession to the European Union (EU), it should be noted that the European Union itself is defined by the Lisbon Treaty (in force since December 2009) as an international organization operating on complementary principles of representative and participatory democracy. Namely, Article 10 of the EU Treaty of Lisbon stipulates that the European Union is based on representative democracy with a known role of political parties, and on the other hand, participatory democracy and a strong role of civil society, all in order to bring the decision-making process as close as possible to the citizens. Article 11 of the Lisbon Treaty stipulates that EU bodies maintain an open, transparent and regular dialogue with representative associations and the civil society.

The existence of an enabling environment for the development of civil society, within which the government's partnership with civil society stands, is a political criteria for membership in the European Union. The developed civil sector is a strong indicator of the democratization of society as a whole, and as such is one of the key indicators of the rule of law, and is therefore directly related to meeting the EU's political criteria for accession.

The European Commission 2021 Progress Report on the Republic of Serbia concludes, among other things, that the national strategy for an enabling environment has not yet been adopted, and that efforts are needed to ensure "systemic cooperation" between the government and civil society, as well as the need to establish an enabling environment for the development and the funding of the civil society.

The Government of the Republic of Serbia shares and promotes the values on which the European Union is based, recognizes the importance and role of civil society in modern democratic societies and is committed to improving the legal and institutional framework and democratic practices for its free operation. The task of the state is to provide such an environment that enables civil society organizations to act independently and undisturbed by the authorities and, in addition to the existing ones, to create additional mechanisms of partnership cooperation that encourage greater participation of civil society in all reform processes.

All terms used in the text of the Strategy in the male gender refer simultaneously and equally to both sexes.

## II THE CIVIL SOCIETY CONCEPT IN THE STRATEGY

Civil society organizations are considered to be associations, foundations and a special type of endowments established for the purpose of achieving a public benefit goal, in accordance with

the regulations governing their establishment and operation. The terms: “civil society”, “civil sector”, “CSOs”, “non-governmental organizations” and “non-governmental sector” are used in the text as synonyms.

### III CIVIL SOCIETY IN SERBIA: GENERAL INFORMATION

#### **3.1. Status data of civil society organizations**

According to the data from the Agency for Business Registers in the Republic of Serbia, 32,231 offices of national and 70 representative offices of foreign associations were registered in 2018; 33,499 offices of national and 69 representative offices of foreign associations were registered in 2019, while 34,692 offices of national and 72 representative offices of foreign associations were registered in 2020.

The number of associations increased significantly with the entry into force of the Law on Associations in 2011, when the conditions for the establishment of associations were significantly simplified and liberalized, and when a single register of associations was formed. The existing associations were obliged to re-register or were otherwise deleted from the register as inactive.

The largest number of national associations with data as of 31/12/2020 was registered in Belgrade (10,759), Novi Sad (3,061) and Niš (1,289). According to the number of registered associations, the leading cities in the Autonomous Province of Vojvodina are: Subotica (757), Zrenjanin (783), Pančevo (653), Sombor (471), Sremska Mitrovica (413), Kikinda (302), Vršac (311), etc.

Observed by districts, next to the city of Belgrade (10,759), the largest number of associations was registered in the South Bačka (4,483), Nišava (1,621), South Banat (1,562), Srem (1,373), Central Banat (1,178), North Bačka (1,090), Šumadija (1,048) and Raška districts (1,028).

According to the data from the Business Registers Agency in the Republic of Serbia, a total of 714 foundations and 134 endowments were registered in 2018, 773 foundations and 138 endowments were registered in 2019, while in 2020 that number is 808 foundations compared to 141 endowments. As is the case with associations, there is a growing trend in the number of foundations and endowments.

Foundations and endowments are mostly concentrated in the Belgrade (560), South Bačka (129), North Bačka (29), Šumadija (24) districts, while a significantly smaller number is present in the regions of southern and eastern Serbia.

In more than half of the municipalities/cities of the Republic of Serbia, no foundations or endowments are registered, and in most municipalities where there are foundations/endowments, that number is below 1% of the total number in the Republic of Serbia, which indicates that it is an underused form of organization of citizens in the Republic of Serbia, although the foundation may be a simpler way of organizing, compared to associations, given the number of persons required for its establishment, or management rights of the founders.

### **3.2 Financial statements and total income of associations, foundations and endowments**

The number of associations that have submitted their financial reports for 2020 is 17,852, and a total of 10,281 associations have submitted a statement of inactivity. When it comes to endowments and foundations, 559 of 1,011 entities have submitted their financial report for the previous year, while 245 have submitted a statement of inactivity.

Total revenues of the civil sector in 2020 amount to RSD 39,583,925,000.00.

The number of employees in the civil society sector is quite low. In 2020, there were a total of 8,712 employees in this sector, which represents 0.30% of the average number of employees in relation to their total number.

#### **IV PLANNING DOCUMENTS RELEVANT TO THE STRATEGY**

The subject of the Strategy are issues that are not the subject of special sectoral policies (public funding of civil society organizations, tax policy important for the development of philanthropy and sustainability of civil society organizations, volunteering, social entrepreneurship), as well as issues that are the subject of special sectoral policies (the role of CSOs and the citizens in the process of drafting laws and other public policy instruments, the role of CSOs in the social and health care system, the role of CSOs in non-formal education, the role of CSOs in the process of European integration).

The Strategy and Action Plan which will operationalize its goals are complementary to the Public Administration Reform Strategy in the Republic of Serbia for the period 2021 - 2030 and the Action Plan for the period 2021 - 2025 for the implementation of the Public Administration Reform Strategy in the Republic of Serbia. The Strategy for the Development of Education in the Republic of Serbia until 2030 and the Action Plan for its implementation for the period 2021 - 2023, the Employment Strategy for the Republic of Serbia for the period 2021 - 2026 and the accompanying Action Plan for the period 2021 - 2023, the Strategy for Gender Equality for the period 2021 - 2030, the Strategy for the Prevention and Combating of Gender-Based Violence against Women and Domestic Violence for the period 2021-2025, the National Strategy for the Prosecution of War Crimes in the Republic of Serbia for the period 2021 - 2026, the National Strategy for the Exercise of the Rights of Victims and Witnesses of Criminal Offenses in the Republic of Serbia for the period 2020 - 2025 and the accompanying Action Plan, the Strategy for Prevention and Protection of Children from Violence for the period 2020 - 2023 with the Action Plan for 2020 and 2021 for the implementation of the Strategy, the National Strategy for Youth for the period 2015 - 2025, the Action Plan for the implementation of the initiative Partnership for Open Government in the Republic of Serbia for the period 2020 – 2022, the Strategy for the Development of the Information Society and Information Security in the Republic of Serbia for the Period 2021 - 2026 and the Action Plan for the Implementation of the Strategy for the Development of the Information Society and Information Security for the Period 2021 - 2023, the Program for Local Government Reform Republic of Serbia for the period 2021 - 2025, the Public Financial Management Reform Program for the period 2021 – 2025, the Operational Plan for the Prevention of Corruption in Areas of Special Risk, the Strategy for Improving the Position of Persons with Disabilities in

the Republic of Serbia for the period 2020 - 2024 and the accompanying Action Plan for the period 2021 - 2022, the Strategy for Public Information System Development in the Republic of Serbia for the period 2020-2025 and the Action Plan for the implementation of the Strategy for the Development of the Public Information System in the Republic of Serbia in the period 2020 - 2022, the Strategy for Combating Money Laundering and Terrorist Financing for the period 2020 - 2024 and the Action Plan for the implementation of the Strategy for Combating Money Laundering and Terrorist Financing in the period 2020 - 2022, the Consumer Protection Strategy for the period 2019 - 2024 and the Action Plan of the Consumer Protection Strategy for the period 2019 – 2022, the Strategy for Sustainable Urban Development of the Republic of Serbia until 2030, the Communication Strategy for the Accession of the Republic of Serbia to the European Union from 2011, the Action Plan for Chapter 19 (Social Policy and Employment), the revised Action Plan for Chapter 23 (Justice and Fundamental Rights) and the revised Action Plan for Chapter 24 (Freedom, Justice, Security). All the mentioned planning documents envisage the establishment and/or improvement of models and types of cooperation with civil society organizations from the angle of their own sectoral policies.

## V THE CURRENT SITUATION AND KEY CHALLENGES IN THE FIELD OF CREATING AN ENABLING ENVIRONMENT FOR THE DEVELOPMENT OF CIVIL SOCIETY

### 5.1. INVOLVING CIVIL SOCIETY ORGANIZATIONS IN THE DECISION-MAKING PROCESS

#### **5.1.1. Institutional framework for the cooperation of public administration with civil society in the decision-making process**

The first institutional step in creating cooperation and partnership with civil society was made in 2005, when the Office for European Integration (now the Ministry of European Integration) signed a Memorandum of Cooperation with more than 60 civil society organizations. The main goal of the planned cooperation was to establish partnership relations between the Government of the Republic of Serbia and civil society organizations in the process of European integration.

Pursuant to the Law on Ministries from 2020 ("Official Gazette of RS", No. 128/20) the Ministry of Human and Minority Rights and Social Dialogue (hereinafter: the Ministry) was established, and it took over the competencies of the Office for Cooperation with Civil Society of the Government of the Republic Serbia, which stopped working.

In order to establish an institutionalized relationship of cooperation with civil society organizations, the Government of the Republic of Serbia established the Office for Cooperation with Civil Society of the Government of the Republic of Serbia (hereinafter: the Office or OCCS) in 2010. Established as a service of the Government by the Decree on the Office for Cooperation with Civil Society ("Official Gazette of RS", No. 26/10), the mandate of the Office was to perform expert activities for the Government related to ensuring coordinated action of state administration bodies and encouraging cooperation of state administration bodies with

CSOs. In addition, the Office cooperated with state bodies, bodies of autonomous provinces, municipalities, cities and the city of Belgrade, as well as with CSOs, in drafting relevant documents and regulations and promoting activities related to development and cooperation with civil society. The established competencies had the function of achieving several strategic goals: 1) establishing a permanent dialogue between the state and CSOs on issues of general and common interest; 2) strengthening cross-sectoral cooperation in areas where CSOs are important actors in the creation and implementation of public policies and raising the capacity of public administration to achieve this cooperation; 3) strengthening the capacity of CSOs as an important factor in a plural and democratic society.

Unlike the competencies of the Office, which had the opportunity to *participate* in the preparation and monitoring of the implementation of strategic documents related to creating a supportive environment for civil society development and *initiating* the adoption of regulations and other general acts governing the position of associations and other civil society organizations, the competence of the ministry implies the *preparation* of regulations governing the position of associations and other civil society organizations, excluding political and trade union organizations, *preparation and implementation* of strategic documents related to creating an enabling environment for civil society development, with the aim of further developing cooperation between public, private and civil sector and others activities aimed at initiating dialogue with civil society on issues of common interest; raising the capacity and sustainability of work and activities of associations and other civil society organizations, collection and distribution of information relevant to the work of associations and other civil society organizations, cooperation with competent authorities in performing activities related to programming and management of the pre-accession and other EU funds for support to civil society, as well as other tasks determined by law. At the initiative of the Office, and implemented by the Ministry, in accordance with the revised Code of Good Practice for Civil Participation in the Decision-Making Process of the Council of Europe, public administration bodies at all three levels of government have appointed contact points - persons for cooperation with civil society organizations. In order to encourage direct communication and cooperation between public administration bodies and CSOs, especially in decision-making processes, but also mutual cooperation and exchange of experiences of state bodies in this field, the Ministry also created a publicly available database of the contact points for cooperation with civil society organizations.

The Council for Cooperation and Development of Civil Society as one of the important institutional mechanisms of cooperation between the public and civil sector, and one of the possible models of structured dialogue between the Government and CSOs, has not yet been established. The Council is a mixed body whose members are representatives of state administration bodies (usually civil servants and public officials) and CSO representatives, and is an important mechanism for strengthening the principles of participation, openness and inclusiveness of the policy-making process. The composition of the Council members should be such that it consists of an equal number of representatives of state administration bodies and representatives of civil society organizations, or such that representatives of civil society organizations are the majority. It should be noted that several previous reports of the European



Commission on the progress of the Republic of Serbia (reports for 2016 and 2018) explicitly state the fact that the Council was not formed and its establishment is recommended, while the latest report for 2021 does not state this explicitly.

Representatives of civil society organizations are members of various advisory bodies established by public administration bodies of different levels of government. Thus, representatives of civil society are members of the Council for the Advancement of Persons with Disabilities, the Youth Council, the Council for the Advancement of Roma and numerous other advisory bodies.

In the context of the EU accession negotiation process, a solid institutional mechanism for cooperation in Serbia is in the work of the National Convention on the European Union (hereinafter: the Convention). As an institutionalized form of cooperation, this model was taken from the Slovak experience of European integration (created in Slovakia in 2001), and then applied in other countries of the Višegrad Group, and today it is used not only in Serbia, but also in Montenegro and Albania. As a model of inclusion, the Convention is recognized internationally and is considered an international example of good practice in the field of Euro-integration and a platform through which civil society's views on key government policies and ongoing reform processes are successfully articulated. Founded in 2006, the Convention was initially conceived as a body for cooperation between the National Assembly of the Republic of Serbia and civil society in the process of accession negotiations. However, it was only after the opening of negotiations on Serbia's EU membership that a real opportunity to include CSOs in the negotiation process was created, and the Convention, with its structure and manner of work, fully responded to the need to establish a structured and institutionalized form for cooperation and consultations with the Government and its bodies responsible for membership negotiations with the EU - the negotiating team and the negotiating working groups. The main purpose of this platform is to contribute to the establishment of social consensus in the process of Serbia's accession to the EU, to enable the formulation of common positions of civil society and give recommendations and opinions on meeting the criteria and conditions for membership, to monitor the implementation of necessary reforms and to inform the public on the benefits of EU membership. The Convention currently has over 750 member organizations (including representatives of associations, foundations, universities, experts, trade unions, private sector and representatives of professional organizations) and is the largest platform of civil society organizations that actively supports the European integration process of Serbia. In 2018, the Convention was registered with the Business Registers Agency as an association of associations, taking into account the Decision of the Committee on European Integration of the National Assembly of the Republic of Serbia on the procedure for considering proposals for a negotiating position in the process of negotiations between the Republic of Serbia and the European Union, the Conclusion of the Government guiding and harmonizing the work of state administration in the process of drafting negotiating positions in the process of negotiations on the accession of the Republic of Serbia to the European Union, and the Decision on the establishment of the Coordination Body for the process of accession of the Republic of Serbia to the European Union.

The practice in the EU member states is to encourage the development of CSOs through a public foundation (fund). The survey "Civil Society Sector in 2019"<sup>2</sup> indicates that 44% of the surveyed CSOs believe that there is a need to establish a fund from which to allocate funds equal to those provided by the European Union. In the practice of European countries, the foundation, or the fund, is established by the state with the primary goal of financing CSO programs and projects that are the result of the original needs of citizens. This model implies the establishment of a fund or some other public-legal body by the state based on a special law. Experiences and reflections on the activities of foundations are ambivalent and vary from country to country, but there is no doubt that this institutional mechanism, if set on a sound basis, can bring multiple benefits to both the state and civil society, as the current decentralized CSO funding system fails to always and adequately respond to the original problems and needs of citizens who are involved in CSOs within their programs and projects. In order to further improve the institutional mechanisms of cooperation, during the period of this strategy, in partnership with civil society, it is necessary to consider the possibility of introducing the foundation, or the fund, in the legal system, including the way of its organization and financing, especially having in mind the experience of Republic of Croatia<sup>3</sup>. Consideration of the introduction of the foundation, or the fund, should be conducted especially in order to encourage the development of CSOs at the provincial and local level, since the balanced development of CSOs at all levels of government is one of the basic ideas of the Strategy.

In 2021, the Republic of Serbia does not have a developed and structured dialogue with the civil society, except in the case of NCEU's work with the Government of the Republic of Serbia, civil society in the field of environmental protection and their cooperation with the National Assembly, and part of the civil society involved in the issue of the position of Roma in Serbia; the ministries are constantly calling on everyone to organize a social dialogue on all current topics. The existing cooperation is not sufficient for the required level of policy making consideration or analysis of the effects, state of affairs or consideration of recommendations that civil society in these sectors has for the government officials.

### **Situational barriers**

Civil society often has an impression, perception, but also provable facts about the "futility" of their engagement because they either cannot physically reach government officials or their advisory role is reduced to being heard, without any effects on the public policy decision-making process, where personal coalitions created during the process of some kind of cooperation are of greater importance than there is an institutional dialogue and a significant culture of compromise that benefits both civil society and government, and most importantly - the citizens of Serbia.

Part of the civil society understands its role as "war and combat", acting reactively to the obvious lack of will and readiness for dialogue with public authorities at various levels, where

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<sup>2</sup>[https://act.org.rs/sr/resources\\_type/%d0%bf%d1%83%d0%b1%d0%bb%d0%b8%d0%ba%d0%b0%d1%86%d0%b8%d1%98%d0%b5/](https://act.org.rs/sr/resources_type/%d0%bf%d1%83%d0%b1%d0%bb%d0%b8%d0%ba%d0%b0%d1%86%d0%b8%d1%98%d0%b5/) Project "Together for Active Civic Society – ACT", funded by Swiss Development Cooperation - SDC

<sup>3</sup> National Foundation for Civil Society Development

all actors are at a loss, especially the citizens of Serbia, while the immediate outcomes are the blocking and slowing down of the consultative processes for which the responsibility lies primarily with representatives of public authorities at all levels.

Funding for civil society is provided from national sources (budgets of the Republic, Vojvodina and local governments), funds of international organizations, funds and the donor community, which is divided into EU and non-EU donor funding sources and donations from companies, philanthropic funds and individual donors outside the above structures.

The perception of various types of the public and citizens about the work of civil society is unnecessarily very negative, as a consequence of insufficient information about their work and negative campaigns created by various interest groups in public or media space, with the process of creating GONGO (*Government Organized Non-Governmental Organization*), which are trying to "take over the field of work and influence" of authentic civil society, without much success, but with the support of interest groups in the public administration.

### **Contextual barriers**

Lack of will for dialogue between public authorities, "silence of the responsible", negative campaigns on civil society (case of the list of individuals and organizations created by the Administration for the Prevention of Money Laundering<sup>4</sup>) harm civil society and public authorities and society as a whole, as they are one of the methods of preventing development of any dialogue in society.

### **Normative barriers**

Lack of dialogue on civil society proposals to define regulations that would better regulate their position, funding or institutional role, starting with regulations defining their establishment and operation, through regulations governing participation in public affairs management, tax regulations, to missing regulations relevant to the field of socio-economic development. Also, there is insufficient implementation of the Law on the Planning System of the Republic of Serbia, as the main tool for the participation of civil society in all phases of developing public policies.

Therefore, the obligation of the state is to improve the normative, contextual and institutional framework of structured, measurable and verifiable cooperation between civil society and all representatives of public administration bodies in accordance with the Law on Planning System of the Republic of Serbia, as well as to improve the constant public dialogue on all subjects the

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<sup>4</sup> In June 2020, the Administration for the Prevention of Money Laundering requested insight into financial transactions of 37 CSOs and 20 individuals from the Republic of Serbia, including two journalist associations and a few independent research centers, in order to determine whether they are connected with financing of terrorism or money laundering. In this regard, the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) warned that the legal framework must not be abused to combat legitimate civil society activities. The Financial Action Task Force (FATF), global intergovernmental body composed of more than 200 countries, which sets international standards to prevent these criminal activities and works to create national legislative and regulatory reforms in these areas, established at the end of 2020 that the Republic of Serbia, according to international standards, has no right to request data on transactions without reasonable suspicion that CSOs participate in financing terrorism and money laundering.

civil society from all sectoral interests and areas deals with, so that before the Strategy expires, the citizens of Serbia will be informed regularly, correctly and in a timely manner about the content of all public policies and the effects they produce on their public, personal and family life and with their inclusion in each phase of the process.

Having in mind all the above, in the forthcoming period it will be necessary to determine the space for further improvement of the institutional framework by strengthening the existing institutional mechanisms of cooperation between public authorities and CSOs and the introduction of new institutional mechanisms of cooperation.

In that sense, it is necessary to improve the institutional framework for cooperation with CSOs, especially through forming the Council for Cooperation and Development of Civil Society as a mechanism of cooperation in the form and with competencies to be decided in partnership dialogue with CSOs.

In the period of this Strategy, it is necessary to consider, in accordance with the best experiences from comparative practice, the introduction of the foundation, or the fund for financing the CSO programs and projects, into the national legal system.

## **5.1.2. Legal framework for involving CSOs in the decision-making process**

### ***5.1.2.1. Legal framework for freedom of association***

The legal framework for freedom of association in CSOs consists of the Law on Associations ("Official Gazette of RS", No. 51/09, 99/11 - another law and 44/18 - another law) and the Law on Endowments and Foundations ("Official Gazette of RS", No. 88/10, 99/11 - another law and 44/18 - another law). The Business Registers Agency maintains the registers of associations, endowments and foundations as a trusted business, and the registers are kept in writing and as a single central electronic database. Rulebook on the content and manner of keeping the Register of Associations ("Official Gazette of RS", No. 80/09), Rulebook on the content, manner of registration and keeping of the Register of Foreign Associations ("Official Gazette of RS", No. 80/09) and Rulebook on closer content and the manner of keeping the Register of Endowments and Foundations ("Official Gazette of RS", No. 16/11) regulate the content, manner of registration and maintenance of these registers. Provisions on the registration procedure of associations are prescribed by the Law on the Registration Procedure in the Business Registers Agency ("Official Gazette of RS", No. 99/11, 83/14 and 31/19).

Although the Law on Associations is largely in line with relevant international normative instruments, after more than ten years of implementation in practice, certain challenges have emerged that need to be addressed during the life of the Strategy. It is necessary to conduct a comprehensive analysis of the current application and effects of the Law on Associations,

identify possible shortcomings and problems and improve legal provisions in accordance with the conclusions of the analysis<sup>5</sup>.

Regarding freedom of association, the state is obliged to refrain from restricting it, either directly or indirectly. Any restrictive legislative mechanisms or administrative practices that result in the restriction of freedom of association and the consequent collapse of the free action of associations and other civil society organizations jeopardize the exercise of freedom of association. The Expert Council on NGO Law of the Council of Europe has so far identified various harmful legislative and administrative practices in the member states<sup>6</sup>.

#### ***5.1.2.2. Legal framework for participation in public affairs management***

The legal framework for the participation of CSOs and citizens in the process of drafting laws and other public policy instruments is a necessary element of a democratic society based on civil sovereignty and the rule of law, i.e. participatory democracy, but also an important factor in the European integration process. Although the legal framework has improved in recent years to ensure greater involvement of CSOs in the process of adopting public policy regulations and documents, further changes in the legal framework and capacity building of public administration and civil society should enable more effective involvement of the public in drafting and implementing laws and other public policy instruments at all stages of participation: information, consultation, dialogue/active participation and partnership.

The legal framework for participation of citizens in public governance consists of appropriate constitutional and legal norms, but also the so-called norms of "soft law" for participation in the management of public affairs.

#### **Constitutional regulation of participation in the management of public affairs**

The Republic of Serbia is defined by its highest legal act as a state based on the rule of law and social justice, principles of civil democracy, human and minority rights and freedoms and belonging to European principles and values (Constitution of the Republic of Serbia, "Official Gazette of RS", No. 98/06 1). Referring to human rights as the foundation of the state, it is clear that this includes, among other things, freedom of thought and expression, freedom of assembly and freedom of association. Article 2 of the Constitution of the Republic of Serbia defines citizens as bearers of sovereignty, which is exercised through a referendum, a people's

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<sup>5</sup> Primarily issues related to the performance of economic activity by the Association, with the need to respect their non-profit character. These elements of the direction of amendments to the Law on Associations are also relevant to the field of social entrepreneurship, which is in the focus of this Strategy. In terms of informal associations, there are also aspects that should be considered, such as the possibility of access to informal associations (grassroots organizations, ad hoc initiatives, etc.) to public funding, ban on informal associations whose goals or action are incompatible with democratic society and Application of the institute of civic partnership, which is provided for in the Law on Associations.

<sup>6</sup> Disproportionate requirements regarding the establishment and registration, requirements of reporting and data disclosure (recognizing separately requirements regarding financial reports), financing from abroad, reporting on activities, labeling of materials, reporting and disclosure of private data of persons associated with CSOs (members, volunteers, representatives and members of management bodies, disclosure of membership in CSOs), sharp administrative and criminal sanctions, criminalization of human rights organizations, stigmatization and persecution of representatives of civil society organizations.

initiative and through freely elected representatives. Article 107 of the Constitution of the Republic of Serbia stipulates that at least 30,000 voters may propose a law, other regulation or general act to the National Assembly. In addition, Article 53 of the Constitution of the Republic of Serbia *explicitly* guarantees the *right of citizens to participate in the management of public affairs* - citizens have the right to participate in the management of public affairs and to enter public services and public functions under equal conditions. This right is expressed in two forms: in the first form, it concerns active and passive suffrage, i.e. the right of citizens to be elected to public services and public office under equal conditions. In the second form, it concerns the right of citizens to represent and defend their legitimate interests through participation in the decision-making process and to control their implementation, which is one of the foundations of participatory democracy. The interdependence of freedom of opinion and expression, freedom of assembly and association and the right of citizens to participate in the management of public affairs is close, as these freedoms and rights cannot exist without each other, nor can they be fully exercised without mutual interaction. It can be concluded that the Constitution of the Republic of Serbia guarantees the necessary framework for involving citizens in the decision-making process, especially bearing in mind the constitutional guarantee of citizens' right to participate, which is where the Constitution of the Republic of Serbia differs from most European constitutions, where this right is usually derived from the notion of sovereignty of the people or from the concept of good governance.

*Referendum and people's initiative* are guaranteed by the Constitution of the Republic of Serbia, and are regulated in more detail by the new Law on Referendum and People's Initiative ("Official Gazette of RS", No. 111/21), which enters into force RS", No. 48/94 and 11/98) adopted in 1994. In a number of its solutions, the previous law was restrictive, outdated and inconsistent with the provisions of the new Constitution, as well as the recommendations of the Council of Europe in this area<sup>7</sup>. The answer to the public's request was also the adoption of amendments to the Law on Referendum and People's Initiative, which was initiated by the dissatisfied public, as well as the CSOs in the Law on Amendments to the Law on Referendum and People's Initiative (Official Gazette of RS, No. 119/21).

Along with the people's initiative, *referendum* is one of the two known forms of direct participation of citizens in decision-making. In most European countries, referendums are most often held on issues of exceptional political or constitutional importance (e.g. European integration, institutional change, etc.), while referendums on everyday issues are less frequent. A referendum is held for citizens to declare themselves on a draft act, on confirmation of an adopted act or on an issue of general importance. The subject of a referendum may not be obligations arising from international agreements, laws relating to human and minority rights and freedoms, taxes and other financial laws, the budget and the final account, the introduction of a state of emergency and amnesty, or issues concerning the electoral competences of the National Assembly (Article 108 of the Constitution of the Republic of Serbia). The national

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<sup>7</sup> Recommendation 1704/2005 "Referendums: towards good practices in Europe" and Recommendation 1821/2007 "Code of Good Practice on Referendums".

referendum may be held on the occasion of deciding on all other issues within the competence of the National Assembly.

A *citizens' initiative* is a constitutional or legal authorization of a certain number of citizens with the right to vote to propose amendments to the Constitution, laws, other regulations and general acts within the competence of the National Assembly or assemblies of various forms of territorial decentralization. By the subject of the initiative, a distinction can be made between an initiative to amend the constitution, a legislative initiative, and an initiative to amend another general act. The people's initiative can be submitted as an unformulated people's initiative, i.e. as an initiative in the form of a general proposal for the adoption, amendment, supplementation or termination of the relevant act, provided that the proposal clearly shows the directions of changes or the solution proposed or as an articulated people's initiative in the form of a specific proposal for the adoption, amendment or repeal of the relevant act, with a draft legal act. In the Republic of Serbia, 30,000 voters have the right of legislative initiative (Article 107 of the Constitution of the Republic of Serbia).

### **National Assembly of the Republic of Serbia and cooperation with CSOs**

Serbia's *public hearing* began in 2008 as an informal practice with the support of the United Nations Development Program (UNDP), and was formally regulated two years later by the Law on the National Assembly, Article 27, paragraph 7, ("Official Gazette of RS". No. 9/10) and the Rules of Procedure of the National Assembly, Article 84. According to the Law on the National Assembly, only the Assembly Committee, as a permanent working body, can organize a public hearing, while this possibility does not exist for temporary parliamentary working bodies - inquiry committees and commissions. This institute is more closely regulated by the Rules of Procedure of the National Assembly, according to which each committee member can submit a proposal for organizing a public hearing with the topic of public hearing and a list of invited persons, on which the committee makes a decision and the chairman of the committee invites the members of the committee, deputies and other persons whose presence is important for the topic of the public hearing. The Rules of Procedure explicitly state that a public hearing is held regardless of the number of committee members present. After the public hearing, the chairman of the committee submits information on the public hearing to the speaker of the National Assembly, committee members and participants in the public hearing. The information contains the names of the participants in the public hearing, a brief overview of the presentations, views and proposals made at the public hearing. Committee members and participants in the public hearing may submit written comments on the information on the public hearing to the chairman of the board. Committees of the National Assembly organize public hearings primarily for obtaining information, i.e. expert opinions on the draft act that is in the parliamentary procedure, clarification of certain decisions from the proposed or valid act, clarification of issues important for the preparation of the draft act or any other issue within the committee's competence. Also, public hearings can be organized to monitor the implementation and application of the law, to clarify certain issues relevant to the supervision of the work of executive bodies.

Regarding the frequency of organizing public hearings, according to the parliamentary publication "Conducting public hearings in the National Assembly", public hearings are held more than 20 times a year. According to other data, in the period of almost four years (June 2008 - March 2012), a total of 29 public hearings were organized. On the other hand, UNDP (*Report and analysis with recommendations from public hearing workshops, Final Report*, UNDP, 2015) lists 11 public hearings in 2009, seven in 2010, 16 in 2011, 11 in 2012, 29 in 2013 and 10 in 2014.

Public hearings in the Republic of Serbia are still regulated in a rudimentary manner, and it can be concluded that in this regard there is great room for progress in the legal and practical field of implementation of this participation mechanism. The notion of public hearing is not specified, and can be broadly linked to consultations in the preparation or monitoring of law enforcement. There are no criteria according to which persons are invited to a public hearing, but they are invited based on a discretionary assessment of the committee. Representatives of civil society organizations participate in public hearings, but as for other categories of persons, there are no criteria for invitations or guidelines for participation. Unlike the public debate in preparation of law, where the general public is invited (although in practice representatives of civil society organizations are most often present), the public hearing is not open to the general or professional interested public. The choice of topic is also exclusively in the hands of the committee. The information on the public hearing contains only a brief overview of the submitted proposals, without information on whether they were accepted or not and what are the reasons for dismissing the proposals. Paradoxically, information about public hearings is not publicly available, but only to a certain circle of people. It is not clear whether there is any purpose of the public hearing other than the exchange of views, nor are possible further steps, if any, that would provide insight into the fate of the proposals made<sup>8</sup>. This UNDP analysis recommends 21 measure to improve the institute of public hearing in the Republic of Serbia, which need to be considered.

### **Laws and CSO participation**

*The public debate in preparation of law* in Serbia is regulated by the Law on Public Administration, Article 77. "Public participation in the preparation of draft laws, other regulations and acts" paragraph 7 ("Official Gazette of RS", No. 79/05, 101/07, 95/10, 99/14, 30/18 - another law and 47/18), and the Rules of Procedure of the Government, Article 41, "Public hearing" ("Official Gazette of RS", No. 61/06 - consolidated text, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13, 76/14 and 8/19 - another regulation)<sup>9</sup>.

The public debate in preparation of law as a formally-legally regulated institute should be distinguished from the public debate which refers to any publicly organized debate on issues of public importance when it can be equated with consultations. In this regard, the Law on the Planning System of the Republic of Serbia stipulates the obligation to conduct consultations at

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<sup>8</sup> According to: "Legal and institutional framework for the activities of civil society organizations in participation in the management of public affairs", 2020, Dr. Lazar Đurović

<sup>9</sup> The amendments to the Rules of Procedure of the Government from 2013 opened the possibility for conducting a public debate in preparation of a decree and a decision.



all stages of drafting public policy documents - strategy, program, policy concept and action plan, except in the case of law. The obligation to conduct public consultations regarding draft laws (and other regulations and acts) is provided by the Law on Public Administration, the Law on Planning System and the Rulebook on Guidelines for Good Practice for Public Participation in Drafting Laws and Other Regulations and Acts. Distinguishing between public debates and consultations was identified by CSOs as a special challenge, both for CSOs and representatives of public administration bodies.

Public debate in preparation of law is not obligatory with regard to every law, but when the regulation of an issue is significantly changed, or an issue of special interest to the public is regulated<sup>10</sup>. The imprecision of the provision regarding what implies a significant change in the regulation of an issue, as well as the imprecision of the criteria of special interest of the public, leaves room for discretionary assessments of law proponents not to conduct a public debate in all cases when necessary<sup>11</sup>. In their reports, the European Commission and the Council of Europe criticized both normative solutions and the practice of conducting public hearings in preparation of laws, which are accompanied by demands for its precise regulation in the normative and practical plan. The EC Progress Report on Serbia for 2020 estimated that, although the number of laws passed by urgent procedure has been reduced, potentially allowing more time for consultations, a large number of CSOs reported that the time period for consultations is too short, that their comments do not receive sufficient attention and that they do not receive enough feedback. Regarding the Council of Europe, GRECO (Group of States Against Corruption) Report of the fourth round of evaluation "Prevention of corruption in respect of MPs, judges and prosecutors", in paragraph 33 states: criteria for mandatory public debates set out in the Rules of Procedure - "substantial" changes, "an issue of particular interest to the public" - are not clear and that even in the case of obviously significant legal changes, the rules on public debates are often ignored in practice (e.g. that such debates are not held at all or outcome information is not published). Clearer - and enforceable - rules are needed for this instrument to function satisfactorily in practice.

Article 36 of the Law on the Planning System of the Republic of Serbia ("Official Gazette of the RS", No. 30/18) prescribes how the public debate is conducted. Before submitting a public policy document for consideration and adoption, the competent proposer is obliged to conduct

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<sup>10</sup> According to the Rules of Procedure of the Government, these are cases of preparation of a new system law; preparation of a new law, unless the competent committee decides otherwise on the reasoned proposal of the proposer; preparation of the law on amendments to the law, if it significantly changes the solutions from the existing law, on which the competent committee, at the reasoned proposal of the proposer, decides in each specific case; during the preparation of the law on ratification of an international agreement - only if the competent committee decides to hold a public hearing, at the reasoned proposal of the Ministry of Foreign Affairs or state administration bodies from whose scope the issues are regulated by the international agreement.

<sup>11</sup> According to the findings of the research "Public Debates: Citizen Participation in Policy Making Processes" (CRTA, Belgrade, 2018), in three years (2014-2016) the percentage of public hearings compared to the number of identified legislative proposals by the Government was quite low: In 2014, the Government approved a total of 181 law proposals, of which public debates were held for 56 (31%); in 2015, the Government identified a total of 182 law proposals, of which public debates were held for 48 (26%); in 2016, the government identified a total of 90 law proposals, of which public debates were held for 28 (31%). As the public debate in preparation of law is conducted only on the occasion of the Government's proposals, the stated percentages are close to the absolute ratio of the number of adopted laws and the conducted public debates in Serbia in the observed period.

a public debate on that document and to prepare a report on the conducted public debate. The same article also describes what the report should look like.

In accordance with the Law on the Planning System of the Republic of Serbia ("Official Gazette of the RS", No. 30/18), *consultations* must be conducted at all stages of drafting public policy documents - strategy, program, policy concept and action plan, except in the case of drafting laws, other regulations and acts, in respect of which insufficiently precise provisions of the Law on Public Administration are relevant<sup>12</sup>. The Law on the Planning System of the Republic of Serbia prescribes respect for the principles of publicity and partnership in the process of creating public policies. The principle of publicity implies that public policies are determined, implemented and evaluated within a transparent and consultative process. According to the Code of Good Practice for Citizen Participation in the Council of Europe's Decision-Making Process, partnership is the highest possible level of citizen participation and it implies shared responsibility at every step in the political decision-making process, from setting work programs, drafting and implementing public policy initiatives<sup>13</sup>. Citizens participate in the process of creating public policies from the very beginning of the process, by initiating the drafting, adoption or amendment of public policy documents to the competent proposer. If the initiative for the adoption of a public policy document comes from a public administration body, it is obliged to inform the public about the beginning of the drafting of a public policy document no later than seven days from the start of work. The body is obliged to provide feedback on the conducted consultations by publishing a report on the conducted consultations, with explanations and reasons in case of dismissing certain proposals. Following the consultations, the competent authority may include representatives who participated in the previous consultations in the work of the working group for drafting the policy document. At the end of the process, it is necessary to conduct a public debate and prepare a report on the conducted public debate, which includes the received proposals for the application of the document with an explanation for their acceptance or rejection. The content and form of the report on the conducted public debate is not prescribed, which has the consequence that the reports are of different levels of generality and different forms. Based on the Law on the Planning System of the Republic of Serbia, the Decree on the Methodology of Public Policy Management, Analysis of the Effects of Public Policies and Regulations and the Content of Individual Public Policy Documents was adopted ("Official Gazette of RS", No. 8/19). The Decree regulates the manner of adopting public policy documents and regulations and, among other things, defines the difference between consultations and public debates and the methods and manner of their implementation (Article 39). Also, in Art. 39 to 46, the Regulation determines the period of implementation and the purpose of consultations and public hearings,

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<sup>12</sup> In the preparation of laws, other regulations and acts, consultations are regulated in more detail by the Rulebook on Good Practice Guidelines for Exercising Public Participation in the Drafting of Laws and Other Regulations and Acts ("Official Gazette of RS", No. 51/19), referred to in "Other regulations relevant to participation in the management of public affairs".

<sup>13</sup> At this level, CSOs and state institutions meet for close cooperation, while CSOs remain independent and have the right to campaign and act independently regardless of partnership. The partnership may include activities such as delegating certain tasks to CSOs, provision of services, participatory forums and setting up joint decision-making bodies. Partnership is relevant for every step in the decision-making process, and is most important for setting work programs or steps to be taken in the implementation of public policy.

emphasizing that it is necessary to apply an appropriate method for their implementation. Art. Articles 45 and 46 of this Decree regulate the procedure for implementation and the manner of reporting on the conducted public hearing.

After the amendments to the Law on Public Administration from 2018, the Rulebook on Good Practice Guidelines for Exercising Public Participation in the Preparation of Draft Laws and Other Regulations and Acts ("Official Gazette of RS", No. 51/19) was adopted, which regulates the manner of preparation draft laws and other regulations and acts, the purpose of conducting consultations, consultations via the web application eConsultations and the website of the proposer, methods of consultations, report on conducted consultations as well as special cases of importance for conducting consultations.

It can be concluded that the adoption of the Law on the Planning System of the Republic of Serbia and the amendments to the Law on Public Administration represent a normative step forward in providing conditions for broader civic participation at all levels of government. However, it can be noticed that its application is not uniform, nor always at a satisfactory level. Baseline has identified insufficient implementation of the Law on Planning System, especially at the local level, as a basic tool for the participation of civil society in all phases of adopting public policy documents and regulations. The same document establishes that civil society organizations express dissatisfaction due to insufficient involvement in the work of working groups for drafting policy documents and drafts, i.e. draft regulations, emphasizing that their comments and suggestions during the whole process of public consultations, if conducted, are not taken into account to a sufficient extent, as well as the lack of feedback on proposals and suggestions sent during the public debate. In addition, according to CSOs, information is not provided in an adequate way, the time period for conducting consultations is in most cases too short, and there is no feedback on key results of consultations. Public administration bodies are insufficiently aware that representatives of the civil sector, with their knowledge, experience and expertise, can contribute to increasing the quality of public policy documents and regulations and their better implementation with their participation and proposals. The practice of public administration bodies to establish dialogue on topics of great social importance is not uniform, and regulations are not applied consistently in all situations. On the other hand, insufficient consideration of the possibilities and capacities of public administration by civil society organizations leads to expectations that are often too high. In that sense, it is necessary to conduct a comprehensive analysis of the application of the institute of public consultations and public debate, as well as their mutual relationship and joint impact on increasing the role of civil society in decision-making, regulations, but also on increasing transparency and accountability of public sector, and on the basis of information and data obtained from it, determine the validity of the change in the legal framework governing these institutes.

The Law on Local Self-Government ("Official Gazette of the RS", No. 129/07, 83/14 - another law, 101/16 - another law, 47/18 and 111/18 - another law) explicitly prescribes two ways of civil participation at the local level: indirect, through representatives in local decision-making bodies elected in free elections, and direct, through mechanisms provided by law, and it is possible to observe that all forms of citizen participation provided at the national level exist at the local level. Article 67, paragraph 1 of the Law on Local Self-Government, as direct forms

of citizen participation in the exercise of local self-government, determines: citizens' initiative, citizens' assembly and referendum, which are regulated by law and municipal statutes.

According to the provisions of the Law on Referendum and Citizens' Initiative, a *referendum at the local level* is conducted at the request of at least 10% of voters residing in the territory of a local self-government unit. The subject of a referendum in a local self-government unit may be issues determined by the statute of the local self-government unit as the competence of the assembly of the local self-government unit.

The *citizens' initiative* is a mechanism through which citizens propose to the assembly of a local self-government unit (hereinafter: LGU) the adoption of an act that will regulate a certain issue within the jurisdiction of local government, change the statute or other acts and call a referendum. The LGU Assembly is obliged to hold a debate on the proposal and to submit a reasoned response to the citizens within 60 days of receiving the proposal. The Law on Amendments to the Law on Local Self-Government from 2018 determined the number of signatures of citizens needed to initiate a citizens' initiative -5% of the total number of citizens with the right to vote, which is a better legal solution than before that the number of signatures may not be less than 5%.

The *citizens' assembly*, as a form of direct participation of citizens in the part of the territory of the LGU, is convened for the part of the territory of the local self-government unit, which discusses and gives proposals on issues within the competence of local self-government units. By a majority vote, it adopts requests and proposals and sends them to the assembly or individual bodies and services of the local self-government unit, which are obliged to consider the requests and proposals of citizens within 60 days from the day of holding the assembly and take a decision or a measure on them, and inform the citizens about it. The manner of convening the citizens' assembly, its work, as well as the manner of determining the views of the assembly are regulated by the statute and the decision of the LGU assembly.

In the direction of greater participation of citizens and civil society organizations in the decision-making process at the local level, the above amendments to the Law on Local Self-Government set out the obligations of local self-government units to regulate in their statute the conducting of the mandatory procedure of public debate during the preparation of the statute, budget - in the field of local investment planning, strategic development plan, determining the rate of local revenues or adoption of spatial and development plans, as well as other general acts based on proposals of qualified citizens or requires 1/3 of representatives.

*Public hearing* differs from the existing forms of direct participation of citizens in the exercise of local self-government. The statutes of LGUs undertake the obligation to organize public hearings without further elaboration, which cannot be in favor of expanding this mechanism of participation in practice. There is a need for stronger participation of CSOs at the local level in order to establish a uniform way of organizing public hearings, in order to harmonize practice.

The Law on Free Access to Information of Public Importance ("Official Gazette of RS", No. 120/04, 54/07, 104/09, 36/10 and 105/21) is of special importance for enabling citizens to have timely information that is necessary for any involvement in decision-making processes. This

law regulates the basic standards of transparency in the work of public administration bodies and mechanisms for access to information of public importance if it is not publicly available. According to the Council of Europe's Code of Good Practice for Civil Participation in the Decision-Making Process and the Guidelines for Involving Civil Society Organizations in the Regulatory Process (Official Gazette of the RS, No. 90/14) developed in accordance with the Code, access to relevant information is the lowest level of participation of CSOs in the decision-making process. At the same time, access to information is a *conditio sine qua non* of all other levels of participation, as well as steps in the decision-making process. Therefore, transparency in the work of public administration bodies should be understood not as a form or level of cooperation, but as a precondition for its realization. Long-term implementation in practice has indicated the need to innovate and develop the Law, as it has been shown that some issues are not regulated or are regulated in an inadequate manner. This primarily refers to the issues of: proactive publishing of information by the authorities on their web sites, improvement and increase of transparency of data published in the newsletter on work, expanding the circle of persons covered by the law, specifying the election procedure and termination of office of the Commissioner for Information of Public Importance and Personal Data Protection, administrative execution of the Commissioner's decisions, as well as other changes that comprehensively improve the exercise of the public's right to access information of public importance in the Republic of Serbia. Amendments to this law were adopted by the National Assembly in November 2021 and were positively assessed by the European Commission.

### **Other regulations and public policy documents relevant to participation in the management of public affairs**

The National Assembly of the Republic of Serbia passed the Resolution on Accession to the European Union ("Official Gazette of the RS", No. 112/04) on October 13, 2004. The National Assembly seeks to strengthen the social and political consensus on the accession of the Republic of Serbia to the European Union with this Resolution. The National Assembly cooperates with civil society, the expert public and other interested parties, in order to achieve their involvement in all phases of the process of negotiations on the accession of the Republic of Serbia to the European Union.

The Government of the Republic of Serbia adopted in its Conclusion the Guidelines for the Involvement of Civil Society Organizations in the Legislative Process (Official Gazette of the RS, No. 90/14), in order to further improve the participation of CSOs in the processes of preparation, adoption and monitoring the implementation of regulations and taking standpoints of public interest. The guidelines, among other things, incorporate the levels and principles of participation of civil society organizations in the process of preparation, adoption and monitoring of the implementation of regulations from the Council of Europe's Code of Good Practice for Civil Participation in the Decision-Making Process. The Guidelines also contain a recommendation to the bodies of the Autonomous Province and local self-government units to adhere to the principles stated in the Guidelines in the process of adopting regulations.

In 2020, the Government of the Republic of Serbia adopted Guidelines for the inclusion of civil society organizations in working groups for drafting public policy documents and drafts, i.e. proposals of regulations ("Official Gazette of RS", No. 8/20) regulating the procedure for electing representatives of civil society organizations in working groups for drafting public policy documents proposals and drafts, i.e. draft regulations, which ensures their participation in the early phase of the decision-making process. CSOs are included in working groups through a public call with pre-established selection criteria.

Public Administration Reform Strategy in the Republic of Serbia for the period 2021 - 2030 in its section Human Resources Management, as Special Objective 4 states: Developed and implemented a functional and innovative system of professional development and professional exams in public administration, based on the analysis of needs for improvement competence, i.e. knowledge, skills and abilities of employees. Action plan for the implementation of the Open Government Partnership initiative in the Republic of Serbia for the period 2020-2022, envisages the area of CSO participation in the decision-making processes as a topic that should be integrated into all professional development programs for employees and programs for monitoring their implementation. The program for the reform of the local self-government system in the Republic of Serbia for the period 2021 - 2025, special goal 3 envisages the improvement of organizations and capacities of local self-government, measure 3.2: Improving the process of professional development of employees in LGU bodies, in accordance with the Action Plan for the implementation of the Open Government Partnership initiative in the Republic of Serbia for the period 2020-2022, the Decision on the Establishment of the eConsultation Portal ("Official Gazette of the RS", No. 62/21), an integral part of the eGovernment Portal, was adopted in order to enable the public to participate in a unique and equal way, by the means of online participation in the process of preparation and adoption of public policy documents and regulations. According to the Decision, the Office for Information Technologies and Electronic Administration is in charge of participating in the development of a special training plan for civil servants from competent state administration bodies who will be authorized to manage individual procedures on the eConsultation Portal, and to implement those trainings within the planned deadlines.

### **5.1.3. Research and analysis**

Data from the survey "Civil Society Sector in 2019"<sup>14</sup> show that the level of citizen participation in the decision-making process is very low - in the period under review, only 12% of citizens have participated in some activity related to decision-making at the local or national level. Citizens are somewhat more active at the local level (11%), while at the national level there is three times less activity (4%). When it comes to the influence of CSOs on policy making at the national level, three quarters of organizations (75%) think that their influence on policy making at the national level is too small, one quarter (24%) think that it is exactly as it should be, while only 1% believe that the influence of these organizations is too great.

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<sup>14</sup>[https://act.org.rs/sr/resources\\_type/%d0%bf%d1%83%d0%b1%d0%bb%d0%b8%d0%ba%d0%b0%d1%86%d0%b8%d1%98%d0%b5/](https://act.org.rs/sr/resources_type/%d0%bf%d1%83%d0%b1%d0%bb%d0%b8%d0%ba%d0%b0%d1%86%d0%b8%d1%98%d0%b5/) Project "Together for an active civil society - ACT" funded by the Swiss development cooperation – SDC

Regarding the influence of CSOs on local public policies, the situation is approximately the same: 73% of CSOs assess the impact as too small, 26% think that it is exactly as it should be, while 1% think that the influence of these organizations is too great. Of the 73% of CSOs that believe the civil society has too little influence on state policy-making, 60% believe that citizens need to be more involved in the activities of organizations; 54% of respondents believe that organizations should increase their visibility in the media, network and collaborate with other similar organizations; 46% believe that they should increase their knowledge of the fields they deal with; 42% say that the transparency of the work of civil society organizations should be increased, while 28% state that they use better data, analyses and arguments. Less than one third of CSOs (28%) are satisfied with the regulations governing their work, which is two percent less than in 2011. Also, 20% of CSOs are dissatisfied, while the majority has a neutral opinion (39%). 13% of CSOs stated that they were not familiar with these regulations (which is a better situation than in 2011, when 22% of surveyed organizations were not familiar with the regulations). Organizations that provide social services are the most satisfied (31%), while the most dissatisfied are those that deal with philanthropic mediation and promotion of volunteer work (35%) and international cooperation, including European integration (32%). 30% of organizations requested the improvement of the legal framework for the activities of CSOs.

The 2019 Civil Society Sustainability Index survey<sup>15</sup> for the Republic of Serbia states that the overall sustainability of CSOs has deteriorated. In five of the seven observed areas, the situation has deteriorated: legal environment, organizational capacity, representation and public image. The infrastructure supporting the CSO sector has strengthened slightly, while financial sustainability and service delivery remain unchanged. The assessment of the overall sustainability of CSOs for Serbia is 4.2, which is an assessment that falls into the category of "sustainability in development". The situation is the most favorable in the infrastructure of CSO sectors (3.3, which is closer to the category of "improved sustainability"), and the worst in terms of the image that CSOs have in public with a score of 4.8, which is very close to "difficult sustainability". The legal environment in which CSOs operate in Serbia has deteriorated in 2019 for the fifth year in a row (4.0 in 2015, 4.1 in 2016, 4.2 in 2017, 4.3 in 2018 and 4.4, in 2019). The 2020 Civil Society Sustainability Index for Serbia<sup>16</sup> notes a further deterioration in the overall sustainability of CSOs. The assessment of the overall sustainability of CSOs for Serbia is 4.3, which is an assessment that still falls into the category of "sustainability in development", but there is a trend of further decline in the overall assessment of the sustainability of CSOs in Serbia. The legal environment was rated 4.7, while the public image was 4.8. Financial sustainability remained at the same level as in 2019 with a score of 4.4. The conditions for advocacy by CSOs deteriorated during 2020, leading to a slight deterioration in the assessment for the advocacy dimension (4.2).

The SIGMA report on the implementation of public administration reform in the Republic of Serbia from October 2019 states a low level of inclusiveness of the process of creating public

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<sup>15</sup> <https://nkd.rs/indeks-odrzivosti/>

<sup>16</sup> <https://nkd.rs/indeks-odrzivosti/>

policies and enacting regulations, given that the implementation of public consultations, involving citizen participation, was rated 3 out of 5. The SIGMA report<sup>17</sup> underlines that, although the legislative framework has been improved, it has not yet moved from the involvement of CSOs in the last phase of the drafting process, only during the public debate process, provided that they are conducted, to the practice of systematic involvement and transparent consultation from the beginning of the drafting of regulations and policy documents.

In its Report for the Republic of Serbia for 2020<sup>18</sup>, the European Commission assessed that, although the number of laws passed by urgent procedure has been reduced, potentially allowing more time for consultations, a large number of CSOs has reported that the time period for consultations is too short, as well as not paying enough attention to their comments and not getting enough feedback. This indicates the progress of the Republic of Serbia in implementing public administration reform in the field of involving citizens in public policy making and enactment of regulations, but consistent application of regulations is necessary in order to achieve the desired improvement in terms of substantial involvement of citizens in the legislative process.

In 2020, the Republic Secretariat for Public Policies (RSJP) received 14 opinions on draft public policy documents (PPD), of which the proponents reported that consultations were conducted for all 13 PPDs for which there was an obligation to conduct a consultative process (100%). In that year, the government adopted 11 PPDs for which it was required, and for which consultations were conducted. In the first two quarters of 2021, 24 PPDs were submitted for opinion, of which a consultation process was mandatory for 21, and consultations were held for 19 PPDs (90.4%). In the same period, the Government adopted 19 PPDs, for 18 adopted PPDs it was necessary to conduct consultations with the Government, of which consultations were conducted for 17 of them (94.4%).

In 2020, 87 draft laws were submitted to the RSJP for an opinion. Of these, consultation process was mandatory for 35, and consultations were conducted for 19 of them (54.3%). In the same year, the National Assembly adopted 45 laws, of which consultations were held for 15 of the 42 adopted laws for which consultations were mandatory (35.71%). In the first two quarters of 2021, 108 draft laws were submitted for opinion, of which consultations were mandatory for 56, and consultations were held for 30 of them (53.6%). In the same period, the National Assembly adopted 81 laws, of which consultations were held for 23, of the 31 laws for which this obligation existed (74.2%).

Out of a total of 215 draft regulations submitted to the RSJP for opinion in 2020, all had a mandatory consultation process, and consultations were held for 59 (27.4%). In that year, the government adopted a total of 253 decrees and consultation process was mandatory for all, and consultations were conducted for 29 of them (11.5%). In the first two quarters of 2021, 126

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<sup>17</sup> <http://www.sigmaweb.org/publications/Monitoring-Report-2017-Serbia.pdf>

<sup>18</sup> 2020 Annual Progress Report of the European Commission for Serbia  
[https://www.mei.gov.rs/upload/documents/eu\\_dokumenta/godisnji\\_izvestaji\\_ek\\_o\\_napretku/serbia\\_report\\_2020\\_SR.pdf](https://www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/serbia_report_2020_SR.pdf)



draft regulations were submitted for opinion, of which consultation process was mandatory for 124, and consultations were held for 35 (28%). In that period, the government adopted 129 decrees and consultation process was mandatory for all of them, and consultations were conducted for 24 of them (18.6%).

Following the adoption of the Guidelines for the Involvement of Civil Society Organizations in Working Groups for Drafting Public Policy Documents and Draft Regulations, in order to encourage civil society participation in the early stages of drafting regulations and public policy documents, a significant increase in public calls for CSOs for membership in various groups and bodies. The data refer only to public calls that were published through the OCCS and the Ministry of Human and Minority Rights and Social Dialogue, and not to the total number of public calls, for which there is no data.

Conducted public calls for the selection of CSOs that will participate in the Working Groups							
Year	2015	2016	2017	2018	2019	2020	2021 (Q2)
Number of calls	0	1	5	4	2	3	11

According to the data of the General Secretariat of the Government of the Republic of Serbia, in the period from January 1, 2020 to June 1, 2021, the competent committees determined 42 programs of public hearings proposed by the competent proposers.

According to the data of the National Assembly of the Republic of Serbia, the number of submitted draft laws from January 1, 2020 to June 1, 2021 is 129, the number of adopted laws is 204, while 14 laws were adopted by urgent procedure.

It is necessary to take into account that all presented data are affected by the fact that a number of regulations entered the adoption procedure in one calendar year, and they were adopted in the following year.

In the forthcoming period, it is necessary to identify obstacles/challenges and continue activities aimed at improving the framework for participation in the management of public affairs through:

- Conducting a comprehensive analysis of the current application and effects of the Law on Associations and improving legal provisions in accordance with the conclusions of the analysis in partnership dialogue with CSOs;
- Conduct an analysis of newly adopted regulations governing the process of consultation with the interested public, including CSOs, after the reporting procedure, in order to change any identified shortcomings and further improve the quality of these regulations;

- Conduct an analysis of the legal relationship between the consultation process on the one hand and public debates on the other hand, in order to possibly connect them and improve these processes;
- Consider the results of the above analyzes and if it is reasonable, change the legal framework governing the institutes of public consultation and public debate;
- Raising the level of awareness of authorized proposers of the law on the function and importance of all mechanisms for participation in the management of public affairs in a democratic society;
- Conducting an analysis of the legal framework and current practice of public hearings in the Republic of Serbia in order to expand the availability and expediency of this consultative mechanism in accordance with the best comparative practices;
- Ensuring consistent compliance with the provisions of the Law on the Planning System of the Republic of Serbia of public administration bodies, and analyzing the effects of its implementation;
- Further improve the legal framework and practice for conducting consultations, both at national and local level, especially in terms of information, timeframe for conducting consultations, culture of dialogue, feedback on the submitted proposals and results of the consultation process;
- Introduction of the topic of inclusion of CSOs in the processes of adopting public policy documents and regulations in the programs of continuous professional development of civil servants at the National Academy of Public Administration, as horizontal in all relevant training programs. Continuously conduct trainings for civil servants, and obligatory for contact points for cooperation with CSOs;
- Continuous implementation of trainings for CSOs on the strategic and legal framework related to the participation of CSOs in decision-making processes;
- Promoting examples of good practice in cooperation between CSOs and public administration at the national and local levels in order to build and strengthen partnerships and relationships of mutual trust, and change public discourse on the role and importance of CSOs;
- Development of a special training plan and continuous implementation of trainings for civil servants who will manage individual procedures on the "eConsultation" portal in the area of public debates and consultations;
- Undertaking additional activities in order to promote the "eConsultation" portal in public, and in a broader sense to promote the need and importance of partnership between CSOs and public administration bodies at all levels. Placing a banner with a link to the eConsultation portal on the official websites of all state administration bodies and local self-government units, in order to promote its use.

Local self-government units, as a special level of government, have the authority to regulate in their acts how the public (civil society organizations) will be involved in the decision-making process. It is necessary to consider the possibility of unifying decision-making at the local level in the LGU statutes or through the adoption of a special LGU regulations prepared in accordance with the Guidelines for inclusion of civil society organizations in working groups for preparing public policy documents and drafts, i.e. regulations, preparation of draft laws and other regulations and acts and Guidelines for the involvement of CSOs in the regulatory process.

- Appointment of contact points for cooperation with CSOs in all LGUs and incorporation into the Rulebook on organization and systematization of jobs in city and municipal administration, professional services and special organizations of each individual LGU job description and duties of officials/contact points<sup>19</sup>;
- Monitoring the implementation of the provisions on mechanisms for direct participation of CSOs in the management of local self-government affairs and regular publication of reports on the participation of CSOs in the management of local self-government affairs;
- Improving procedures and practices for the selection of CSO representatives in working bodies for drafting public policy documents and drafts, i.e. draft regulations within the competence of the LGU, as well as in temporary and permanent bodies in the LGU system, by considering amendments or adopting of new LGU regulations. Guidelines for the inclusion of civil society organizations in working groups for preparing public policy documents and drafts, i.e. draft regulations.

## 5.2. FINANCING CIVIL SOCIETY ORGANIZATIONS

### 5.2.1. Legal framework

The legal framework for financing associations and other civil society organizations from the budget is regulated by a number of regulations: the Law on Associations ("Official Gazette of RS", No. 51/09, 99/11 - another law, 99/11 - another law and 44/18 - another law), Law on Endowments and Foundations ("Official Gazette of RS", No. 88/10, 99/11 - another law and 44/18 - another law), Law on Games of Chance "Official Gazette of RS", No. 88/11 and 93/12), the Law on the Red Cross ("Official Gazette of RS", No. 107/05), the Law on Churches and Religious Communities ("Official Gazette of RS", No. 36/06), Law on Sports ("Official Gazette of RS", No. 10/16), Law on Youth ("Official Gazette of RS", No. 50/11), Law on Social Protection ("Official Gazette of RS", No. 24/11 ), The Law on Financing the Association of Fighters of the Liberation Wars of Serbia ("Official Gazette of RS", No. 21/90), the Law on Accounting ("Official Gazette of RS", No. 62/13, 30/18 and 73/19 - another law ), Law on

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<sup>19</sup> The draft Rulebook on systematization of jobs in LGUs has already been developed, with the proposal of job descriptions of employees in the field of cooperation with CSOs. The draft Rulebook was prepared by the Standing Conference of Towns and Municipalities (SCTM) and the job descriptions were defined in cooperation with the Office.

<http://www.skgo.org/vesti/detaljno/1667/modeli-pravilnika-o-organizaciji-i-sistematizaciji-radnih-mesta-i-nacrt-kadrovskog-plana-u-gradskoj-i-opstinskoj-upravi-strucnim-sluzbama-i-posebnim-organizacijama>

Audit ("Official Gazette of RS", No. 73/19), Law on Tax on Profit of Legal Entities ("Official Gazette of RS", No. 25/01, 80/02, 80/02 - another law, 43/03, 84/04, 18/10, 101/11, 119/12, 47/13, 108/13, 68/14 - another law, 142/14, 91/15 - authentic interpretation, 112/15, 113/17, 95/18, 86/19, 153/20 and 118/21), Law on Property Taxes ("Official Gazette of RS" no. 26/01, "Official Gazette of the FRY", No. 42/02 - FCC and "Official Gazette of the RS", No. 80/02, 80/02 - another law, 135/04, 61/07, 5/09, 101/10, 24/11, 78/11, 57/12 - US, 47/13, 68/14 - another law, 95/18, 99/18 - CC, 86/19, 144/20 and 118/21), Law on Value Added Tax ("Official Gazette of RS" No. 84/04, 86/04 - correction, 61/05, 61/07, 93/12, 108/13, 6/14 - harmonized amounts in RSD, 68/14 - another law, 142/14, 5/15 - harmonized amounts in RSD, 83/15, 5/16 - harmonized amounts in RSD, 108/16, 7/17 - harmonized amounts in RSD, 113/17, 13/18 - harmonized amounts in RSD, 30/18, 4/19 - harmonized amounts in RSD, 72/19, 8/20 - harmonized amounts in RSD and 153/20), Law on Donations and Humanitarian Aid ("Official Gazette of the FRY", No. 53 of 28 September 2001, 61 of 9 November 2001 - correction, 36 of 3 July 2002, "Official Gazette of the RS", No. 101/05 - another law), the Regulation on Funds for Incentive Programs or a Missing Part of Funding for Program of Public Interest implemented by Associations ("Official Gazette of RS", No. 16/18), the Rulebook on approving and financing programs of general interest in the field of sports ("Official Gazette of RS", no. 64/16 and 18/20), Rulebook on financing and co-financing of programs and projects of public interest in the field of youth sector ("Official Gazette of RS", No. 8/12, 11/13, 15/16 and 30/18) as and through several dozen bylaws relevant to regulating and promoting an incentive fiscal framework.

The provisions of the Law on Associations are similarly applied to the allocation of funds to associations from the budget of the autonomous province and local self-government units, which is more closely regulated by acts of the autonomous province and local self-government units.

Pursuant to the provisions of the Law on Accounting, civil society organizations (associations, endowments and foundations) with the status of a legal entity are obliged to keep regular annual financial reports submitted to the Business Registers Agency. In accordance with Article 33 of the Law on Accounting, an association or legal entity that has not had business events, nor has data on assets and liabilities in the business books, is obliged to submit a statement of inactivity to the Agency by the end of February next year for the reporting year.

With regard to international standards for CSO funding, the Council of Europe Recommendation states that CSOs should provide assistance in achieving their goals through public funding and other forms of support, such as exemption from income and other taxes or duties on membership fees, funds and goods received from donors or government and international agencies, revenues from investment, rent, royalties, economic activities and property transactions, as well as through incentives for donations through tax or income tax deductions. Any form of public support for NGOs should be based on clear and objective criteria. The nature and beneficiaries of CSO activities may be relevant factors in deciding whether CSOs will receive any form of public support. The granting of public support may be conditioned by the fact that the CSO falls into a certain category, a regime defined by law or has a certain legal form.

The financing of civil society organizations by public administration bodies in Serbia is decentralized, which means that public administration bodies individually finance programs and projects of public interest. The planning of budget funds and support priorities for CSOs is done independently and without mutual coordination. Comparatively and legally, there is a centralized funding of CSOs in international practice, which includes funding of CSOs by the state foundation. Also, a mixed system that combines elements of these two financing models is possible.

Public financial support for CSOs is provided from all levels of government, including all local governments. According to the data from the Annual Summary Reports on the expenditure of funds provided and paid to associations and other civil society organizations from the budget of the Republic of Serbia (Summary Report), bodies of all levels of government approve mostly financial support and non-financial support<sup>20</sup> as well, but it is often awarded *ad hoc* and without clear criteria.

Other ways of financing CSOs are conducted from membership fees, voluntary contributions, donations and gifts (in cash or in kind), financial subsidies, bequests, interest on deposits, leases, dividends and other legally permitted ways such as financing from economic activities for which organization is registered, through the implementation of projects and programs financed from the budget of the Republic of Serbia, as well as from funds of national and international donors.

In accordance with the Law on Associations, a registered association can apply for public funds from the budget of the Republic of Serbia. As a rule, funds are allocated after a program of public interest was previously defined by state bodies, a public competition was conducted and a contract on the implementation of approved programs has been concluded. The Law on Associations determines which programs should be considered to be a program of public interest, not in a *numerus clausus* manner, but in the form of an instructive norm for public administration bodies, which is a good solution because there are no restrictions in terms of the scope<sup>21</sup>. Associations that received funds from the budget are obliged to make available to the public at least once a year a report on their work, and on the scope and manner of acquiring and using funds, as well as submitting that report to the donor. The same obligation applies to associations that have used tax and customs benefits in the previous year. Endowments and foundations can apply for public funds from the budget of the Republic of Serbia in the same way as citizens' associations.

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<sup>20</sup> Non-financial support is support in equipment, provision of premises for CSOs free of charge, provision of vehicles and drivers free of charge for the implementation of certain project activities, various other services that are part of the project/program activities of the association.

<sup>21</sup> Under the program of public interest the programs that are particularly considered are programs in the field of: social protection, veteran-disabled protection, protection of persons with disabilities, social care for children, protection of internally displaced persons from Kosovo and Metohija and refugees, birth control, care for the elderly, health care, protection and promoting human and minority rights, education, science, culture, information, environmental protection, sustainable development, animal protection, consumer protection, anti-corruption, as well as humanitarian and other programs in which the association exclusively and directly follows the public needs. Article 38 of the Law on Associations,

Conditions, criteria, scope, manner, procedure of awarding, as well as the manner and procedure of returning funds for program incentives or missing part of funds for financing programs implemented by CSOs are further specified since 2018 by the new Regulation on Funds for Programme Promotion or the Lacking Funds for Programmes in Public Interest Implemented by Associations ("Official Gazette of RS", No. 16/18). Previously, in 2018, the Office for Cooperation with Civil Society developed the *Methodology for Planning the Procedure for Monitoring the Implementation and Evaluation of the Success of Implemented CSO Programs and Projects and the Procedure for Monitoring the Expenditure of Allocated Funds*, based on which certain provisions were incorporated into the Regulation. The regulation does not apply to the financing or co-financing of programs that are regulated by a special law and regulations adopted on the basis of that law<sup>22</sup>. Local self-government units are obliged to regulate the financing of CSOs in more detail by their acts, i.e. decisions, which regulate the procedure of financing CSOs from public funds at the local level. In order to support the LGUs to further regulate the financing process with their acts, the Standing Conference of Towns and Municipalities (hereinafter: SCTM) in cooperation with former Office for Cooperation with Civil Society and with a significant contribution from the Ministry of Public Administration and Local Self-Government has developed a Guide for transparent financing of associations and other civil society organizations from the budget funds of local self-governments, which includes the Model Decision on Financing, with accompanying acts<sup>23</sup>. The need to harmonize the procedures for allocating funds to CSOs was recognized by the Government of the Republic of Serbia in 2018 when it adopted a *Conclusion on the need to harmonize regulations of the Government and state administration bodies regulating the financing of programs/projects of associations in certain areas with the Regulation on Funds for Incentive Programs or a Missing Part of Funding for Program of Public Interest implemented by Associations* (Conclusion No. 05 No. 401-8330/2018-1). The novelties in the Regulation are generally reflected in increasing the transparency of public administration bodies in all phases of the allocation process, greater uniformity of the allocation process and the prevention of conflicts of interest in the allocation of funds. In the phase of planning the allocation of funds, the obligation to publish a plan for announcing public calls (Public call Calendar)<sup>24</sup> at the beginning of the year was introduced so that CSOs were informed about planned public tenders of public administration bodies and had the opportunity to prepare

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<sup>22</sup> Certain state bodies, whose regulations regulate the financing of CSOs in the area within their competence, regulate the issue of CSO financing by by-laws within their competence. Most of these regulations recognize public competition as a way of allocating funds, and some laws, such as the Law on Endowments and Foundations and the Law on Voluntary Firefighting, directly refer to the provisions of the Law on Associations regarding the allocation of funds for programs of public interest. Among the sectoral regulations governing funding through public competition are: the Law on Sports, the Law on Youth, the Law on Culture and many others, while other laws regulate the financing of CSOs operating in the relevant sectoral area through other award procedures: public procurement, directly on basis of its annual programs (eg Law on Social Protection, Law on the Red Cross).

<sup>23</sup>[http://www.skgo.org/storage/app/uploads/public/157/295/849/1572958491\\_Vodic%20za%20transparentno%20finansiranje%20OCD%20iz%20budzetskih%20sredstava%20LS%20Web.pdf](http://www.skgo.org/storage/app/uploads/public/157/295/849/1572958491_Vodic%20za%20transparentno%20finansiranje%20OCD%20iz%20budzetskih%20sredstava%20LS%20Web.pdf)

<sup>24</sup> The Ministry of Human and Minority Rights and Social Dialogue is responsible for collecting and publishing data on planned public tenders intended for financial support of projects and programs of civil society organizations. Accordingly, a searchable e-application "Calendar of public competitions" ([http://minljmpdd-Ecalendar\(minljmpdd.apps.wh.gov.rs/kalendar-konkursa.php](http://minljmpdd-Ecalendar(minljmpdd.apps.wh.gov.rs/kalendar-konkursa.php)) was created, publicly available on the website of this ministry. The application enables the search of planned competitions according to various criteria, starting from the area of the competition, possible applicants, publication period and other parameters..

project and program proposals. The Regulation introduces and regulates the obligation to publish the mandatory elements of the public competition, among which is the requirement of determining closer criteria and criteria, to be applied in the evaluation of the competing programs or projects. Measures related to the prevention of conflicts of interest of the members of the commission have been introduced, as well as measures related to the prevention of conflicts of interest in using the allocated funds. The deadlines for conducting the public competition procedure, the procedure for submitting objections to the list of evaluations and ranking of the competing programs are more precisely regulated, as well as the obligation of the competent body that the decision it makes on the objection must be reasoned. The list of media outlets that publish information on the public competition and the results of the competition has been expanded (official website of the competent authority, portal eGovernment and bulletin board of the competent authority). The possibility of appointing representatives of the professional public to the commission for conducting the competition is introduced, i.e. the possibility of hiring experts in certain areas to prepare an analysis of the success, quality and achievement of the goals of the program that are being implemented. The methods of monitoring the implementation of supported programs and reporting in terms of mechanisms for monitoring the implementation of programs (reporting, monitoring visits, information gathering, etc.) by the competent authority, the possibility and manner of redistribution of the approved amount, as well as actions in case of irregularities are defined more precisely. The competent authority is obliged to prepare a report on the financial support to CSO programs from the budget in the previous calendar year. The competent authority allocating funds may, but is not obliged to, conduct an analysis of the success, quality and degree of achievement of the objectives of the program for which funds were awarded in a public tender, if it estimates that this would improve the situation in a particular area where beneficiaries are allocated funds. It is noted that the new Regulation brings improvements in the normative sense, although it should be concluded that there is room for further improvement in this area, but also that the essence of the problem is its inadequate and uneven application.

The baseline<sup>25</sup> identified the key challenges in the field of public funding of CSOs, which can be summarized as follows: frequent lack of connection between the priorities and objectives of the competition with strategic goals and sectoral policies set in national, provincial and local planning documents and public policy documents, especially at the local level; poorly developed practice of consulting with CSOs when planning priority activities as well as competition criteria; lack of coordination between state bodies in terms of defining the area of funding and the dynamics of tendering; complexity of procedures and their duration in relation to the time left for project implementation; various funding procedures, including discretionary decisions of managers; the absence of a mechanism for the timely exchange of information between authorities on organizations that have misappropriated funds and making this information available to the public; the absence of prescribed criteria and modalities for approving non-financial support to CSOs and thus transparency of the entire process; lack of capacity in terms of number and training of employees in public administration bodies on the legal framework for financing CSOs and its proper implementation; poorly developed practice

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<sup>25</sup> <https://www.minljmpdd.gov.rs/javne-konsultacije.php>

of budget co-financing from pre-accession funds and programs of the European Union or funds of other international donors; lack of clear criteria and procedure for selecting independent experts in program and project evaluation commissions; poorly developed practice of including independent experts in program and project evaluation commissions; the absence of clear and unified procedures to ensure the prevention of conflicts of interest; insufficient transparency of public authorities regarding the reporting of spent funds on an annual basis; lack of defined standards regarding the content of the report on spent funds; lack of long-term plans for financing CSOs from the budget, in line with the priorities and objectives of the strategic documents; the impossibility of clearly considering allocations for CSOs in relation to grants to political parties, religious communities, ethnic communities and all entities whose funding is regulated by special regulations, due to the fact that budget line 481 is not diversified; the practice of predominantly financing social protection service provider CSOs through budget line 481, instead of through budget lines 423 - contract services or specialized services 6 424 budget services; consideration of amendments to the Law on Games of Chance.

Funding from the budget is the most important source of funding for most civil society organizations. According to the Treasury Administration, in 2017, institutions from all levels of government paid a total of RSD 19,457,630,000.00 (about EUR 162 million) to associations and other recipients from the budget line 481. RSD 8,948,197,000.00 were paid from the republic level, RSD 3,963,642,000 from the provincial level, and RSD 6,545,791,000 from the local level<sup>26</sup>.

Data from the Treasury Administration<sup>27</sup> show that in 2019, state administration bodies subsidized associations and other recipients from the budget line 481 - grants to non-governmental organizations totaling RSD 11.5 billion. The total funds paid to associations and other civil society organizations from the budget line 481 from the level of AP Vojvodina and local self-government units amount to RSD 26.7 billion.

The results of the analysis of data on procedures and amounts of allocations<sup>28</sup> presented in the annual summary reports prepared by the Office for Cooperation with Civil Society, indicate the constant need to improve and unify the practice of public administration bodies, primarily in terms of improving the criteria and procedures for granting financial and non-financial support to associations and other CSOs.

Data from the survey "Civil Society Sector in 2019" show that most of the CSO proposals are related to funding: most of the surveyed organizations believe that the state should allocate funds in a transparent manner (68%), and that there is a need to establish a fund from which funds equal to those provided by the European Union would be allocated (44%). One third of organizations (34%) propose tax breaks for companies that finance their work, while 33% propose tax breaks for citizens/individuals who donate money to these organizations.

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<sup>26</sup> Source: Draft Summary Report on the Expenditure of CSO Funds for 2017.

<sup>27</sup> Law on the Final Account of the Budget of the Republic of Serbia for 2019, ("Official Gazette of the RS", No. 149/20)

<sup>28</sup> <https://www.minlmpdd.gov.rs/civilno-drustvo.php>



According to the research "CSO Sustainability Index" for 2019 and 2020, financial sustainability was at the same level in 2019 and 2020, with a score of 4.4, which is within the category of "sustainability in development". State funding of the civil sector in 2020 was reduced due to the COVID-19 pandemic, but donor and philanthropist funding was increased.

The European Commission's Progress Report for 2021 states, among other things, that efforts are needed to ensure "systemic cooperation" between the Government and civil society, and that a favorable environment for the development and financing of civil society needs to be established on the ground.

The joint program of the EU and the Council of Europe ReLOAD, implemented in Serbia by UNDP in cooperation with several state administration bodies and civil society organizations, is intended to strengthen the cooperation between CSOs and local self-governments by establishing transparent funding mechanisms, improving CSO participation in adopting public policies and providing better services to the citizens. The model applied in the municipalities involved in this program can serve as a solid basis for the promotion of good local practice in this area.

### **5.2.2. Transparent funding and sustainability of civil society organizations**

In regards to the legal regime and the practice of public funding of CSOs, the following was noted:

a) *Insufficient connection with sectoral plans and policies and inadequate long-term and strategic planning of CSO support.* Public funding of CSOs is not sufficient in the function of implementing national strategies and sectoral policies. Consequently, there is an absence of long-term plans for financing CSOs from the budget, in line with the priorities and objectives of the strategic documents. This is indicated by the available data on the duration of the program and project cycle. According to data from several Summary Reports, most projects lasted between 6 and 12 months, while rare projects lasted more than 12 months. Instead of the current line budget planning, and in accordance with the strategic directions of public administration reform, the program budget, which connects the budget process with strategic planning and implementation of established public policies, was introduced in 2015 as mandatory for all public administration bodies instead of the then existing line budget planning, which means that users of budget funds propose priority areas of funding for the following three years. The requirements of program budgeting towards budget users also refer to the provision of information on their programs, activities, goals and indicators, and decisions on the allocation of budget funds are made accordingly. This set the legal basis for planning in accordance with the established sectoral plans and priorities within them, and thus for a meaningful evaluation of results. It should be noted that the establishment of the Republic Secretariat for Public Policies (RSJP) filled the institutional gap at the republic level and created a basis for coordination of public policies and their harmonization with the budget framework, in the direction of creating the first integrated planning and budget system in Serbia. Practice, however, shows that consistent implementation of the requirements of program budgeting and of linking this process with relevant public policy documents is needed

when designing programs and projects of public interest. This problem is particularly noticeable at the local level of government, and a strategic approach to defining the priorities of public tenders is necessary.

b) *Budget line 481*. Contrary to expectations, the transition to program budgeting did not solve the identified problems in line 481. - Grants to non-governmental organizations, it is not clear for which CSO projects and programs funds are allocated to budget users from that line. As associations, endowments, foundations, religious organizations, professional sports clubs, political parties and national communities are on the same line, it is not possible to determine exactly which public policies are financed from line 481. In order to facilitate the monitoring of allocations to CSOs, it is necessary to reclassify budget line 481, so that grants to associations, endowments and foundations would be separated from grants to political parties, religious communities, ethnic communities and all those whose financing is regulated by special regulations.

The unbundling process agreed with the Ministry of Finance would allow for transparent monitoring of the program budget and the effects of funding CSOs on all public policies. In the second step from the analysis of the reclassified line 481, indicators for more efficient and comprehensive participation of CSOs in public policies can be determined.

c) *Lack of consistent and comparable data on CSO funding*. In the period 2011-2017, OCCS regularly collected, processed and published data on budget allocations for CSOs in their Summary Reports. However, the last Draft of the Summary Report was prepared for 2017. Insufficient data is an aggravating factor for assessing the situation in the field of CSO funding, and thus for assessing the necessary measures that need to be implemented in order to more transparently fund the CSOs from the budget. It is necessary to prepare annual Summary Reports with recommendations for improving the system of transparent funding, to continuously raise the quality of data in them, until the data are comparable and consistent.

Monitoring the implementation of the Regulation on Funds for Programme Promotion or the Lacking Funds for Programmes in Public Interest Implemented by Associations (Regulation) is envisaged in the Revised Action Plan for Chapter 23, within the group of activities representing the operationalization of the Screening Report recommendation "Ensure the involvement of civil society in the anti-corruption program."<sup>29</sup> Activity 2.2.11.2. envisages further improvement of the system of transparent financing of civil society organizations through: monitoring the implementation of the Regulation and strengthening the capacity of employees in public administration. Further improvement of the system of transparent financing of CSOs is monitored through the data from the Summary Report, which is also an indicator of the success of the implementation of this activity.

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<sup>29</sup> Where the Republic of Serbia has made progress in implementing the recommendations from the Screening Report, transitional measures have been obtained, which represents the next phase and confirmation of progress in a particular area. In the area of ensuring the involvement of civil society in the anti-corruption program, and in the Revised AP for PG 23, this requirement remains in the form of a recommendation from the Screening Report (2014) and not in the form of a transitional benchmark, which is a clear indication progress made.

In order to generally improve the incentive framework for transparent financing of CSOs, it is necessary to consistently implement the recommendations of the Summary Reports and strictly monitor their implementation. Recommendations refer to compliance with the procedure and criteria for financing civil society organizations defined by the Law on Associations and the Decree, adoption or harmonization of acts within the competence of national level bodies on financing associations and other CSOs, taking as an example good practice solutions from the Decree and regulating the financing of the CSOs with provincial and LGU acts, in order to ensure uniformity of the allocation process, more transparent spending of funds from the budget, improvement of tender documents, development of criteria and guidelines for providing non-financial support to CSOs with consistent and transparent implementation, preparing a document that will clarify procedures and recommendations for CSO involvement in the work of the Commissions and of expert bodies for evaluating the received applications, and prescribing instructions and recommendations for their work in project evaluation, improving the structure, ensuring monitoring of the implementation of supported programs/projects through monitoring of field visits, providing evaluation of success, quality and the degree of achieving the goals of supported programs and projects, the content and manner of publishing the final reports of implemented programs/projects and their regular publication in accordance with the Regulation, publication and information on the results of the competition.

d) *Insufficiently developed capacities of public administration bodies.* Baseline identified that the capacities of public administration in terms of the number and training of employees in public administration bodies on the legal framework for financing CSOs and their proper implementation should be further improved. Observed shortcomings in the regime and practice of budget financing of CSOs indicate the need to further strengthen the capacity of public administration in this area, within the overall strengthening of public administration capacity.

It is necessary to continuously raise the capacity of public administration bodies (primarily through trainings at the National Academy of Public Administration), in order to acquaint them with the importance and possible mechanisms of cooperation with civil society organizations, but also in terms of transparent funding of organizations, better understanding and implementation of regulations, application of procedures for transparent allocation of budget funds, development of tender procedures, tender documentation and evaluation of supported programs/projects and use of results for further planning of CSO support;

The baseline for drafting this document identified the need to ensure greater coordination of the work of public administration bodies in terms of defining the area of financing and the dynamics of announcing the competition for the allocation of funds to CSOs. Also, it was found that the practice of consulting with CSOs when planning the competition criteria is not sufficiently developed, so the priorities and objectives of the competition do not sufficiently follow the needs of the local community. It is therefore necessary to ensure coordination of the work of state administration bodies in terms of funding and the dynamics of announcing tenders for the allocation of CSO funds. Regular consultations with the civil sector are needed so that the priorities and objectives of the competition are related to the original needs of citizens and the relevant strategic framework. In particular, it is necessary to improve the coordination of

allocation and planning of funds from national sources and donor funds, including funds from EU funds intended for financing CSOs.

e) *Insufficiently developed practice of co-financing programs and projects of budget co-financing from pre-accession funds and programs of the European Union or funds of other international donors.* According to the data from the Annual Summary Reports (for 2015 and 2017), co-financing of projects is still poorly represented. In 2015, only 40 projects were co-financed, of which the largest number of projects was co-financed by the Office for Cooperation with Civil Society (17 projects) and the City of Belgrade (11 projects). In 2017, 153 projects were co-financed. However, the value of co-financing is almost 30 times higher than a year earlier (2016: 31). In addition to the Office for Cooperation with Civil Society (14 projects), which co-financed projects in previous years, in 2017 the Ministry of Youth and Sports co-financed 74 projects, and the Ministry of Economy one project. The Provincial Secretariat for Finance co-financed 19 projects. The number of local self-government units co-financing projects has increased from four to seven. In 17 cases, the co-financier of the project was another government body - the Ministry of Labor, Employment, Veteran and Social Affairs. These data suggest that it is necessary to improve coordination between public administration bodies, civil society and other donors in the process of planning the financing of CSO programs and projects. In particular, it is necessary to encourage budget co-financing of CSOs in order to make the most successful use of EU pre-accession funds and available European Union programs.

f) *Law on Games of Chance.* The law stipulates that part of the funds, which is the revenue of the budget of the Republic of Serbia in the amount of 40%, is used to finance the Red Cross of the Republic of Serbia, organizations of persons with disabilities and other associations aimed at improving the socio-economic and social position of persons with disabilities and other persons in the state of social needs, institutions for social protection, sports and youth, local self-government and treatment of rare diseases. Following the good comparative practice (Kingdom of Great Britain, Republic of Croatia), amendments to the Law, as well as the adoption of appropriate bylaws, should enable a smaller part of these funds to be used to finance other programs of public interest implemented by CSOs in the sense of this Strategy (not only associations), in accordance with the provisions of the Law on Associations, the Law on Endowments and Foundations and the Regulation on Funds for Incentive Programs or a Missing Part of Funding for Program of Public Interest implemented by Associations. These changes would contribute to greater financial sustainability of other CSOs acting in the public interest, and would also encourage greater competition of their programs and projects, while ensuring that the changes do not have detrimental consequences for organizations of persons with disabilities and other associations that strive to improve the socio-economic and social position of persons with disabilities and other persons in a state of social need.

g) *Irregularities (or possible misuse) of public funds.* In the previous two decades, CSOs have repeatedly reported irregularities in the evaluation of tender applications and the distribution of funds from the budget of the Republic of Serbia through public tenders. However, such allegations did not receive an adequate legal response in the previous period. An adequate legal

response from the competent institutions to such allegations by CSOs is needed, not only to build mutual trust, but also to prevent potential abuses in the future.

Given these challenges, it is necessary to identify ways to improve the overall legal framework and the CSO funding practices through:

- Conducting an analysis of the legal framework for transparent financing of CSOs and amending the relevant regulations in accordance with its conclusions. The analysis should include the application and effects of the Regulation on Funds for Programme Promotion or the Lacking Funds for Programmes in Public Interest Implemented by Associations;
- Conducting an analysis of the legal framework for the sustainability of CSOs and amending the relevant regulations in accordance with the conclusions of the analysis;
- Reviewing the possibility of simplifying the procedure of public funding of CSOs, especially from the point of view of LGU acting.
- Establishing a strategic approach when defining the priorities of public tenders, especially at the level of LGUs, so that public funding of CSOs is more in the function of implementing national strategies and sectoral policies;
- Introduction in the practice of public administration bodies of regular and timely consultations with CSOs when planning priority activities as well as competition criteria, including the strategic approach of consulting with CSOs when defining the priorities of public competitions;
- Reclassification of budget line 481 in order to facilitate the monitoring of allocations for CSOs, so that grants to associations, endowments and foundations are separated from grants to political parties, religious communities, ethnic communities and all whose funding is regulated by special regulations. After reclassification of budget line 481, developing a multi-year financing plan for CSOs, as the purpose of reclassification is measurable and improved participation of CSOs in the creation, analysis and implementation of all public policies, based on planning documents, and considering increasing grants for CSOs, in accordance with the plan. The plan envisages, in addition to funds for CSO projects and programs, the allocation of a certain percentage of funds to improve the sustainability of CSOs;
- Regular collection of data on public funding of CSOs and ensuring quality preparation and regular publication of Annual Summary Reports with recommendations. Consistently implement these recommendations, analyze the observed difficulties in drafting reports, and constantly improve the quality of reporting, until the data are comparable and consistent;
- Improving the practice of reporting of public bodies to the Ministry of Human and Minority Rights and Social Dialogue on the allocation of funds to CSOs, through an electronic application, in order to enable comprehensive annual reports on all issues relevant to this area and improve technical solutions in the application;
- Adapting the existing ECalendar to support the collection and publication of data on planned and approved funds for CSOs;

- Improving the practice of publishing financial plans and reports of state administration bodies within their official websites in accordance with the provisions of the Law on Budget System, in order to provide transparent insight into planned and approved funds for CSOs and to ensure greater publicity of the CSO allocation planning process during preparing the budget and the rebalance of the budget, as well as the publicity of data on the performed audit in the part related to these budget programs;
- Ensuring the compliance with the procedure and criteria for financing civil society organizations by public administration bodies, as defined by the Law on Associations, the Law on Endowments and Foundations and the Regulation on Funds for Incentive Programs or a Missing Part of Funding for Program of Public Interest implemented by Associations;
- Adoption or harmonization of acts on financing associations and other CSOs within the competence of republic bodies that finance CSOs on the basis of sectoral regulations, i.e. laws, taking as an example of good practice solutions from the Regulation. It is also necessary that the provincial and local authorities that have not done so, regulate the financing of associations and other CSOs with their acts, in accordance with the Law and the principles of the Regulation;
- Development of criteria and guidelines for providing non-financial support to civil society organizations and their consistent transparent implementation;
- Ensuring greater participation of independent experts in the commissions for evaluation of projects in competitions, based on clear criteria and procedure for selecting experts, while ensuring the prevention of conflicts of interest, and in accordance with the possibility provided by the Regulation. In that sense, it is necessary to prepare a document that will clarify the procedures and recommendations for involving CSOs in the work of Commissions and expert bodies for evaluation of received applications and prescribe instructions and recommendations for their work during project evaluation;
- Regular publication of final reports of implemented programs/projects financed from the state budget, in accordance with the Regulation, and improvement of the structure and content of reports, as well as the manner of publication in accordance with best practices;
- Ensuring timely announcement of public competitions, so that participants have enough time to implement activities, and the body has enough time to conduct the entire procedure, including deciding on appeals;
- Improving the tender documentation/tender allocation procedures in order to acquaint potential beneficiaries in time with the conditions and procedure of the tender, as well as the criteria on the basis of which the received applications will be scored. It is necessary that the procedures for allocating funds provide for weighted criteria for the evaluation of received applications and the entire tender documentation. Unify the forms of tender documentation and documentation for reporting on the implementation and expenditure of approved funds among the bodies. Publish the conditions and obligations for the implementation and reporting on the

implementation of approved programs and projects, so that interested organizations have an insight into the entire process of the competition cycle before submitting their applications;

- Encouraging CSO networking by inviting CSOs to apply for partnership in the competition criteria, in order to encourage their interconnection, especially association of those associations operating within the same field of activity, thus ensuring greater impact of implemented programs/projects and more rational spending. In this regard, it is necessary to analyze the expediency of the practice of granting financial support to a number of projects with extremely small insufficient amounts of funds, and thus reach and impact, which reduces the possibility of regular monitoring and evaluation of approved programs/projects. valuable projects;

- Ensuring monitoring of the implementation of supported programs/projects through monitoring field visits whenever possible, and not only in the case where such an obligation is provided by the Regulation, in order to create opportunities to timely correct obstacles to implementation, and thus prevent possible misuse of funds, so as to ensure the most successful implementation of projects and achievement of set goals. In accordance with the Regulation, formulate recommendations for the beneficiary, and inform them in a timely manner about the findings of the monitoring visit;

- Ensuring evaluation of the success, quality and degree of achievement of the objectives of supported programs and projects, with the engagement of experts in the field, as well as spending of funds, informing the fund beneficiaries on the evaluation, in accordance with the Regulation, and publishing evaluation findings;

- Consideration of the reasons for large inequalities in the scope of planning funds for CSOs in local government budgets and through the instructions of the Ministry of Finance for budget preparation, to indicate opportunities for improvement; Promoting best practices in planning and implementing projects and programs in the public interest in cooperation with CSOs and SCTM;

- Organizing an Info Day at the beginning of each year for associations and other civil society organizations, where all support providers will present competitions/procedures for allocating funds to potential beneficiaries;

- Extensive promotion of the Guide for transparent financing of associations and other civil society organizations from local government budgets, through the training of LGU employees, in order to better understand and more successfully implement regulations governing the field of funding of CSOs;

- Increasing professionalism and responsibility in competent institutions in conducting public tenders for financing the CSOs and ensuring adequate response of competent institutions to allegations of CSOs about irregularities and abuses related to public tenders for financing CSOs;

- Continuous capacity building of public administration bodies at all levels, primarily through training at the National Academy of Public Administration, in terms of transparent financing of organizations, better understanding and application of regulations and implementation of

transparent budget allocation procedures, development of tender procedures, tender documentation and evaluation of supported programs/projects and use of results for further planning of CSO support;

- Continuous implementation of training for CSOs regarding transparent management of allocated funds.
- Improving coordination between public administration bodies, civil society and donors in the process of planning the financing of CSO programs and projects.
- Encouraging budget co-financing of CSOs in order to make the most successful use of funds from EU pre-accession funds and available European Union programs.
- Establishment of a permanent mixed working group at the level of LGUs composed of relevant representatives of LGUs and local CSOs to finance areas of public interest.

### 5.3. THE ROLE OF CIVIL SOCIETY ORGANIZATIONS IN SOCIO-ECONOMIC DEVELOPMENT

#### 5.3.1. Social Protection

The Republic of Serbia is a state based on the constitutional principle of social justice and guarantees of providing the highest standards of social protection to all citizens, in accordance with the assumed international obligations. In regard to international human rights standards, they are defined by the instruments of the United Nations and the Council of Europe and provide for the right to equal treatment of citizens, including rights in the field of social protection. The revised European Social Charter establishes the right to social assistance (Article 13) and the right to protection against poverty and social exclusion (Article 30)<sup>30</sup>. The European Pillar of Social Rights from 2017 determines that everyone does not have sufficient funds for the right to benefits in the form of an adequate minimum income that enables a dignified life at all ages, as well as effective access to goods and services (Principle No. 14 - Minimum Income).

It is important to mention the UN Agenda for Sustainable Development 2030, which is founded on a human rights-based approach, instead of the current prevailing needs-based approach<sup>31</sup>. In its Concluding Observations on the Second Periodic Report of Serbia<sup>32</sup>, the UN Committee on Economic, Social and Cultural Rights recommends that Serbia take into account the

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<sup>30</sup> Law on Ratification of the Revised European Charter, [http://ravnopravnost.gov.rs/wp-content/uploads/2012/11/images\\_files\\_Revidirana%20Evropska%20socijalna%20povelja%20SE.pdf](http://ravnopravnost.gov.rs/wp-content/uploads/2012/11/images_files_Revidirana%20Evropska%20socijalna%20povelja%20SE.pdf)

<sup>31</sup> The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding among UN Agencies, <http://hrbportal.org/the-human-rights-based-approach-to-development-cooperation-towards-a-common-understanding-among-un-agencies>

<sup>32</sup> Committee on Economic, Social and Cultural Rights, Concluding Observations on the Second Periodic Report of Serbia, [http://www.ljudskaprava.gov.rs/sites/default/files/dokument\\_file/e\\_c-12\\_srb\\_co\\_2\\_17290\\_e\\_clean1.doc](http://www.ljudskaprava.gov.rs/sites/default/files/dokument_file/e_c-12_srb_co_2_17290_e_clean1.doc)



conceptual and methodological framework of human rights indicators<sup>33</sup> developed by the Office of the United Nations High Representative for Human Rights.

Based on the recommendations of the UN Universal Periodic Review received by the Republic of Serbia, which included the establishment of a national mechanism for monitoring the implementation of UN human rights recommendations, Council for Monitoring the Implementation of UN Human Rights Recommendations was established on December 19, 2014 as an advisory body to the Government of the Republic of Serbia with the task to consider and monitor the implementation of recommendations received by the Republic of Serbia in the process of UPR UN Human Rights Council, then the recommendations of UN treaty bodies, as well as to propose measures to implement the recommendations, to give opinions on human rights progress in the reporting period, and to provide expert explanations on the human rights situation and the results achieved through the implementation of the recommendations.

12 members from various departments have been appointed to the Council, whose mandate is to implement the recommendations. The work of the Council is chaired by the Minister for Human and Minority Rights and Social Dialogue, and the Ministry provides administrative, technical and professional support to the work of the Council.

Representatives of civil society organizations also participate in the work of the Council, either as representatives of the Platform of Organizations for Cooperation with UN Mechanisms for Human Rights or as representatives of other organizations that are not members of the Platform. Amendments to the Rules of Procedure from September 2021 more closely regulate the position and role of CSOs in the work of the Council, with special provision that the Platform may appoint permanent representatives to the Council, without affecting the right of organizations that make the Platform to attend and participate in Council sessions.

So far, good cooperation with CSOs has been achieved in the work of the Council, and their contribution to the development of indicators for the implementation of recommendations is significant, especially with regard to the implementation of the Convention on the Rights of the Child. During 2021, the work of the Council was intensified and proved to be the right place for CSO initiatives; based on such an initiative to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, presented to the Council, the Ministry began preparations for ratification and proposed ratification of this protocol in the Work Plan of the Government of the Republic of Serbia for 2022. In addition, CSOs took part in the work of thematic groups of the Council, whose task is to provide expert support to the work of the Council in certain issues. At the proposal of CSOs, thematic sessions of the Council will be organized on issues that are important for improving the human rights situation in a particular area.

In regard to the national normative framework, the *Constitution of the Republic of Serbia* (Article 69) stipulates that citizens and families who need social assistance in order to

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<sup>33</sup> United Nations, Human Rights Office of the High Commissioner, [https://www.ohchr.org/Documents/Publications/Human\\_rights\\_indicators\\_en.pdf](https://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf)

overcome social and life difficulties and create conditions for meeting basic living needs have the right to social protection.

Although the Social Protection Reform Strategy from 2005 has expired, it is important to list the basic components of the social policy reform that it has defined: deinstitutionalization, decentralization and democratization of social protection services. Pluralism of social protection services was introduced, which enabled the development of services provided in the community or in the immediate environment of the beneficiaries. Responsibility for providing social protection is decentralized and shared between central, provincial and local governments. Pluralism of service providers was introduced, which enables the inclusion of non-governmental organizations as providers. A quality system based on the standardization of social protection services, a supervision system, accreditation of training programs intended for professional development of employees, accreditation of service delivery programs and professional support has also been developed.

In accordance with the strategic goals, the *Law on Social Protection*<sup>34</sup> from 2011, prescribes in Article 3 that one of the goals of social protection is to ensure the availability of services and the exercise of rights in social protection. The Law on Social Protection regulates cooperation with CSOs through cooperation agreements (Article 7), then prescribes that activities in the field of social protection, i.e. individual social protection services may be provided by an association, entrepreneur, company and other form of organization determined by law (Article 17), and regulates professional networking (Article 118) by prescribing that social protection institutions and other providers of social protection services may associate in associations, in order to achieve common professional interests and improve social protection services (in accordance with the regulations on associations).

The law separates the roles of the service purchaser from the role of the service provider, because the Center for Social Work, apart from the assessment and planning service, can provide other services only within its special organizational unit and only if there is no other authorized social service provider in the local community. The law provides an opportunity for CSOs to receive the status of authorized social protection service providers granted by the Republic of Serbia and local self-government, if they have a license to provide services and conclude a contract with the procuring entity within the public procurement procedure. In order to achieve minimum standards for all service providers and equalize the quality of professional work, the Law introduces licensing of professional workers, licensing of service providers, establishment of the Chamber of Social Protection and redefining control and regulatory mechanisms (such as inspection, supervision of work and supervising support).

The *Regulation on designated transfers*<sup>35</sup> regulates the amount of designated transfer for financing social protection services, criteria for its distribution by individual local self-government units, criteria for local self-government participation and dynamics of funds transfer, as well as social protection services of special importance for the Republic of Serbia. In 2021, the amount for designated transfers, which provide support to the LGUs and help

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<sup>34</sup> “Official Gazette of RS”, No. 24/2011

<sup>35</sup> “Official Gazette of RS”, No. 16/16

providers of social protection services at the local level, was reduced by RSD 200 million compared to previous years. A total of RSD 556 million from the budget of the Republic of Serbia has been allocated for designated transfers this year, while in previous years that amount was around RSD 700 million. It is important to mention the *Regulation on measures of social inclusion of beneficiaries of financial social assistance*<sup>36</sup>, which defines the forms of activation of beneficiaries of financial social assistance, such as inclusion in the process of formal and informal education, employment, treatment and community service. A number of civil society organizations have submitted an initiative to assess the constitutionality of this decree.

Through financial support to project activities, the Ministry of Labor, Employment, Veteran and Social Affairs provides support to CSOs in the implementation of innovative social protection services, as well as for the establishment and development of existing social protection services at the local level. At the national and provincial levels, social welfare institutions provide various types of support to strengthen the capacity of service providers (including CSOs) in the licensing process, by organizing trainings, publishing publications and instructions and providing online counseling.

The Republic Institute for Social Protection conducted research<sup>37</sup> on the accreditation process in the period from 2008 to 2018, the results of which are available on the website of the Institute<sup>38</sup>. This research contains 18 recommendations for improving the accreditation process, which relate, *inter alia*, to improving the normative framework for accreditation and licensing, expanding the scope of quality control, implementing the legal obligation to plan professional training and providing funds for training in the annual training plan.

In 2016, the Government of the Republic of Serbia adopted the "*Employment and Social Reform Programme*" - *ESRP*, which defines a strategic approach to identifying and monitoring priorities in the field of employment and social policy. This strategic process will follow the process of European integration in the Republic of Serbia as the main mechanism for dialogue on priorities in the field of social policy and employment in the EU accession process. The program recognizes the need to adopt a new social protection strategy at the national level, and identifies CSOs as important actors in the social protection process representing the interests of particularly vulnerable groups. The Government of the Republic of Serbia publishes annual reports on the implementation of the Programme. The Strategic Document in the field of social protection should support the fulfillment of sustainable development goals in the Republic of Serbia, in accordance with the Agenda for Sustainable Development 2030 that Serbia is a signatory. Agenda 2030 has 17 goals of sustainable development, among which the following are particularly important for defining reforms in the field of social protection: world without poverty, world without hunger, gender equality and combatting violence, employment, reducing inequality, better governance.

*The Action Plan for Chapter 23 "Justice and Fundamental Rights"* provides for a number of activities to improve the social protection system for children and persons with disabilities.

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<sup>36</sup> "Official Gazette of RS", No. 112/2014

<sup>37</sup> Report on the results of the evaluation of the accreditation process in the period from 2008 to 2018

<sup>38</sup> <http://www.zavodsz.gov.rs/sr/biblioteka/analize-i-istra%C5%BEivanja/>

However, a significant part of these activities is (was) implemented with the support of international partners, most often UNICEF, and with the finalization of the project, the implementation of activities has stopped. This situation indicates the need to ensure the sustainability of various social protection services as well as adequate budgeting by the competent institutions.

*The Action Plan for Chapter 19 "Social Policy and Employment"* envisages numerous activities towards creating equal opportunities for all, prohibition of discrimination on any grounds and strengthening social dialogue, achieving a unified and fair access to basic social services, improving the social protection system, labor with higher education, high employment rates with special care for groups that are less present in the labor market, achieving secure and sustainable incomes, as well as decent working conditions for women and men. It is divided into seven parts, according to the areas that make it up, i.e. according to individual regulations of the European Union. A revision of the Action Plan for Chapter 19 is expected in 2022, and it will include everything that has been done under the current Action Plan.

*The new Strategy for Gender Equality for the period 2021 - 2030* was adopted at the session of the Government on October 14, 2021. This Strategy achieves the construction of a culture of gender equality and overcoming gender stereotypes, gender sensitization of public policies, strategies and laws, continuous work on the implementation of gender responsive budgeting at national and provincial, and especially local level, capacity building of mechanisms for gender equality, coordination, especially vertical coordination, cooperation of institutions and organizations of civil society and coordination of activities, international and regional cooperation on gender equality issues. The strategy includes separation from sectoral policies and targeting in areas not yet targeted by gender equality strategy papers (development, green and circular economy, environmental protection, climate change, access to energy and energy efficiency, access to property, financial markets, digital technologies, etc.). Systematic and comprehensive inclusion of all vulnerable groups (in addition to the groups identified as vulnerable so far, to other vulnerable groups, such as the homeless, poor, etc.) and gender equality mainstreaming in public policies (laws, planning documents) relating to emergencies.

*The New Strategy for Prevention and Protection against Discrimination for the period 2022 - 2030* ("Official Gazette of RS", No. 12/22), was adopted at the Government session in January 2022. The Strategy is fully in line with the amendments to the Law on Prohibition of Discrimination, which were adopted in May 2021. The general goal of the Strategy is to equalize opportunities for members of groups at risk of discrimination to enjoy all human rights and freedoms on an equal basis with others, as well as to improve the efficiency of the system of prevention and protection against discrimination in all areas and at all levels. In addition to the general goal, four individual goals of the Strategy are defined: 1. harmonization of national legislation with international anti-discrimination standards and practices, 2. systematic introduction of anti-discrimination perspective in the creation, implementation and monitoring of public policies, 3. promotion of equality and greater social inclusion of members of groups at risk of discrimination and 4. improvement of the system of prevention and protection against discrimination.

The *Strategy for Social Inclusion of Roma Men and Women in the Republic of Serbia for the period 2022 - 2030* is in its final phase of development, and the adoption is expected in the first quarter of 2022. This document represents the extension of the existing Strategy in accordance with the new European framework and the Poznan Declaration, the terms anti-Gypsyism, segregation, housing discrimination, shorter life expectancy of Roma have been introduced. The revised Strategy envisages the inclusion of Roma from the design to the implementation of the measures of this Strategy.

The *New Social Protection Strategy and amendments to the Law on Social Protection* are still in the process of being drafted. In 2020, *ex post* analyzes of the current Law on Social Protection were carried out, as well as *ex post* analyzes of the previous Social Protection Strategy. An *ex ante* analysis of the Social Protection Strategy is being prepared. The analysis of the Draft Social Protection Strategy (Sekulović, 2019) states that no institution in the Republic of Serbia conducts a systematic and proactive assessment of the population's need for social protection services at the national level, i.e. at the level of local self-government units.

The Ministry of Labor, Employment, Veteran and Social Affairs has drafted a Strategy for Deinstitutionalization and Development of Community Social Protection Services 2021-2026. The Strategy for the deinstitutionalization in social protection is being adopted for the first time. This strategic document should contribute to the improvement of the social protection system through a harmonized system of measures, conditions and public policy instruments that the Republic of Serbia should implement in order to prevent institutionalization, i.e. to reduce the number of citizens using institution services and to enable development of community services that will contribute to the users of the social protection system who need more intensive support meeting most of their needs in their natural environment. It is primarily aimed at people with intellectual and mental disabilities, who are at the greatest risk of institutionalization and social exclusion. The UN Committee on the Rights of Persons with Disabilities also cites the need to adopt a deinstitutionalization strategy: *The Committee is particularly concerned that a large number of persons remained in the institutions and that insufficient efforts were made to provide funds for the development of support services, in particular personal assistant services in local communities, for those leaving the institutions. The Committee is also concerned that funds are still being invested in the renovation or expansion of institutions, while many obstacles to the initiatives of organizations of persons with disabilities, including the overly complicated licensing process, persist.*<sup>39</sup>

The total number of licenses issued for services that prevent institutionalization and support independent living such as: living room, home assistance, shelter, personal companion, personal assistant, drop in shelter, SOS telephone, supported housing, respite accommodation is 323 (data from October 2021), which is an increase of 34 compared to April 2021 (289). This number is constantly growing, that is, it has a positive trend from the very beginning of the licensing process. It is a continuous process. These services are provided by the local self-government, and the Republic of Serbia supports them by financing through designated

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<sup>39</sup> Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of Serbia [http://www.ljudskaprava.gov.rs/sites/default/files/dokument\\_file/zakljucna\\_zapazanja\\_komiteta\\_za\\_prava\\_osoba\\_sa\\_invaliditetom\\_srb.pdf](http://www.ljudskaprava.gov.rs/sites/default/files/dokument_file/zakljucna_zapazanja_komiteta_za_prava_osoba_sa_invaliditetom_srb.pdf)

transfers. A list of all licensed social security providers is publicly available on the Ministry's website. During 2020, a total of 62 day-care centers provided services for children, adults and the elderly with intellectual disabilities, with a total capacity of 1,469 users. During 2020, the service was used by 1,613 users: 279 children, 372 young people, 926 adults and 36 older users.

Given the COVID-19 epidemic, it is important to mention the fact that some vulnerable groups have found themselves in an additionally difficult position in terms of access to social and/or health care services<sup>40</sup>. Thus, for example, people with disabilities found themselves at a disadvantage, which in turn increased deprivation during high-risk situations such as epidemics. The World Health Organization points out that the rights of people living with HIV and access to health care further deteriorated during the COVID-19 epidemic, as regular access to doctors and testing was not provided<sup>41</sup>. Similarly, the situation of drug users was further aggravated, especially in terms of access to therapy. Also, LGBTI+ persons found themselves at a disadvantage during the epidemic, due to limited access to various support services. To address the needs of people with disabilities during the COVID-19 epidemic, the UN is proposing a set of communication and information measures, such as informing the public in sign language, in accessible formats and formats including digital technology, subtitling, text messaging, user friendly simple language and the like<sup>42</sup>, where CSOs can be of great help to the state. Then, having in mind the epidemiological situation, the UN<sup>43</sup> proposes that states "adequately respond to multiple and intersectoral forms of discrimination and recognize all the negative effects of the COVID-19 pandemic on LGBTI+ people, and include them in creating recovery measures."

This review indicates the need to establish, or improve, the normative framework (strategies, laws and bylaws). Further, the need to conduct a systematic and proactive assessment of the needs of the population for social protection services, in order to adequately plan and budget such services is indicated.

Although the introduction of CSOs as providers of social protection services should contribute to an increased scope of services, improving practices through mutual data exchange, their higher quality and cost reduction, greater participation of CSOs in social protection planning at the local level, establishing a clear function of monitoring, supervision and evaluation of services by state bodies is of key importance for efficient provision of these services. At the same time, it is necessary to use the expertise of CSOs working with vulnerable and multiple marginalized groups, in order to improve the application of international standards in practice through training of employees in public social welfare institutions. Given the importance of

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<sup>40</sup> Consequences of COVID-19 on the position of vulnerable and at-risk groups, causes, outcomes and recommendations, Social Inclusion and Poverty Reduction Team, 2020

<sup>41</sup> World Health Organization, Press Release: Access to HIV Treatments Severely Endangered by Response to COVID-19

<sup>42</sup> Catalina Devandes, UN Special Rapporteur on the Rights of Persons with Disabilities, COVID-19: Who is protecting people with disabilities? March 17, 2020

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25725>

<sup>43</sup> UN Independent Expert on Protection from Violence and Discrimination Based on Sexual Orientation and Gender Identity - Victor Madrigal-Borloz, *ASPIRE Guidelines on COVID-19 response and recovery free from violence and discrimination based on sexual orientation and gender identity*, June 2020

evaluating the services for improving the regulations and the quality of social protection services, it would be important to envisage the possibility of involving CSOs in evaluating the services provided at the local level, which would support the competent state authorities in evaluating local services. In that sense, it is necessary to separate the role of the customer from the service provider. The existence of the possibility of providing social protection services by the centers for social work disrupts the established roles and prevents the development of other organizations for the provision of social protection services in the local environment. Strengthening the capacity of social work centers for assessment and planning, while leaving the role of service provider to other organizations, would create conditions for the development of local CSOs in the local community. Furthermore, it is evident that social protection services have not yet been sufficiently established, equal territorial representation and sustainability of services have not been achieved. Bearing in mind the priority need for ensuring the sustainability of social protection services and their availability to the users, the mentioned difficulties can be overcome if the CSOs associate in providing the services at the inter-municipal or regional level. Finally, it is of special importance that the civil society is involved in the development and implementation of the 2030 Sustainable Development Strategy of the Republic of Serbia, as well as to participate in the thematic Social Dialogue on 2030 Sustainable Development of the Republic of Serbia. At the same time, in order to adequately respond to the COVID-19 epidemic, it is necessary to develop an institutional space and platform for civil society, with the aim of joint decision-making on the consequences of the COVID-19 epidemic on human rights, human life and health, mental health and all challenges, which will be the basis for new inequalities, poverty and unemployment in the changed economic conditions.

Having in mind all the above, it is necessary to continue improving the role of CSOs in the social protection system in the forthcoming period through:

- Adoption of a strategic framework in the field of social protection, which is in line with international standards and takes into account the previous experience of CSOs as service providers;
- Adoption of a strategic framework in the field of deinstitutionalization, which would have a wider coverage of CSOs as a significant actor in the system;
- Adoption of the normative framework in the field of social protection in accordance with the new strategic document, including accompanying bylaws;
- Involvement of CSOs in the process of monitoring the implementation of strategic documents in the field of social protection and deinstitutionalization, including in particular cooperation with the Convention;
- Involvement of civil society in the development and implementation of the 2030 Sustainable Development Strategy of the Republic of Serbia, as well as accompanying documents and participation in the thematic Social Dialogue on 2030 Sustainable Development of the Republic of Serbia;

- Ensuring the sustainability of services provided by CSOs and the development of innovative services;
- In cooperation with CSOs, ensure the financial sustainability of services/programs after the expiration of projects funded by international donors, so that the vulnerable groups involved can have access to these services;
- CSOs conducting training of employees in the social protection system on working with particular vulnerable groups;
- Improving the quality control of social protection services of all providers;

The expanded role of CSOs as service providers in areas where they have expertise in working with vulnerable groups (addicts, LGBTI+ persons, victims of domestic violence, the elderly) should also be considered and can significantly contribute to supporting these groups.

It is also necessary to improve the institutional space and platform for civil society with the aim of joint decision-making on eliminating the consequences of the COVID-19 epidemic on labor rights, human life and health, mental state of the population and all challenges that will be the basis for new inequalities, poverty and unemployment.

### 5.3.2. Social (solidarity) entrepreneurship and the role of civil society organizations

The proposed strategy for creating an enabling environment for the development of civil society in the Republic of Serbia under social, i.e. solidarity entrepreneurship, in the broadest sense, implies the use of innovative practices in selling goods and services on the market, in order to generate income used for achieving a public benefit goal or interest. However, the term "public benefit goal or interest" is not defined in detail, and the available documents refer to members of socially vulnerable groups, which include persons in the social protection system, hard-to-employ unemployed persons in accordance with employment regulations and other difficult to employ persons from particularly vulnerable categories, as well as members of other vulnerable social groups determined by law.

*The Law on Corporate Income Tax* provides for exemption from corporate income tax for these companies, in proportion to the participation of persons with disabilities in the total number of employees. (Article 46)<sup>44</sup>.

As civil society organizations are largely involved in supporting vulnerable groups, it is important to consider the provisions of the Law on Associations in this area. In the case of the *Law on Associations*, an association may be established for the purpose of achieving or promoting any common or general goal or interest, which is not prohibited by the Constitution or the law. Areas that are considered a general goal<sup>45</sup> are specified in the part of the Law which

<sup>44</sup> "Official Gazette of RS", No. 25/01, 80/02, 43/03, 84/04, 18/10, 101/11, 119/12, 47/13, 108/13, 68/14, 142/14, 91/15 – authentic interpretation, 112/15, 113/17, 95/18, 86/19, 153/20 and 118/21.

<sup>45</sup> Programs in the field of social protection, veteran-disability protection, protection of persons with disabilities, social care for children, protection of internally displaced persons from Kosovo and Metohija and refugees, birth



regulates the budget financing of the association's programs. The Association may acquire property from membership fees, domestic and foreign donations, budget funds, passive income and income from private activities, as well as other income in accordance with the law (Article 36). The Association enters only one related economic activity in the Business Register Agency, but it can also directly perform any other related economic activity that is determined in its statute. The Law on Associations allows the possibility for associations to perform economic activity (provided that the economic activity is related to the statutory goals of the association, provided by the statute and smaller scope) but does not define it, and the relevant provisions are in the Law on Corporate Income Tax that treats them as "other legal entities" in the sense of those obliged by law and leaves numerous doubts regarding its application. However, it is necessary to specify the notion of related economic activity in terms of the Law on Associations, as well as the obligation to engage in small-scale economic activity required to achieve the goals of the association, i.e. to determine the conditionality of acquiring social entrepreneur status by a certain registered economic activity.

As social entrepreneurship is conducted through endowments and foundations, the *Law on Endowments and Foundations*<sup>46</sup> is also important for regulating this area. The law stipulates that an endowment may be established for the purpose of achieving private or public benefit goals, while a foundation may be established only for the purpose of achieving public benefit goals. The notion of public benefit goals is explicitly stated in the law<sup>47</sup>.

Issues of tax treatment of various legal forms through which legal entities can engage in social entrepreneurship are regulated by numerous laws (e.g. the Law on Corporate Income Tax, the Law on Property Taxes).

In regard to the regime of public funding of CSOs, it is important to mention the main obstacles identified in the previous period. Regulation on Funds for Incentive Programs or a Missing Part of Funding for the Program of Public Interest implemented by Associations explicitly refers to associations, but not to endowments and foundations, which leads to a restrictive interpretation by public administration bodies, although the public benefit objectives are the same. Furthermore, public funding of CSOs is not sufficiently related to public policy priorities, i.e. it is not related to national strategies, the set strategic goals and sectoral policies. The practice of co-financing programs and projects is insufficiently developed, indicating insufficient

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rate promotion, assistance to the elderly, health care, protection and promotion of human and minority rights, education, science, culture, information, environmental protection, sustainable development, animal protection, consumer protection, fight against corruption, as well as humanitarian programs and other programs in which the association exclusively and directly follows public needs (Article 38 of the Law on Associations)

<sup>46</sup> "Official Gazette of RS", No. 88/10 and 99/11

<sup>47</sup> Activities aimed at promoting and protecting human, civil and minority rights, promoting democratic values, European integration and international understanding, sustainable development, regional development, gender equality, improving social and health care, promotion and improvement of culture and public information, promotion and popularization of science, education, arts and amateur sports, promotion of persons with disabilities, care for children and youth, assistance to the elderly, environmental protection, fight against corruption, consumer protection, animal welfare, humanitarian and other activities by which endowments and foundations achieve public benefit goals or interests

mutual coordination of public administration and/or other donors in the process of planning CSO projects.

The *Action Plan for PG23* envisages the establishment of a legislative framework in the field of social entrepreneurship that will increase work activation of able to work persons in the social protection system, of hard-to-employ unemployed persons in accordance with employment regulations (including Roma) and of other hard-to-employ persons from particularly sensitive categories, in accordance with the best practices of the European Union (activity 3.6.2.26). Thus, AP23 also speaks of a broader category of persons to whom the pursuit of public benefit goals would apply.

A *Working Group for drafting the Law on Social Entrepreneurship* was formed in March 2021. In addition to representatives of ministries and other state bodies, the Working Group also includes representatives of CSOs in order to determine the concept of the future law (which was controversial in the 2019 Draft Law). The Working Group drafted the *Law on Social Entrepreneurship (Solidarity Economy)*, which was sent for public discussion in December 2021.

The legal system in the Republic of Serbia provides tax exemptions for all grants and donations that support non-profit activities of CSOs, which indicates the existence of a supportive environment. According to the Law on Corporate Income Tax, CSOs are exempt from taxes on grants, donations, membership fees and non-economic sources of income. The law provides for tax deductions for allocation for health care, for cultural, educational, scientific, humanitarian, religious purposes, for the purpose of environmental protection and in connection with sports.

As stated in the *Matrix for Monitoring the Enabling Environment for the Development of Civil Society - Report for Serbia (2019<sup>48</sup>)*, the practice partially meets the standards when it comes to direct or indirect (hidden) tax on reported donations. None of the CSOs that have participated in the MM Survey reported that they had paid a fee to the competent authority for the grant received. However, according to the Matrix, only 2 CSOs that participated in the MM Survey reported using tax incentives to conduct business (e.g. full tax exemption or exemption up to a certain amount on sales and service revenue). As a key obstacle, they cited administrative requirements for access to tax incentives for doing business as very burdensome.

Practice regarding the functional procedure for claiming a tax deduction for individual donations indicates a partially conducive corporate environment. Thus, it is stated that 44.2% of CSOs that participated in the MM Survey agree with the statement that some donors face difficulties in accessing tax deductions (e.g. the procedure is complicated; complicating administrative requirements). Interestingly, as part of this research, the Tax Administration reported that it has no data on the number of corporate donors who have requested tax

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<sup>48</sup> Matrix for Monitoring the Stimulating Environment for the Development of Civil Society - Report for Serbia (2019), Selaković, B., Stevkovski, D., Teofilović, I. & Grbović, P. <https://www.gradjanske.org/>

deductions for their donations (medical, educational, scientific, humanitarian, religious, environment protection and sports, as well as for giving to social protection institutions).

Having in mind all the above, in the forthcoming period it is necessary to develop the role of civil society organizations in the field of social entrepreneurship through:

- Defining the priorities of public policies in the field of social entrepreneurship through public debate and synergy of competent public authorities that recognize social entrepreneurship as a social value in different sectors;
- Adoption of a normative framework that would regulate the establishment and operation of social enterprises in a unique way, taking into account the experiences of associations, cooperatives and foundations, social enterprises;
- Defining the concept of public interest, as well as of vulnerable groups that can be covered by social entrepreneurship as beneficiaries;
- Ensuring the diversity of CSO funding through alternative sources of funding and social entrepreneurship;
- Defining tax relief, i.e. the financial aspect of business in order to better use the potential of socially responsible business for the development of social entrepreneurship;
- Promotion of social entrepreneurship and good practices in this area;
- Strengthening cooperation and promotion of public-private partnership in this area;
- Development of strategic documents in the field of social entrepreneurship at the local level.

In the long run, it is necessary to continue with continuous vertical and horizontal coordination between public administration bodies and civil society in activities of importance for social entrepreneurship.

There is a need to approach methods of supporting vulnerable groups in an innovative way, including considering access to start-up funds from public funds in order to improve the digital skills of marginalized groups.

### **5.3.3. Volunteering and the role of civil society organizations**

When it comes to the international normative framework, the importance of volunteering is recognized in a number of international documents. Relevant United Nations documents are UN General Assembly Resolution 56/38 (2002)<sup>49</sup>, which recommends that states create “fiscal, legal and other incentive frameworks, including those relating to volunteering organizations” through the introduction of incentive legislation, tax incentives and subsidies, and facilitating

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<sup>49</sup> Resolution adopted by the General Assembly, 56/38 Recommendations on support for volunteering, 10.01.2002, A/RES/56/38, <http://www.worldvolunteerweb.org/fileadmin/docdb/pdf/2007/N0147881.pdf>

the creation of partnerships related to volunteering in civil society, as well as the Declaration on Volunteering for a Sustainable Future, 2011, UN Volunteers<sup>50</sup>.

Relevant documents of the Council of Europe are, *inter alia*, the Recommendation of the Parliamentary Assembly of the Council of Europe CE No. 1948 of 2010<sup>51</sup> on promoting volunteering in Europe, recommending that the Council of Ministers invite Member States to sign and ratify the European Convention on the Promotion of Transnational and Long-Term Youth Volunteering, to promote and inform about volunteering and to adopt a proactive volunteering policy; further, the Resolution of the Parliamentary Assembly of the Council of Europe no. 1778 of 2010, calling on Member States to take vigorous measures to promote volunteering (introduce a system of official recognition of informally acquired knowledge and skills through volunteering, establish a social protection system for long-term volunteering, recognize the impact of volunteering on local development, etc.)<sup>52</sup>, as well as the European Convention on the Promotion of Transnational and Long-Term Youth Volunteering (ETS No. 175, 2000), which further encourages transnational volunteering of persons aged 18 to 25<sup>53</sup>.

EU documents relevant to volunteering are, *inter alia*, Declaration 38 on Volunteering<sup>54</sup> (1997), the Recommendation of the European Parliament and of the Council of 10 July 2001 on mobility within the Community for students, trainees, volunteers, lecturers and trainers<sup>55</sup>, and the Warsaw Declaration on the sustainability of volunteer activities and active citizenship from 1 December 2011<sup>56</sup>.

The European Parliament and the European Council have adopted the legal framework for the EU *European Solidarity Corps* initiative, which creates opportunities for young people to volunteer in projects in the countries where they live and abroad, for the benefit of the community and citizens in Europe (2018)<sup>57</sup>.

The *Youth on the Move* initiative and the *Agenda for New Skills and Jobs* are linked to the implementation of the European 2020 strategy on smart, sustainable and inclusive development<sup>58</sup>. Furthermore, the *EU Aid Volunteers Program* enables joint activities of volunteers and volunteer organizations in different countries, provides support to humanitarian

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<sup>50</sup> United Nations Volunteers acclamation of 'Declaration on Volunteering for a sustainable future' (17 September 2011)

<sup>51</sup> <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta10/EREC1948.htm>

<sup>52</sup> <http://www.assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta10/ERES1778.htm>

<sup>53</sup> Convention on the promotion of transnational long-term voluntary service for young people, Strasbourg, 11.05.2000, <http://conventions.coe.int/Treaty/en/Treaties/Html/175.htm>

<sup>54</sup> Declaration 38 on voluntary service activities,

<http://eurlex.europa.eu/en/treaties/dat/11997D/hm/11997D.html>

<sup>55</sup> Recommendation of the European Parliament and of the Council of 10 July 2001 on mobility within the Community for students, persons undergoing training, volunteers, teachers and trainers (2001/613/EC)

<sup>56</sup> [http://ec.europa.eu/citizenship/pdf/eyv2011follow-up\\_01122011\\_en.pdf](http://ec.europa.eu/citizenship/pdf/eyv2011follow-up_01122011_en.pdf)

<sup>57</sup> Regulation of the European Parliament and of the Council laying down the legal framework of the European Solidarity Corps and amending Regulations (EU) No 1288/2013, (EU) No 1293/2013, (EU) No 1303/2013, (EU) No 1305/2013, (EU) No 1306/2013 and Decision No 1313/2013/EU

<sup>58</sup> European Commission (2010), Communication from the Commission Europe 2020: A strategy for smart, sustainable and inclusive growth COM(2010) 2020 final, Brussels: European Commission: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF>

aid projects and contributes to strengthening local capacities and resilience of disaster-affected communities. The *European Volunteering Service for the Improvement of Skills* is intended for young people aged 18 to 30, and it can also be used by non-EU countries.

At the international level, it is important to mention the *United Nations Volunteers* (UNV) program, which promotes volunteering in support of world peace and development, i.e. the achievement of the Millennium Development Goals (poverty reduction, sustainable development, health, social integration, anti-exclusion and discrimination). The program was established by the UN General Assembly in 1970 by Resolution No. 26/59. In addition to providing professional services, professional development and organization, this program mobilizes volunteers and directs them to those areas of the world where there is a need for their engagement. As the basic principles of volunteering, UNV<sup>59</sup> states that volunteering is a personal choice, a legitimate way for citizens to participate in community activities, to enable individuals and groups to deal with human, environmental and social issues, and that volunteering is unpaid work that does not replace paid work or paid workers and does not pose a security risk to paid workers.

The national normative framework related to volunteering includes various strategic documents and laws. The *National Strategy for Youth for the period 2015-2025*<sup>60</sup> in the section on social responsibility and solidarity encourages and develops the responsibility of people who work with young people, as well as the responsibility of young people in relation to their obligations in society. Young people should actively contribute to building social values and the development of their community, especially through various forms of volunteer activities and to express intergenerational solidarity and actively work to create conditions for equal and full participation in all aspects of social life of young people with disabilities and all other persons and social groups who may be at risk of discrimination or discriminatory treatment. The National Youth Strategy for the period 2015 - 2025 contains the strategic goal "*Youth Activism and Active Participation*", which states that the creation of a legal and political framework that stimulates youth participation and activism is possible only by creating different, effective mechanisms that will enable their active participation in public policies.

The *Law on Volunteering*<sup>61</sup> has been in force since December 2010. After many years of application, practice has shown that the law does not provide the expected promotion and stimulation of the culture of volunteering. The working groups of the Ministry of Labor, Employment, Veterans and Social Affairs prepared an *ex post* analysis of the Law on Volunteering, the results of which were publicly presented at the Volunteering Conference in 2020, as well as an *ex ante* analysis of the Law on Volunteering and Draft Amendments to the Law on Volunteering, indicating the need to improve the normative framework in this area.

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<sup>59</sup> European Volunteer Centre (CEV) (2008) Seminar on the Promotion of Local and International Youth Volunteering for Peace Building and Conflict Resolution in Europe Sarajevo, Bosnia and Herzegovina. Final Report.

<sup>60</sup> "Official Gazette of RS", No. 22 of 27 February, 2015

<sup>61</sup> „Official Gazette of RS”, No. 36/10

The report *CAF World Giving Index 10th Edition* positions the Republic of Serbia on the 122nd place of 125 countries according to the number of volunteer hours at the level of the total population, which means that only 6% of the population of Serbia contributes to society through volunteering.

The publication *Global Youth Development Index and Report* presents the results of research related to young people aged 15 to 29 in 183 countries around the world. According to the *Civic Participation Volunteering Time Percentage* indicator, the Republic of Serbia ranks 155th of 183 places (0.248), and in the overall score on all 5 dimensions of this youth development index, Serbia ranks 48th (index 0.693), which indicates the need to strengthen the awareness of young people in this area.

The problem of lack of valid data, manner of recording and making this data available to the public, leads to the impossibility of determining the situation at the country level. In this regard, it is important to note that in 2020, the *Rulebook on the content and form of forms of financial reports and the content and form of the form of the Statistical Report for other legal entities* was adopted. At the initiative of the association, new positions were introduced in the Statistical Report, which show the average number on a monthly basis in the previous year, which contributes to recording the number of volunteers in organizations.

When drafting an improved normative framework for volunteering, it is necessary to keep in mind the *Draft Guidelines and Strategic Directions for EU Support to Civil Society in the Enlargement Region 2021-2027*, which define two specific objectives in this area, namely: 2.5. IPA beneficiary policies and the legal environment stimulate and facilitate volunteering and employment in CSOs and 6.3 CSOs have efficient, empowered and developed human resources (employees, volunteers).

Finally, it is necessary to link public volunteering policies with youth-related policies. Having in mind the directions of the UN Agenda for Sustainable Development 2020-2030, special attention should be paid to young people. Young people are technologically highly educated, which can help volunteer services provide better services, in running various online campaigns, spreading the ideas and mobilizing the society, so this can be one of the important ways to involve young people in volunteering. Networking of volunteer organizations, strengthening their capacities, but also influencing the change of the general attitude of the public about volunteerism only as a service for providing services is also important for the improvement of volunteerism<sup>62</sup>.

With this in mind, it is necessary to improve the overall framework for the development of volunteering through:

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<sup>62</sup> National Youth Strategy 2015-2025 ("Official Gazette of RS", No. 22/15)

- Improving the Law on Volunteering in accordance with international standards and the Draft Guidelines for EU Support to Civil Society<sup>63</sup> 2021-2027, in order to encourage the development of volunteerism in the Republic of Serbia;
- Harmonization of the entire normative framework with the new Law on Volunteering (sectoral laws) in order to uniformly regulate this area;
- Development of clearly defined rules on keeping records of volunteering;
- Encouraging participation in the development and implementation of volunteer programs in the Republic of Serbia;
- Affirmation of volunteering as a social value.

Special attention needs to be paid to raising young people's awareness of the social importance and effects of volunteering, especially in relation to supporting vulnerable groups.

A necessary segment is to improve the availability of information on the results of volunteer activities.

#### **5.3.4. Development of philanthropy and the role of civil society organizations**

In August 2018, the Government of the Republic of Serbia provided support to the further development of this area by passing the Decision on the Establishment of the *Philanthropy Council* ("Official Gazette of RS", No. 65/18). Within 2019, working groups were formed within the Philanthropy Council to: a) improve the legal and fiscal framework for giving for the common good by legal entities and improve the implementation of existing legal mechanisms, b) improve the legal framework for donating surplus food and c) create an enabling environment for giving to public benefit by individuals, as well as a Working Body to define the criteria for exempting individual donations from VAT. The result of the work was the preparation of *cost-benefit analysis*, as well as proposals for changes in legal solutions in the field of VAT regulation on donations of goods and services<sup>64</sup>. At the initiative of the Philanthropy Council and the Coalition for Charity, positive results were achieved in this area, which stemmed from the cooperation between the state and the civil sector. Namely, in 2019, the legal and fiscal framework was improved through the adoption of the *Law on Amendments to the Law on Personal Income Tax*, which increased the non-taxable amount of scholarships and loans for students from RSD 11,741 to RSD 30,000. Then, in 2019, the *Instruction for the realization of tax reliefs for donors* was published. The significance of this instruction is reflected in the clarification of the application of regulations, bearing in mind that there were no bylaws or special opinions of the Ministry of Finance on the application of the mechanism from Article 15 of the Law on Corporate Income Tax, which resulted in poor application of this mechanism.

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<sup>63</sup> Draft Guidelines and Strategic Directions for EU Support to Civil Society in the Enlargement Region 2021-2027

<sup>64</sup> Serbia donates - report on charity (2019)

When it comes to assessing the situation in this area, it is initially important to mention the lack of valid data (sources, methodology of data collection and analysis). The available reports cite mostly media releases as the most common source of data. Also, the number of available research is insignificant.

At the same time, it is necessary to keep in mind the obligations of the Republic of Serbia in the process of European integration. Relevant EU acts related to philanthropy in relation to civil society organizations are the *Recommendation of the Committee of Ministers of the Council of Europe on the Legal Status of Non-Governmental Organizations in Europe* (CM/Rec/2007/14) and the Recommendation Committee of Ministers of the Council of Europe no. 8. stating that "the legal and tax framework for non-governmental organizations (associations, foundations and endowments) should encourage their establishment and operation". Of particular importance are the *Draft Guidelines and Strategic Directions for EU Support to Civil Society in the Enlargement Region 2021-2027*<sup>65</sup>, which define two specific objectives for this area: 2.1. All CSOs are free to raise and receive funds and 2.3. Individuals and businesses enjoy tax breaks for their donations to CSOs. In this sense, these EU documents should be taken into account when creating an incentive tax framework for the development of philanthropy, given that this area is an integral part of the political criteria for EU membership (freedom, equality, human rights, rule of law, Chapters 23 and 24). The results of monitoring the progress made in this area, using the analytical framework from the Guidelines for EU Support to Civil Society, are an integral part of the European Commission's progress report on the candidate country.

Finally, in order to create an incentive tax framework for the development of philanthropy, it is necessary to pay attention to the recommendations of the *Philanthropic Agenda 2.0*<sup>66</sup> (Analysis and proposals for improving tax and other regulations relevant to the development of public benefit), issued in November 2021 by Trag Foundation with the Coalition for Charity, led by the Ana and Vlade Divac Foundation. This document lists precisely the identified major obstacles in the legal and fiscal framework for the development of charity, with recommendations for amendments to, *inter alia*, the Law on Corporate Income Tax, the Law on Property Tax, the Law on Value Added Tax, the Law on Tax on the Income of Citizens. As stated in the baseline, the problems identified in this area relate to the need to improve the regulatory framework and ensure fair and uniform application of tax regulations relevant to the development of philanthropy.

Having in mind all the above, in the forthcoming period it is necessary to continue the activities aimed at improving the incentive framework for the development of philanthropy through:

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<sup>65</sup> The role of the Guidelines goes far beyond the programming framework of IPA funds. Creating a supportive legal and institutional environment for the development of civil society has *de facto* become an integral part of the political criteria for EU membership. Thus, the results of monitoring the progress made in this area, using the analytical framework of the Guidelines, form an integral part of the European Commission's report (chapter on political criteria) on the progress of the candidate country..

<sup>66</sup> <https://givingbalkans.org/srbija/biblioteka>



- Improving the normative framework in accordance with the recommendations of the Philanthropic Agenda and the EU Guidelines for the Development of Civil Society, which provides incentives for corporate giving and personal donations;
- Improving the availability of information on the results of philanthropic activities through the establishment of a data collection system;
- Harmonization of the concept of public interest in different regulations in order to ensure uniform application;
- Continuation and improvement of cooperation of public and executive authorities with foundations and associations dealing with philanthropy;
- Raising issues on the effects of one-time benefits in relation to strategic or long-term benefits in order to define public policies in this area;
- Strengthening the awareness of citizens about the importance of philanthropy.

### **5.3.5. The role of civil society organizations in non-formal education**

The *Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education* (2010), adopted under Recommendation CM/Rec (2010), calls on Member States to include human rights education in formal education curricula at all levels, as well as in vocational education and training and teacher training, as well as to “nurture the role of NGOs and youth organizations in education for democratic citizenship and human rights education, especially in non-formal education. These requirements and international standards are largely an important reference point for policy making in this area.

In regard to strategic documents related to non-formal education, it is important to first mention the 2030 Strategy for the Development of Education in the Republic of Serbia<sup>67</sup>, which provides for various measures to improve non-formal education. According to the Strategy, the desired status in 2030 includes an improved quality assurance system in formal and non-formal education, as well as the establishment of networks of educational institutions, as well as institutions of student and student standard that is harmonized with needs, modern and technically equipped. which also applies to the network of service providers in non-formal education. Under Specific Objective 1.2: Improved quality assurance system in pre-university education, it is envisaged to improve the quality assurance framework in non-formal education. Furthermore, it is stated that it is necessary to develop the methodology and standards of external evaluation and self-evaluation of the work of Publicly Recognized Organizers of Adult Education Activities (PROAEA), in order to improve the quality of non-formal education. The Strategy further states that the normative framework for the development of informal adult education will be revised and improved, as well as the development of a methodology for monitoring the effects of qualifications on employment and lifelong learning, developing standards and procedures for self-evaluation and external evaluation of Publicly Recognized Organizers of Adult Education Activities PROAEA and improving the capacities of the

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<sup>67</sup> „„Official Gazette of RS”, No. 30/18

Qualification Agency for the application of standards for self-evaluation and external evaluation of PROAEA through the development and implementation of relevant training. As one of the activities, the Strategy envisages the improvement of the methodological framework for the development of non-formal education programs based on the qualification standard and the methodology for their (re)assessment.

The Strategy for the Development of Digital Skills in the Republic of Serbia for the period 2020 - 2024<sup>68</sup> regulates the development of digital skills of the population in order to use the potential of modern information and communication technologies (ICT), stating that the education sector is recognized through formal and non-formal education. In the period 2015 - 2021, the Ministry of Trade, Tourism and Telecommunications supported numerous projects for the development of the CSO information society through public competitions. Projects aimed at raising the digital skills of women in rural areas, projects supporting the development of digital literacy of children and youth and strengthening the digital security of children and youth have been implemented. Also, cooperation has been established with CSOs with the aim of developing digital literacy and security.

The UNECE Strategy for Education for Sustainable Development deals entirely with sustainable education, and the main goal is to motivate and support the member states of the UNECE region to work on the development of education for sustainable development and the integration of this type of education into the formal education system. and through informal forms of education.

The National Strategy for Youth for the period 2015 - 2025<sup>69</sup>, within the strategic goal related to improved quality and opportunities for acquiring qualifications and development of youth competencies, envisages, *inter alia*, initiating amendments to regulations so that associations conducting youth activities can accredit continuing professional development programs for teachers and professional associates; establishing mechanisms for cooperation between associations that conduct youth activities and youth offices with educational institutions in the implementation of curricula; initiating amendments to regulations to ensure the participation of youth representatives in defining the model of recognition of prior learning in non-formal education; support for recognizing the specifics of non-formal education programs in the youth sector that are not aimed at acquiring a certain qualification; support the development of non-formal education programs in the youth sector, which are not exclusively trainings, etc.

National Employment Strategy for the period 2021 - 2026<sup>70</sup> indicates the need to improve non-formal education as a contribution to increasing the skills of the workforce and competitiveness in the labor market. The Strategy states that there is a mismatch of skills in the labor market, that there is a need for significant investments in adult education and the promotion of the concept of lifelong learning. It is planned to develop a system of training in non-formal education through the development of a network of publicly recognized organizers of adult education activities (PROAEA), improving standards and procedures for acquiring a PROAEA

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<sup>68</sup> "Official Gazette of RS", No. 21/20

<sup>69</sup> "Official Gazette of RS", No. 22/15

<sup>70</sup> "Official Gazette of RS", No. 18/21 and 36/21 – correction

status in a way to increase their number, in order to expand the availability of they want to get involved in non-formal education.

The Law on the Fundamentals of the Education System<sup>71</sup> envisages the establishment of the Council for Secondary Vocational and Adult Education, which participates in the preparation of a strategy for the development and improvement of the quality of vocational education, especially secondary vocational education, adult education, specialist and master education, secondary vocational education and training of persons with disabilities and other forms of vocational education (formal and informal) according to Article 36, item 2. Amendments to the Law from 2013 provide for the establishment of the Agency for Education to monitor and achieve strategic goals of improving the entire education system. The Qualifications Agency is responsible for issuing approvals to other organizations for acquiring the status of a publicly recognized organizer of adult education activities (PROAEA) and for quality assurance in the development, earning, award and recognition of qualifications acquired formally, non-formally and informally.

The Law on Adult Education<sup>72</sup> stipulates that adult education is carried out as formal education, non-formal education and informal learning. The law envisages, among other things, trade unions, associations, professional societies, adult education organizations (people's, workers', open universities, third age universities, etc.), centers and organizations for professional development as "publicly recognized organizers of adult education activities", employers' associations, as well as other organizations registered for educational activities. Another organization may gain the status of a publicly recognized organizer for informal adult education activities under the conditions prescribed by law.

The Law on the National Qualifications Framework<sup>73</sup> of the Republic of Serbia establishes the National Qualifications Framework of the Republic of Serbia (NOCS) as a system for regulating qualifications, its purpose, goals and principles, types and levels of qualifications, ways of acquiring qualifications through formal education, non-formal education, informal learning – life or work experience.

The Law on Youth<sup>74</sup> defines non-formal education of young people as a set of organized and youth-friendly educational activities not provided by the formal education system, based on the needs and interests of young people, principles of voluntary and active participation of young people in learning and promotion of democratic values, where young people develop skills necessary for developing personal potentials, active participation in society and better and easier employability. The law stipulates that the content of the *National Strategy for Youth* includes the development of formal and non-formal education of young people, as well as that programs and projects of public interest in the youth sector that provide funds from the budget

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<sup>71</sup> „Official Gazette of RS“, No. 88/17, 27/18 - another lawи, 10/19 и 6/20

<sup>72</sup> „Official Gazette of RS“, No. 55/13, 88/17 - another law, 27/18 - another law and 6/20 - another law

<sup>73</sup> „Official Gazette of RS“, No. 27/18 and 6/20

<sup>74</sup> „Official Gazette of RS“, No. 50/11

of the Republic of Serbia include those that encourage non-formal education and improve its quality.

The Law on Determining the Competence of the Autonomous Province of Vojvodina (“Official Gazette of the RS”, No. 99/09, 67/12 - CC and 18/20 - another law) determines, *inter alia*, the competence of the APV in the field of informal adult education. The Provincial Secretariat for Education, Regulations, Administration and National Minorities - National Communities performs the tasks of the provincial administration in the field of pre-school, primary and secondary education, student accommodation, non-formal adult education.

When it comes to available data, the Strategy for the Development of Education in the Republic of Serbia until 2030 states that the data collected by the Adult Education Survey (AES) show that the Republic of Serbia is far from the EU average - adult participation rate in some form formal or non-formal education or training, at the national level was 19.8% in 2016, which is significantly lower than the average of EU member states which in 2016 was 45.2%. According to the AES data, adult education is not available to all categories, i.e. the network of institutions is not functional and there are still significant systemic barriers to its efficient functioning.

When discussing non-formal education in the context of the role of CSOs, it is especially important to look at human rights education, as one of the basic areas of CSO work. In the last two decades, CSOs have essentially prepared the education system for the introduction of broader human rights topics through various human rights programs in Serbia. It is possible that due to the lack of teacher training and lack of financial resources, the state is still counting on project funding for this topic. This type of non-formal education is potentially more effective, as it involves individuals who want to learn more about human rights, and is conducted by experts with experience in the field of human rights. Research and publications on this topic in Serbia, mainly by civil society and/or international organizations, advocate transformative learning in order to develop the individual through critical thinking and reviewing the existing beliefs. Civil society organizations conduct human rights education through non-formal education, which is particularly important given that they focus more on outcomes that are “transformative” rather than “conservative” (Flowers, 2004, p. 110<sup>75</sup>), and perceive HRE as a means for social change aimed at empowering individuals/groups denied rights.

In the previous period, the Republic of Serbia has carried out various education reforms, however, although the normative framework related to human rights education is somewhat developed, knowledge about the content and effects of this type of education in primary and secondary schools is limited. At the same time, the means by which the level of students' knowledge of human rights could be assessed, the content of topics covered in practice and the achievement of the prescribed outcomes of this form of education have not been developed.

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<sup>75</sup> Flowers, N. (2004). How to define human rights education? A complex answer to a simple question. In V. B. Georgi and M. Seberich (Eds.), *International Perspectives in Human Rights Education* (p. 105-127). Gütersloh: Bertelsmann Foundation Publishers.

A specific definition of human rights education has not been developed, but there is a general consensus in the literature that it includes the concept of *human rights education, through human rights and for human rights*, i.e. learning about epistemology and philosophy of human rights in a way consistent with human rights principles, and which empowers students to exercise their rights at the individual and collective levels (Compass, 2020<sup>76</sup>). Magendzo (2005<sup>77</sup>) believes that HRE is a vital element in the democratization of the educational process that enables understanding, advocacy and exercise of one's rights and the rights of others in the educational context, thus empowering individuals and groups. Similarly, *Amnesty International* (2012<sup>78</sup>) takes the view that the HRE is essential to address the root causes of human rights violations, prevent human rights violations, combat discrimination and strengthen people's participation in democratic decision-making processes.

Some of the most significant examples of good CSO practices in the field of non-formal education are related to teacher training in the project Democratization and Decentralization of the Education System in the Republic of Serbia (2002-2004), development of the elective subject Civic Education and improvement of teachers' competencies, including specialist studies for teachers. It is important to mention non-formal education of young people through Human Rights Schools<sup>79</sup>, which is flexible, developed for the purpose of additional education on insufficiently recognized topics in the school context, based on assessment of content in schools and recognized level of existing knowledge and experience of young people.

Finally, the Republic of Serbia has the right to participate in all EU programs aimed at education, while within the programs important for the role of civil society in non-formal education, the Republic of Serbia participates in the ERASMUS + program.

This review indicates the need to improve the role of CSOs in the field of non-formal education. Although public policies in the field of non-formal education are based on European principles, there is a lack of a systematic approach to monitoring and evaluating the implementation of these policies, transparent collection of data on achievements and reports/analysis of implemented activities. There is a lack of coordination between different line ministries and other national institutions in formulating policies related to non-formal education, to the same or related target groups of non-formal education, as well as to service providers.

Public policies and documents relevant to non-formal education call for social dialogue and cooperation between all stakeholders, including CSOs, however, the number of examples of partnership approaches in the field of lifelong learning, except for consultations on certain public policies, remains small. A positive exception is the cooperation of the public sector with employers and their associations on the issue of retraining or additional training for

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<sup>76</sup> COMPASS Manual for human rights education with young people (2020). Brander, P., De Witte, L. Ghanea, N., Gomes, R. Keen, E., Nikitina, A. and Pinkeviciute, J. 2nd edition. [www.coe.int/compass](http://www.coe.int/compass)

<sup>77</sup> Magendzo, A. (2005). Pedagogy of human rights education: a Latin American perspective, *Intercultural Education*, 16:2, 137-143.

<sup>78</sup> Amnesty International (2012). *Becoming a Human Rights Friendly School. A Guide for Schools Around the World*, p. 52-53, <http://www.amnesty.org/en/human-rights-education/projects-initiatives/rfsp>

<sup>79</sup> *Youth Education for Human Rights: Handbook for Teachers and Practitioners*, Editor: Džombić, J. Publisher: Helsinki Committee for Human Rights in Serbia

employment, in accordance with the needs of the labor market. However, the promotion of partnerships in the field of non-formal education and mechanisms for its implementation in practice are lacking.

Furthermore, there is a lack of continuous promotion of PROAEA accreditation and informal adult education, as a flexible way of adapting education to rapid technological changes and labor market needs, informing entrepreneurs about the conditions, benefits and importance of obtaining PROAEA status. It is necessary to further improve the standards and conditions for adult education activities (adjustment of laws and regulations), provide support to PROAEA in the implementation and improvement of quality systems, establishing of regional training centers and offer of training in line with labor market needs, with the goal of continuous improvement of the qualification structure of the working population (employed and unemployed persons). Furthermore, it is necessary to continuously improve the competencies of lecturers in order to ensure constant harmonization of their competencies with the needs of the labor market.

It is also necessary to provide the ministry in charge of education with proposals for improving the standards for non-formal adult education by CSOs, as well as proposals for further improving the transparency of the offer of non-formal education and training programs.

The potential of CSOs in the field of non-formal education is still not sufficiently recognized. Citizens are still insufficiently informed about non-formal education, its importance for professional - career and personal development, lifelong learning and the role of non-formal education in this process. There is a lack of a continuous campaign to raise awareness of the importance of lifelong non-formal education and the possibilities of such education through the CSO programs.

Finally, the accessibility of human rights education by CSOs through non-formal education needs to be improved. There is a lack of data on human rights education, as one of the main areas covered by CSOs. A multi-sectoral approach by the authorities would contribute to the inclusion of this type of non-formal education in the training of public authorities.

Having in mind the above, in the forthcoming period it is necessary to improve the role of CSOs in non-formal education through:

- Continuation and strengthening of active cooperation between public authorities and CSOs in the field of non-formal education;
- Informing CSOs about the methodological framework as well as improving the competencies of CSOs for the development of training programs based on qualification standards;
- Improving the methodological framework for the development of non-formal education programs by CSOs, harmonized with the qualification standards and methodology for their assessment;
- Improving the accessibility of human rights education by CSOs through non-formal education;

- Increasing the number of accredited programs implemented by CSOs and their transparency in the PROAEA Sub-Register.

#### 5.4. THE ROLE OF CIVIL SOCIETY ORGANIZATIONS IN THE EUROPEAN INTEGRATION PROCESS

Civil society has a significant role in the process of accession of the Republic of Serbia to the European Union. By constantly advocating the values on which the European Union is based (democracy, rule of law, protection of human and minority rights), the civil society brings citizens closer to the essence and benefits of the European integration process. Following the decision of the European Council in June 2013 to accept the recommendation of the European Commission, and start negotiations with the Republic of Serbia on EU membership, appropriate bodies and procedures for conducting negotiations have been established. The first Intergovernmental Conference between the Republic of Serbia and the European Union was held in January 2014, which marked the beginning of accession negotiations.

Paragraph 11 of the Negotiating Framework of the European Union for the Republic of Serbia, which explains the opening of Chapters 23 and 24 at an early stage of negotiations, states: "... The above Action Plans for establishing the priorities of the Republic of Serbia in the context of reforms need to be built in a transparent process of consultation with all relevant stakeholders to ensure maximum support for their implementation". Paragraph 30 of the Negotiating Framework, adopted by the Council on 17 December 2013, also insists on the transparency of the process: "In order to increase the public confidence in the enlargement process, decisions will be made as openly as possible to ensure greater transparency. Internal consultations and discussions will be protected to the extent necessary to protect the decision-making process, in accordance with EU rules on public access to documents in all areas of Union action."

On 16 December 2013, the National Assembly adopted a *Resolution on the role of the National Assembly and the principles in the negotiations on the accession of the Republic of Serbia to the European Union*. The Resolution defines the role of the National Assembly in negotiations, and obliges the Government to submit all relevant documents to the competent parliamentary committee (Committee on European Integration), including negotiating positions determined at Government sessions. The Resolution recognizes the importance and role of civil society in the negotiation process. Item 24 of the Resolution states that the National Assembly cooperates with civil society, the expert public and other stakeholders, in order to achieve their involvement in all phases of the process of negotiations on the accession of the Republic of Serbia to the EU. Also, in September 2013, the Government adopted *the Basis for conducting negotiations and concluding an agreement for the accession of the Republic of Serbia to the European Union*, which especially emphasizes the importance of public debates and the involvement of civil society in that process.

Different modalities of CSO participation in this process included monitoring the webcast of explanatory analytical reviews of the harmonization of Serbian legislation with the *acquis communautaire* (screening), participation in the preparation of bilateral screening for individual chapters, briefing meetings to inform civil society organizations about bilateral

screenings, as well as participation in the development of the Action Plan for Negotiating Chapters 23 and 24.

On March 18, 2016, after submitting the screening results, the EU Negotiating Team adopted *Guidelines for cooperation between the Negotiating Team and negotiating groups with representatives of CSOs, the National Convention on the EU and the Serbian Chamber of Commerce*<sup>80</sup>. The guidelines envisage consultations with CSOs, the National Convention and the Serbian Chamber of Commerce, within the deadlines and in the manner provided by the Decision on the procedure for considering the negotiating position proposal in the process of negotiations on Serbia's accession to the European Union. If there are criteria for opening a chapter, and if they contain the obligation to adopt a document, those documents must be submitted for consideration and consultation to CSOs, the National Convention and the Serbian Chamber of Commerce (Articles 3 and 4 of the Guidelines).

Developed civil society is one of the key political criteria for progress in the process of negotiations for the accession of the Republic of Serbia to the EU. This is evidenced by the Transitional Criterion for Chapter 23 "Justice and Fundamental Rights": 1.1.6. The Republic of Serbia fully recognizes and benefits from the expertise of civil society, and therefore approaches a real and systematic dialogue with civil society. It should be borne in mind that this transitional measure refers to the Republic of Serbia, and not individual institutions (bodies/ministries), and implies that all bodies have a real and systematic dialogue with civil society. A similar request is made in the EU's Common Position on Chapter 23, which "*invites Serbia to fully recognize the importance of inclusive and evidence-based policy-making and of making the best use of civil society expertise and therefore to engage in inclusive consultations on legislative and policy proposals with civil society and other stakeholders and to ensure systematically access to information*"<sup>81</sup>.

Certainly, as the EU accession process is organized in numerous chapters, the role of civil society is not limited to PG23. However, this chapter, as well as PG24, are of particular interest to civil society, as they form the basis of the *Cluster 1: Fundamentals* as part of a new enlargement methodology. As stated, negotiations on these chapters open first and close last, and determine the overall speed of negotiations<sup>82</sup>. Achieving measurable progress in the areas covered by Chapter 23, such as improving the rule of law, fighting corruption, protecting basic human and minority rights and freedoms, economic and social cohesion, freedom of the media,

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<sup>80</sup> <http://eukonvent.org/dokumenti-domaceg-zakonodavstva/>

<sup>81</sup> European Union Common Position 10074/16. For all above areas, the EU invites Serbia to fully recognize the importance of inclusive and evidence-based policy-making and of making the best use of civil society expertise and therefore to engage in inclusive consultations on legislative and policy proposals with civil society and other stakeholders and to ensure systematically access to information. For all above areas, Serbia fully recognises and exploits the benefits of civil society expertise and therefore engages in a real and systematic dialogue with civil society.

<sup>82</sup> Negotiations on the fundamentals will be opened first and closed last and progress on these will determine the overall pace of negotiations. Communication from the Commission to the European parliament, the Council, the European economic and social Committee and the Committee of the regions. Enhancing the accession process - A credible EU perspective for the Western Balkans, 2020



is not possible without the active participation of the civil society, as stated in the baseline for developing this Strategy.

*The Action Plan for Chapter 23 "Justice and Fundamental Rights" relies on cooperation with civil society, starting with the development of a plan based on full inclusiveness and transparency, then monitoring the implementation of the AP, as well as the review process. Cooperation with the civil society is structured through cooperation with the National Convention for the EU. As mentioned above, the National Convention on the European Union is an institutionalized channel for communication and consultation with civil society during the accession negotiation process.*

In addition to the National Convention, there are other CSO platforms for monitoring the negotiation process, such as: Coalition PrEUgovor, Coalition 27, Negotiation on Negotiations, etc.

The revised Chapter 23 Action Plan calls for good practices in cooperation with civil society in Chapter 23 and envisages institutionalized involvement of civil society organizations in the process of monitoring the implementation of AP 23 through cooperation of the Coordinating Body for AP23 implementation as a new monitoring mechanism with civil society. In addition, roundtables are planned at least twice a year, as well as debates with representatives of relevant stakeholders to discuss reports on the implementation of the Action Plan and other relevant issues. It is also stated that the use of consultative mechanisms will continue, which have shown great importance and given good results in the previous period of implementation of the Action Plan, including the publication of public calls for proposals and comments on drafts of relevant documents.

The activities envisaged by AP23 in order to meet the Transition Benchmark are as follows: *1.1.6.1. Preparation and publication of a public call to civil society organizations and professional associations to submit proposals and comments related to the definition of further reform processes and oversight of the implementation of reform steps; 1.1.6.2. Publication and consideration of proposals and comments of CSOs and professional associations related to defining future reform steps; 1.1.6.3. Organizing round tables to discuss the scope, shortcomings of cooperation and opportunities to improve cooperation in creating and implementing reform steps, in accordance with good practice in providing feedback on proposals submitted by CSOs; and 1.1.6.4. Improving other forms of cooperation with civil society (joint organization of workshops, joint publications, research and awareness raising campaigns) in the process of defining reform steps, in accordance with: 1. Guidelines for cooperation of institutions included in Chapter 23 and the civil society and 2. Guidelines to involve the civil society in the legislative process.*

The role of CSOs is recognized in the Action Plan for Negotiating Chapter 23 and in the field of anti-corruption. Within measure 2.2.11. *To ensure the involvement of CSOs in the anti-corruption program, the following activities are envisaged: 2.2.11.1. Implement joint activities in order to encourage and achieve more effective participation of citizens in the fight against corruption; and 2.2.11.3 Conduct public tenders for the allocation of funds to civil society*

*organizations for anti-corruption projects for initiatives at the national and local levels, as well as for media initiatives in the field of anti-corruption.*

The role of civil society organizations is also important when it comes to *Chapter 24 "Justice, Freedom and Security"*, which is also the foundation of the *Cluster 1: Fundamentals. The EU's common negotiating position for Chapter 24*<sup>83</sup> states the intention of the Republic of Serbia to strengthen cooperation with civil society actors. As stated in the PG24 Action Plan, civil society organizations and international organizations are actors involved in the field of migration management as well as in the field of providing support to asylum seekers. Then, *"active work is being done to coordinate support in the community by connecting the institutional and capacities of civil society organizations. One of these activities is related to improving the cooperation of the Center for the Protection of Victims of Trafficking in Human Beings, as an institution of the system that is responsible for coordination with civil society organizations.* The Action Plan for PG24 further states the role of CSOs in the field of protection of victims and witnesses of crimes, which is confirmed by the new Strategy for Exercising the Rights of Victims and Witnesses for the period 2020 to 2025. This strategy recognizes CSOs as relevant partners in providing victim and witness support and establishing a national network of victim and witness support services. In addition, the Office for the Fight against Drugs signed a Memorandum of Cooperation with civil society organizations in 2018, in order to improve cooperation between civil society and the state in the field of combating drug abuse.

In addition to the above areas, it is important to mention the role of civil society organizations in other areas related to security. Thus, the Action Plan for PG24 states the signing of agreements with organizations and associations in order to participate in civil society in improving the efficiency of state bodies in the fight against cyber-crime and sexual exploitation of children.

The *National Security Strategy of the Republic of Serbia*<sup>84</sup> from 2019 also confirms the role of civil society organizations in relation to the protection of the security of the Republic of Serbia. The National Security Strategy states that the determination of the Republic of Serbia is to build its security on democratic standards, cooperation policy and European foreign policy orientation. Bearing in mind the confirmation of EU membership as a strategic goal in this strategic document, it is necessary to improve the security in accordance with EU requirements. In Section 2, Challenges, Risks and Security Threats, the Strategy states that organized crime is one of the most significant security threats to the Republic of Serbia, especially given the intensity of its manifestation and its transnational character. The following forms of organized criminal activity are the most common: production and smuggling of controlled psychoactive substances, smuggling and trade in firearms, smuggling of people and illegal migration, economic and financial crime in the form of illicit production and others. The National Security Strategy of the Republic of Serbia envisages as *Objective 4.2. Preservation of internal stability*

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<sup>83</sup> European Union Common Position 11075/16

<sup>84</sup> „„Official Gazette of RS”, No. 94/19

*and security of the Republic of Serbia and its citizens*, when, among others, the following goals are achieved:

- *Protection of human and minority rights and freedoms of citizens* - by further strengthening of institutions and institutes of implementation of the achieved level of protection of human and minority rights, as well as improvement of social tolerance, and resolute opposition to all forms of discrimination, continuation of improving legislative and institutional frameworks for exercising the freedom of expression, pluralistic ways of informing and raising the level of objectivity of media reporting.

- *Rule of law and further development of democracy and democratic institutions* - by increasing efficiency and transparency in the work of the legislative, executive and judicial branches. Strengthening professional ethics and preventive anti-corruption activities will improve citizens' trust in state institutions and the degree of their democratic development. In order to increase the efficiency of the work of courts, public prosecutor's office and security services, work procedures will be improved. *In the area of creating and implementing public policies, cooperation between public administration and civil society organizations will be improved.*

From the above, it is clear that both Chapters, which represent the "Fundamentals", clearly define the role of civil society organizations in many areas related to EU integration as the main strategic commitment of the Republic of Serbia. The role of CSOs is important in a broader sense for monitoring EU integration (assessment of fulfillment of activities, debates with public authorities), advancing reforms through proposals related to public policies and/or normative solutions, advocating for improving practices in various fields, drafting alternative reports, as well as in a narrower sense, through practical work with vulnerable groups, improving the freedom of expression, research in the field of corruption and various forms of organized crime, provision of free legal aid and other forms of protection of basic human and minority rights, rule of law and security.

At the initiative of civil society organizations, in 2010 the Government of the Republic of Serbia adopted the first National Action Plan for the implementation of Resolution 1325 of the United Nations Security Council - Women, Peace and Security in the Republic of Serbia (2010-2015). The implementation of this plan was carried out by the end of 2015. Based on the dialogue of the Government Political Council for the implementation of the National Action Plan, with all actors in the implementation of the plan, including CSOs, it was assessed that in the coming period it is necessary to continue implementing the UN Security Council Resolution 1325 Action Plan at the local level. The National Action Plan for the Implementation of Resolution 1325 envisages the participation of CSOs in independent monitoring of the implementation of the plan (Article 4, item 7), as well as participation in the Political Council (1.1). Furthermore, the participation of CSOs in activities to strengthen the capacity of civil society organizations, academia and other actors in the implementation of the NAP (1.8.), in conducting gender-sensitive training, conducting research on women's safety in society and other activities to improve security and conflict resolution. With the conclusion of 2017, the Government adopted the second National Action Plan for the implementation of Resolution 1325 of the United Nations Security Council - Women, Peace and Security in the Republic of

Serbia (2017-2020), and the Government Conclusion of 2021 appointed a new Political Council, whose task will, among other things, be focused on activities related to the development of the third National Action Plan for the implementation of United Nations Security Council Resolution 1325.

The process of European integration includes building an enabling environment for the development of civil society and investing in the institutional sustainability of organizations. The European Union invests in the development of civil society in Serbia through various financial resources available to CSOs in the Republic of Serbia, including pre-accession assistance, various EU programs, as well as the possibility of establishing cooperation at regional and EU level with other actors. However, civil society organizations face a number of financial problems, especially when it comes to organizations at the local and provincial levels<sup>85</sup>.

The importance of dialogue between public authorities and civil society and quality cooperation with CSOs is reflected in the improvement of mutual understanding of proposed solutions of public authorities or proposals/comments of CSOs, which contributes to improving certain legal and/or strategic solutions and visibility of reform results. In this regard, special attention should be paid to the discussion on relevant issues in the field of EU accession, given that civil society organizations can bring closer to citizens the benefits of the European integration process and the long-term effects of EU accession. In this regard, the role of public media services is of particular importance, given their obligations under laws based on the representation and promotion of dialogue in society, which would enhance public discourse on the role of CSOs in the European integration process. A more systematic use of the expertise of the members of the Convention is one of the main requirements of the European Commission regarding cooperation between public authorities and CSOs, which is emphasized in the EC reports on the progress of the Republic of Serbia for 2018 and 2019.

Having in mind the above, in the forthcoming period it is necessary to improve the role of CSOs in the process of European integration through:

- Continuation and strengthening of active cooperation of public authorities participating in negotiations on European integration and the National Convention and other CSO platforms;
- Improving cooperation of CSOs with public authorities in areas of importance for European integration through regular organization of consultations and consideration of CSO proposals in order to achieve a continuous dialogue with CSOs;
- Using the expertise of CSOs in areas important for European integration and especially the rule of law, protection of fundamental rights, combatting corruption and organized crime, in order to improve security and socio-economic development that may be threatened by these social phenomena;

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<sup>85</sup> Draft Guidelines and Strategic Directions for EU Support to Civil Society in the Enlargement Region 2021-2027

- Improving public discourse on the role of CSOs in European integration, especially in relation to the rule of law, protection of human and minority rights and security;
- Improving the position of CSOs by providing effective legal protection for members of CSOs and human rights defenders in accordance with the Draft Guidelines for EU Support to Civil Society<sup>86</sup> 2021-2027;
- More intensive involvement of CSOs in the process of programming and preparation for the use of structural funds and other EU funds in order to ensure greater use of EU funds and programs aimed at the development of civil society, including local and provincial CSOs.

Special attention should be paid to raising citizens' awareness of the EU integration process through cooperation with CSOs, especially in relation to support for vulnerable groups and cooperation with organizations that have the capacity to reach the most vulnerable groups (grassroot).

A necessary segment is the improvement of procedures and transparency of CSO financing through the funds of local self-government units.

## VI DEFINING THE DESIRED CHANGE

### **Vision of the Strategy**

In 2030, the Republic of Serbia created an enabling environment for the development of civil society and has established mechanisms for constant dialogue between the executive and legislative authorities with civil society organizations.

**Mission of the Strategy** is to build normative and institutional mechanisms and good practices aimed at creating and developing an enabling environment for the development of civil society, through dialogue between the authorities at all levels and civil society.

**Addressees of the Strategy.** In the process of achieving the desired changes, cooperation with all stakeholders and relevant institutions is necessary, as well as their connection and coordination in an integrated response to the needs defined in this planning document. This cooperation is carried out by public administration bodies among themselves, as well as in cooperation with civil society organizations, international organizations and donors.

## VII OBJECTIVES OF THE STRATEGY

### ***General goal of the strategy:***

Existing mechanisms for creating an enabling environment for the activities of civil society organizations strengthened and new mechanisms introduced..

***Indicator of impact at the level of the general objective:*** Compliance of the relevant normative framework with international standards. The institutional framework of public administration

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<sup>86</sup> Draft Guidelines and Strategic Directions for EU Support to Civil Society in the Enlargement Region 2021-2027

bodies enables effective cooperation with CSOs. Compliance of administrative practices with best comparative practices. The overall social environment is supportive to CSO action.

Baseline value in 2022: Mechanisms for creating an enabling environment for the activities of civil society organizations have not been developed, and measurable and verifiable data that would reduce or completely eliminate descriptive characterization are missing. Practices of cooperation between public authorities and CSOs are not satisfactory.

Target value for 2030: Mechanisms for creating a supportive environment for the activities of civil society organizations have been strengthened with the improvement of the normative, institutional and administrative framework, as well as with good practices of cooperation between public authorities and civil society organizations in accordance with international standards.

**Source of verification**: Reports on the implementation of the Strategy for Creating an Enabling Environment for the Development of Civil Society in the Republic of Serbia for the period 2022-2030; National Research on the situation in civil sector in the Republic of Serbia; Reports on the implementation of the Revised Action Plan for Chapter 23; Reports on the implementation of the Revised Action Plan for Chapter 24; European Commission Progress Report on the Republic of Serbia in the EU Integration Process (*Progress Report*); Reports of the Expert Council on Law on NGOs of the Council of Europe; UN Special Rapporteur Reports; SIGMA reports on the implementation of public administration reform; Independent reports of domestic and international CSOs; Research on the situation of CSOs in the Republic of Serbia;

Since the creation of an enabling environment for the activities of civil society organizations is a political criterion for the accession of the Republic of Serbia to the European Union, and since 2001 the priority strategic and political goal of the Republic of Serbia is membership in the European Union, adopting this Strategy is a step toward meeting the political criteria for the EU membership.

In several Progress Reports of the Republic of Serbia, the European Commission stated the absence of a national strategy for an enabling environment in the Republic of Serbia, and that efforts are needed to ensure "systemic cooperation" between the Government and civil society, which is a clear methodological guideline of the European Commission in terms of Article 49 of the Law on Planning System of the Republic of Serbia.

Having in mind the above, the comparison of options would consist in the analysis of the *status quo* option in which the new planning document is not adopted, the analysis of the second option in which a lower level planning document is adopted (e.g. program for developing a civil society enabling environment) within the future, still unprepared strategic document (future strategy dedicated to the advancement of human rights in the Republic of Serbia), with an option adopting the national strategy for civil society development, and thus approach the execution of the EU membership political criteria in a systematic way, becoming pointless, especially having in mind the necessity of fulfilling one of the priority foreign policy goals of the Republic of Serbia.

The execution of the general objective of the Strategy includes four specific objectives of the Strategy and is based on their execution.

**Specific objective 1:** Ensure greater involvement of the civil sector in the decision-making process at all levels of government.

**Outcome indicator at the level of Specific Objective 1:** Increased participation of the civil sector in the decision-making process.

**Baseline in 2022:** Incomplete strategic and normative framework in areas of importance for the involvement of CSOs in the decision-making process; Inadequate practices of involving CSOs in the decision-making process; Citizens' awareness of the social significance and effects of participation in low-level decision-making processes. The image of CSOs in the public is unsatisfactory, all of which makes descriptive characteristics, without measurable data for a reliable baseline value.

**Target value in 2030:** Completed and harmonized institutional and legal framework that is consistently implemented. Practices of involving CSOs in the high-level decision-making process. The image of CSOs in public discourse is positive.

**Source of verification:** Reports on the implementation of the Strategy for Creating an Enabling Environment for the Development of Civil Society in the Republic of Serbia for the period 2022-2030; Reports on the implementation of the Revised Action Plan for Chapter 23; Reports on the implementation of the Revised Action Plan for Chapter 24; European Commission Progress Report on the Republic of Serbia in the EU Integration Process (Progress Report); Reports of the Expert Council on Law on NGOs of the Council of Europe; Reports of UN Special Rapporteurs, Independent Reports of Domestic and International CSOs; Research on the situation of CSOs in the Republic of Serbia;

**Specific objective 2: Improved transparent financing and sustainability of the civil sector**

**Outcome indicator at the level of Specific Objective 2:** Sustainability of the civil sector has been improved through an enabling regulatory framework and good administrative practices.

**Baseline value in 2022:** The relevant normative framework is incomplete and inconsistent. Existing regulations are not always and consistently enforced. The transparency of the process of financing CSOs from public funds is not at a satisfactory level. Inadequate public funding practices for CSOs are present. Sustainability is a challenge for many CSOs.

**Target value in 2030:** The legal framework is fully aligned. Regulations are enforced consistently. Public funding of CSOs is transparent and based on a planned policy framework. Good administrative practices are an integral part of the sustainability of the civil sector. The sustainability of the civil sector has been improved.

**Source of verification:** Reports on the implementation of the Strategy for Creating an Enabling Environment for the Development of Civil Society in the Republic of Serbia for the period 2022-2030; National Research on the Situation in the civil sector in the Republic of Serbia;

Reports on the implementation of the Revised Action Plan for Chapter 23; Reports on the implementation of the Revised Action Plan for Chapter 24; European Commission Progress Report on the Republic of Serbia in the EU Integration Process (*Progress Report*); Reports of the Expert Council on Law on NGOs of the Council of Europe; Independent reports of national and international CSOs, Report on the situation of CSOs in the Republic of Serbia.

**Specific objective 3. Ensure greater participation of CSOs in socio-economic development and act in accordance with the principles of sustainable development**

**Outcome indicator at Specific objective level 3:** Improved strategic and normative framework that strengthens the role of CSOs in areas relevant to socio-economic development. Defined public policies that rely on cooperation with CSOs in accordance with the principles of sustainable development. Businesses have tax breaks when donating to civil society organizations. Citizens' awareness of the role of CSOs in socio-economic development has improved. Improved awareness of citizens, especially young people, about the social significance and effects of volunteering and philanthropic activities. The normative framework stimulates and facilitates volunteering and employment in CSOs.

**Baseline value in 2022:** Incomplete strategic and normative framework in areas of importance for socio-economic development; Awareness of citizens, especially young people, about the social significance and effects of volunteering and philanthropic activities at an unsatisfactory level.

**Target value in 2030:** Comprehensive strategic and normative framework in areas of importance for socio-economic development adopted and implemented; Diversity of CSO funding provided; Increased awareness of citizens, especially young people, about the social significance and effects of volunteering and philanthropic activities.

**Source of verification:** Reports on the implementation of the Strategy for Creating an Enabling Environment for the Development of Civil Society in the Republic of Serbia for the period 2022-2030; National Research on the Situation in the civil sector in the Republic of Serbia; European Commission Progress Report on the Republic of Serbia in the EU Integration Process (*Progress Report*); Reports on the implementation of the strategic framework in the field of social protection; Reports on the implementation of the strategic framework in the field of deinstitutionalization; Independent reports of domestic and international CSOs; Poverty Reduction Report.

**Specific objective 4. Ensure greater participation of CSOs in the European integration process**

**Outcome indicator at the level of Specific objective 4:** CSOs actively participate in the monitoring of negotiation chapters and are objectively informed in a timely manner about the negotiation process. Improved public discourse on the role of CSOs in European integration, especially on issues of the rule of law, protection of human and minority rights and security. Improved participation of CSOs in programming and monitoring the implementation of EU



funds. Strengthened capacities of the state administration for programming and monitoring reporting on the implementation of EU funds intended for civil society.

**Baseline value in 2022:** CSOs participate in the European integration process. CSOs participate in consultations, but dialogue on civil society proposals needs to be improved. CSO expertise is of limited use. Public discourse on the issue of the role of CSOs leaves room for further improvement.

**Target value in 2030:** Participation of CSOs in all areas of importance for European integration improved and participation in dialogue active. Public discourse on the role of CSOs in European integration has improved. CSOs involved in the process of programming and preparation for the use of structural funds and other EU funds.

**Source of verification:** Reports on the implementation of the Strategy for Creating an Enabling Environment for the Development of Civil Society in the Republic of Serbia for the period 2022-2030; National Research on the Situation in the civil sector in the Republic of Serbia; Reports on the implementation of the Action Plan for Chapter 23; Reports on the implementation of the Action Plan for Chapter 24; European Commission Progress Report on the Republic of Serbia in the EU Integration Process (Progress Report); Independent reports of domestic and international CSOs.

Within the Action Plan for the implementation of the Strategy, quantitative indicators will be determined at the level of each individual measure, which elaborates the general and specific goals of the Strategy.

## VIII MEASURES TO ACHIEVE THE OBJECTIVES OF THE STRATEGY

<b>Specific objective 1: Ensure greater involvement of the civil sector in the decision-making process at all levels of government</b>
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<b>Measure 1.1. Improving the legal and institutional framework for further development of CSO participation in the decision-making process</b>
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<b>Measure 1.2. Improving the capacity of public administration bodies to involve CSOs in the process of drafting, implementing, monitoring the implementation and evaluating the effects of public policies and regulations</b>
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<b>Measure 1.3. Improving the capacity of CSOs to understand the role, competencies and functions of public administration and participation in the process of drafting, implementing, monitoring the implementation and evaluation of public policy documents and regulations</b>
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<b>Measure 1.4. Improving the image of the civil sector in the media and the public</b>
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<b>Specific objective 2: Improved transparent financing and sustainability of the civil sector</b>
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<b>Measure 2.1. Improving the incentive regulatory framework and administrative practices for transparent funding and financial sustainability of the civil sector</b>
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**Measure 2.2. Improving the HR and professional capacities of the public administration for planned and transparent allocation, monitoring and evaluation of the allocation of budget funds intended for CSO programs and projects and the achievement of set goals**

**Measure 2.3. Improving the professional capacity of CSOs for transparent management of allocated budget funds**

**Specific objective 3: Ensure greater participation of CSOs in socio-economic development and act in accordance with the principles of sustainable development**

**Measure 3.1. Improving the normative framework in the field of social protection, which is harmonized with international standards and ensures the sustainability of services provided by CSOs**

**Measure 3.2. Improving the overall normative framework relevant to philanthropy, including tax regulations, transparency and visibility of philanthropic activities**

**Measure 3.3. Defining a comprehensive normative framework governing social (solidarity) entrepreneurship, which ensures the diversity of CSO funding and the use of the potential of socially responsible business**

**Measure 3.4. Improving the normative framework governing volunteering in accordance with international standards, including sectoral regulations**

**Measure 3.5. Improving citizens' awareness of the role of CSOs in socio-economic development**

**Measure 3.6. Improving the role of CSOs in non-formal education in accordance with strategic documents and including human rights education**

**Specific objective 4: Ensure greater participation of CSOs in the European integration process**

**Measure 4.1. Continuation and strengthening of active cooperation of public authorities participating in negotiations on European integration and the National Convention and other CSO platforms**

**Measure 4.2. Improving the cooperation of CSOs with public authorities in areas of importance for European integration, through regular consideration of CSO proposals in order to use the expertise of CSOs and achieve a real dialogue with CSOs**

**Measure 4.3. Improving public discourse on the role of CSOs in European integration**

**Measure 4.4. Improving the position of CSOs by providing effective legal protection for members of CSOs and human rights defenders**

**Measure 4.5. More intensive involvement of CSOs in the process of programming and preparation for the use of structural funds and other EU funds**

**Measure 4.6. Strengthening citizens' awareness of the EU integration process through cooperation with CSOs**

**Measure 4.7. Strengthening the transparency of CSO financing through the funds of local self-government units**

## IX. STRATEGY IMPLEMENTATION MECHANISM AND METHOD OF REPORTING ON IMPLEMENTATION RESULTS

Monitoring and evaluating the success of the implementation of the Strategy are of great importance for the dynamics and quality of the implementation of this strategic document and the accompanying Action Plan, as well as for timely identification of challenges and taking measures to overcome them.

For the purpose of monitoring the implementation of the National Strategy for Creating an Enabling Environment for the Development of Civil Society in the Republic of Serbia for the period 2022-2030, the Council for Development and Cooperation with Civil Society of the Government of the Republic of Serbia (hereinafter: the Council) shall be established by a decision of the Government. Representatives of key institutions for the implementation of the National Strategy and an equal number of representatives of civil society organizations are appointed to the working body. When delegating representatives of institutions for membership in the Council, it is necessary to ensure that they are high in their position in the organizational structure of the institution, which ensures the effectiveness in the implementation of the Strategy. Representatives of civil society organizations are elected at the proposal of the civil sector.

The task of the Council is to analyze the results of the implementation of the National Strategy based on the reports of all relevant institutions participating in the implementation of this document, to define conclusions and recommendations to the competent institutions, and to report to the Government on the results of the strategy. Reports on the implementation of the Strategy are published on the website of the Ministry of Human and Minority Rights and Social Dialogue and the eGovernment portal. The competence, composition, tasks and operation of the Council are determined by the Government Decision, with the obligation of parity in the number of CSO representatives and the number of representatives of state bodies, organizations and institutions. The Council considers the reasoned proposals of civil society organizations, submitted in connection with the reports on the implementation of the Strategy, and provides adequate feedback on the activities carried out in this regard. The draft act on the Government Council is prepared by the Ministry of Human and Minority Rights and Social Dialogue through consultations with civil society.

This Ministry shall report to the Government, through the state administration body responsible for public policy coordination, on the results of the implementation of this document, no later than 120 days after the end of every third calendar year from the date of adoption, as well as the final report no later than six months after the expiry of that document, i.e. together with the public policy document which replaces that document, if it is submitted to the Government for adoption before the expiration of that deadline. The same applies to the action plans that will be adopted during the implementation of the Strategy, no later than 120 days after the end of each calendar year from the day of their adoption. If necessary, this strategy will be revised in the period in which it is applicable.

## X ASSESSMENT OF FINANCIAL RESOURCES FOR IMPLEMENTATION OF THE STRATEGY AND ANALYSIS OF FINANCIAL EFFECTS

Funds for the implementation of the Strategy will be provided from various sources: from the budget of the Republic of Serbia, from funds intended for this area determined in the budget of the Autonomous Province of Vojvodina and local government units, from donor funds, i.e. through programs and projects to be adopted and implemented based on this strategy and its future action plan.

All funds from the budget envisaged for the implementation of activities in the accompanying action plan for 2022 and 2023, as well as the one that will be prepared for the period 2024-2025, are planned within the limits set by the Ministry of Finance for all budget users.

The implementation of the measures envisaged by the Strategy and the first biennial action plan will not have an impact on the international financial obligations of the state, because no borrowing is planned.

Funds for the implementation of the Strategy are specifically stated in the action plans for the implementation of the Strategy.

## XI INFORMATION ON CONSULTATIONS CONDUCTED WITH STAKEHOLDERS

Development of the Strategy for creating an enabling environment for the development of civil society in the Republic of Serbia for the period from 2021-2030. began on March 23, 2021, when the Ministry of Human and Minority Rights and Social Dialogue published on its website the information that it would begin preparing an *ex-ante* analysis for drafting a public policy document to create an enabling environment for civil society development in Serbia. At the same time, a public call was sent to civil society organizations to participate in consultations in order to identify the most important challenges to which the public policy document should respond and the areas that need to be covered.

Civil society organizations are invited to fill out an online questionnaire and submit their suggestions and comments regarding the start of this document. The deadline for completing the questionnaire was originally April 15, 2021. However, having in mind the importance of the topic and the current epidemiological situation, the Ministry extended the deadline for filling out the Questionnaire, and the deadline for consultations was April 29, 2021, i.e. it lasted a little over a month.

The questionnaire had a total of 3 questions. Within the first question, the organizations were given the opportunity to choose a maximum of 10 of 15 thematic areas that they believe should be covered by this public policy document.

Representatives of CSOs also had the opportunity to list other thematic areas not listed in the previous question, to which the public policy document for creating an enabling environment for the development of civil society in the Republic of Serbia should respond.

Representatives of CSOs who have responded to the Questionnaire also had the space to submit certain additional material in the form of analyses, reports, studies in some of the thematic areas that they believe can be used to prepare *ex-ante* analysis for public policy documents to create an enabling environment for the development of civil society in the Republic of Serbia, which was conducted by their organizations.

The questionnaire was filled out by a total of 43 representatives of the interested public, i.e. representatives of civil society associations/organizations from all over the Republic of Serbia.

After the online consultations, a Report was prepared and published, the basic findings of which are the starting point for the preparation of Ex-ante analysis for the development of public policy documents to create an enabling environment for civil society development in Serbia<sup>87</sup>.

During the second quarter of 2021, the Ministry started activities on the formation of a Special Working Group for the development of the this strategic document. In order to select civil society organizations, a public call for civil society organizations for membership in the Special Working Group for drafting a strategy for creating an enabling environment for the development of civil society in the Republic of Serbia for the period 2021-2030<sup>88</sup> was published on the Ministry's website. The information on public call was also forwarded to the mailing list, which consists of about 2,000 contacts of civil society organizations. According to the public call, 21 civil society organizations were selected, which expressed interest and met the set criteria for participation in the Special Working Group for the development of this strategic document.

After the realization of the public call to the civil society organizations and the delegation of the representatives of the competent bodies, a Special Working Group was formed for the preparation of the mentioned strategic document. The special working group consisted of 26 representatives of state administration bodies and independent bodies, as well as 20 representatives of civil society organizations.

In the period of the third quarter of 2021, two meetings of this working group were held. At the first meeting, the Baseline for drafting this document were presented and the members of the working group had a period of two weeks to submit their comments and suggestions for improving the document. After the revision of the document based on the received suggestions, online consultations for representatives of associations and other civil society organizations, scientific research, professional and other organizations, as well as representatives of the state and provincial bodies, local self-government bodies, representatives of economic entities and other stakeholders related to the baseline for the development of this strategy were published on the website of the Ministry of Human and Minority Rights and Social Dialogue<sup>89</sup> and the e-Government portal. The deadline for submitting comments and suggestions was 3 weeks.

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<sup>87</sup> <http://minljmpdd-minljmpdd.apps.wh.gov.rs/konkursi-javni-pozivi-18.php>

<sup>88</sup> <http://minljmpdd-minljmpdd.apps.wh.gov.rs/konkursi-javni-pozivi-23.php>

<sup>89</sup> <http://minljmpdd-minljmpdd.apps.wh.gov.rs/javne-konsultacije.php>

The received comments, proposals and suggestions were considered by the Special Working Group, after which a report on the conducted consultations was developed<sup>90</sup> and published on the website of the Ministry of Human and Minority Rights and Social Dialogue and the e-Government portal.

The consultative process on the Baseline for drafting a public policy document for creating an enabling environment for the development of the civil society in the Republic of Serbia continued with the publication of a public call for representatives of public administration and civil society organizations to participate in consultative meetings or focus groups organized by the Ministry. Taking into account the epidemiological situation, two focus groups were held, one of which was online in order to enable the interested civil society organizations and representatives of public administration bodies from the entire Republic of Serbia to contribute to better drafting of this document. A total of 50 representatives of civil society organizations and representatives of public administration took part in the focus groups. The proposals and conclusions presented in the focus groups are integrated into the working version of the Strategy document.

After the consultations, a meeting of the Special Working Group was held, at which the working version of the Strategy for Creating an Enabling Environment for the Development of Civil Society in the Republic of Serbia for the period 2021-2030 was presented.

After the adoption of the suggestions of individual members, consultations with the interested public on the Draft Strategy for Creating an Enabling Environment for the Development of Civil Society in the Republic of Serbia for the period 2021-2030 were published. The consultations lasted from November 24 to 30, 2021, after which the text of the Proposal of this strategic document was improved with the received comments.

## XII ACTION PLAN

The government is adopting an Action Plan to implement this Strategy. In accordance with the objectives and measures from the Strategy, the Action Plan defines the activities for implementing each of the measures, responsible institutions and partners, result indicators at the level of individual measures, deadlines, resources and their sources.

Having in mind the need for further regulation of this area, as well as the need to prepare a detailed budget projection in this regard, during the duration of this strategy, an Action Plan for the implementation of the Strategy will be developed based on the results of the previous Action Plan.

The first Action Plan for the implementation of the Strategy will cover the period 2022-2023 and will be adopted within 90 days from the date of adoption of this Strategy.

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<sup>90</sup> <http://minljmpdd-minljmpdd.apps.wh.gov.rs/javne-konsultacije.php>

### XIII PUBLICATION

This Strategy is to be published on the website of the Government, the website of the Ministry of Human and Minority Rights and Social Dialogue and the e-Government Portal, within seven working days from the day of the adoption of this Strategy.

This Strategy is to be published in the "Official Gazette of the Republic of Serbia".

05 Number: 90-291/2022-1

In Belgrade, February 3, 2022

GOVERNMENT

The accuracy of the transcript is verified by

SECRETARY GENERAL

Novak Nedić

PRIME MINISTER

Ana Brnabić, p.s.