



MONTENEGRO
Ministry of the Interior

**- INFORMATION ON IMPLEMENTATION
OF
RESOLUTION 27/31 ON CIVIL SOCIETY -**

I General information

Under the Constitution, Montenegro is defined as a citizens and democratic state founded on the rule of law which guarantees civil rights and freedoms, including the freedom of association. Moreover, Montenegro ratified a number of international conventions which guarantee the freedom of association, including the Council of Europe Convention on Human Rights and the United Nations International Covenant on Civil and Political Rights. The new Law on Non-Governmental Organisations was adopted in mid-2011 (Official Gazette of MNE 39/11), whose implementation began on 01 January 2012. The Law is harmonised with international standards (the Council of Europe Convention on Human Rights and Recommendations CM/Rec (2007) 14 of the Committee of Ministers to Member States on the legal status of non-governmental organisations in Europe) and with case law of the European Court of Human Rights.

The Constitution of Montenegro grants freedom of political, trade union and association and action without any approval whatsoever, by registration with the competent authority.

There are two types of NGOs in Montenegro: non-governmental association and non-governmental foundation. Non-governmental association is a non-profit membership organisation, which can be established by domestic and/or foreign natural and/or legal persons for the purpose of accomplishing certain common or public goals and interests. Non-governmental foundation is a voluntary non-profit organisation without membership, which can

be established by a domestic and/or foreign natural and/or legal person with or without initial assets, for the purpose of accomplishing public goals and interests.

According to the data from the NGO Registry, in early September 2015 there have been 3705 NGOs, out of which the majority are non-governmental associations (3583), while 122 are foundations. In January 2012, the electronic NGO register was posted on website of the Ministry of the Interior: www.mup.gov.me, with the Ministry developing a programme supporting the e-version of the Register.

II Strategic and normative framework

Most importantly, "core" activities -- measures for improving legal and institutional frameworks were implemented (the Law on NGOs was adopted, e-Registry of NGOs was established, Decree on the manner of and procedure for establishing cooperation between state administration bodies and NGOs was adopted, Decision on establishing the Council of Government for development of NGOs was adopted etc.):

The Law on Non-governmental organizations defines NGOs as non-governmental associations and non-governmental foundations. The Law regulates the procedure of foundation, registration and deletion from the Register, status, bodies, financing and other matters relevant for work and activities of non-governmental organisations.

A basic institutional framework at the national level was established for this partnership. On the basis of the Action Plan for Implementation of Recommendations from the EC Opinion, into which this measure was incorporated, two main regulations in this area were adopted: the Decree on the manner of and procedure for establishing cooperation between state administration bodies and NGOs (Official Gazette of MNE 7/12) and Decree on the manner of and procedure for conducting public consultation in law-making (Official Gazette of MNE 2/12). The Decree on the manner of and procedure for establishing cooperation between state administration bodies and NGOs regulates for the first time the main forms of cooperation between public and civil sectors (informing, consulting, involvement in working bodies). As for participation of NGO

representatives in working and other bodies established by state administration bodies. During the first half of 2013 state administration bodies sent 105 invitations for involving NGO representatives in these bodies on the basis of which 108 NGO representatives were elected, while it is worth noting that there were no candidates proposed for 31 invitations (in 2012, 83 NGO representatives were included in the composition of 92 working bodies that had been established in ministries and autonomous state administration bodies). NGOs participated in the law-making process, as well as in the preparation of strategic documents in numerous areas, while they also participate in several working bodies tasked with monitoring the implementation of strategic documents. In the process of Montenegro acquiring the EU candidate status, NGOs are involved in working groups tasked with the preparation of negotiating positions for most of the chapters.

The Decree on the manner of and procedure for conducting public consultation in law-making lays down legal prerequisites for efficient consulting with the public in the process of preparing laws, other pieces of legislation, strategic and planning documents and in that way it is focused on strengthening participatory democracy. During the period of 2012 to the first half of 2013, 49 public consultations were organised to discuss different public policy documents.

At the end of 2013 the Government of Montenegro adopted the Strategy for Development of NGOs 2014-2016. The general goal of the Strategy is further improvement of legal, institutional and financial prerequisites for unhindered work of NGOs and development of social capital, as well as for partnership between NGOs, Government, line ministries, other state administration bodies and local government bodies, which will recognize their different, yet still complementary, roles and responsibilities in creating an open, prosperous and democratic society that offers equal opportunities. The specific goals of the Strategy are: strengthening institutional framework for cooperation with NGOs at the national and local levels; higher degree of participation of NGOs in public policy making and implementation at the national and local levels; creating legal and institutional prerequisites for greater financial sustainability of NGOs; creating an enabling environment for the work and development of NGOs; more important role of NGOs in the process of accession of Montenegro to the European Union and building the organizational capacity of NGOs.

III Institutional framework

With the aim of strengthening cooperation and partnership with NGOs, the Government established two special bodies: the Office for Cooperation with NGOs and the Council for development of NGOs. The Office for Cooperation with NGOs was established in 2007 as an organizational unit of the Secretariat General of the Government of Montenegro. It is the task of the Office to improve and coordinate the work of state bodies with NGOs by following the principles of partnership, transparency, accountability, mutual informing and independence of NGOs, as well as to initiate and organize training of civil servants about matters relevant for cooperation with NGOs and citizen participation, as well as to cooperate with NGOs, their coalitions and networks, international organizations and institutions in the areas that fall within the competence of the Office. The Office also carries out technical and administrative tasks to meet the needs of the Council for Development of NGOs.

The Council for Development of NGOs was established in 2014. The Council is tasked with monitoring the implementation of the Strategy for development of NGOs and the Action Plan for its implementation, while it also gives opinion on regulations and other documents concerning work and actions of NGOs, gives recommendations for improvement of cooperation between the Government and NGOs and fosters dialogue between the two sectors. The Council has 22 members (11 from state bodies and 11 from the NGO sector).

Moreover, focal points responsible for cooperation with NGOs were appointed in all of the ministries and state administration bodies. According to the data from the Report on Cooperation between Ministries/State Administration Bodies and NGOs in the first half of 2013, a total of 61 persons were appointed in 57 authorities and bodies as those responsible for cooperation with NGOs. The training of civil servants – focal points for cooperation with NGOs – was delivered by the CRNVO, HRMA and TACSO Office in Podgorica.

IV Financial state support for NGOs

The Law on Non-Governmental Organizations and the Law on Games of Chance, together with by-laws regulate the issue of allocation of funds from the Budget of Montenegro for funding of NGO projects. Apart from that, the Law on Corporate Income Tax defines that NGOs are allowed to have untaxed income up to EUR 4,000; the Law on Real Estate Tax prescribes that this tax will not be levied on NGOs' real estate provided it is used for their program-based activities for the purpose of which they were formed; the Law on Administrative Taxes sets forth that NGOs are exempted from paying tax for activities that pursue the goals for which they were established; the Law on VAT has under certain conditions exempted NGOs from paying tax on their services.

In this moment, the Ministry of the Interior is preparing amendments to the Law on NGOs, in order to establish a more efficient financing system for NGO projects from the State Budget.

Each year, on the basis of Law on Games of Chance, the state also provides financial support for NGO projects from the State Budget (in 2015 this fund amounts approximately to 2.9 million euros).

V. Other relevant activities

In 2012, the Government of Montenegro became part of the Global Initiative Open Government Partnership. In the light of promotion of cooperation between the government and the NGO sector, the Operating Team which also includes members of four NGOs, prepared an Action Plan for its implementation. This team is responsible for the evaluation and monitoring of the implementation of the measures set out in the Action Plan, as well as for quarterly reporting on their implementation.

Moreover, on the government's initiative, the following portal was launched in October 2012: Citizens' Voice – E-petitions, as a service providing an opportunity to citizens to influence the public policy making process by filing a petition in any area that falls within the competence of the government.

Montenegro also has NGO representatives in the Joint Consultative Committee (JCC) with the European Economic and Social Committee and it is the first state to include formally NGO representatives in working groups tasked with preparing negotiating positions for specific chapters of the European Union *acquis communautaire*.

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The legislative framework

Montenegro ratified a number of international conventions which guarantee freedom of association, including the Council of Europe Convention on Human Rights and the United Nations International Covenant on Civil and Political Rights.

Article 53 of The Constitution of Montenegro (adopted in 2007.), guarantees freedom of political, labour and other forms of association and work, without permission, with registering in official states' bodies. It's also envisaged that the state supports political and public associations in matters of common interest.

Montenegro has made significant efforts to incorporate changes in national legislation, strategic and other public policy documents and institutional framework, in the last 8 years has made significant progress creating the prerequisites for the improvement of cooperation with NGOs and CSOs generally.

The new **Law on Non-Governmental Organisations** was adopted in mid-2011 and it is harmonised with international standards (the Council of Europe Convention on Human Rights and Recommendations CM/Rec (2007) 14 of the Committee of Ministers to Member States on the legal status of non-governmental organisations in Europe) and with case law of the European Court of Human Rights and adopting repealed a previous law from 1999 (partially harmonized with international standards). In addition to this, new regulations for the Law on NGOs are being prepared regarding to funding the programs and projects of NGOs by the State budget, and this issue will be regulated in a way to support the development and sustainability of NGOs.

Significant novelty in The Law on Non-Governmental Organisations (2011.) is allowing juveniles from the age of 14, to found an association, with consent of legal representative, what creates legal prerequisites for active involvement of youth in social life.

Involving CSOs in social and political life can be seen through the creation of conditions for development of participatory democracy and the role of civil society as a factor of reforms and development of society in general, what is in accordance with the provisions of the Lisbon treaty, which emphasizes cooperation with civil society as new political criteria for the candidate countries and potential candidates. This issue is regulated by **Decree on the manner of and procedure for establishing cooperation between state administration bodies and NGOs** that formally standardize key forms of intersectoral cooperation envisaged by the The Law on Civil Service: informing the non-governmental sector by the state administration bodies, consulting NGOs in drafting laws, as well as the participation of NGO representatives in working groups and bodies formed by the heads of state administration and **Decree on the manner of and procedure for conducting public consultation in law-making** that standardize manner and procedure of organizing public debate, as a key form of citizen participation in law-making process

Significant benefits for the sustainability of NGOs are regulated by Law on Value Added Tax, Law on Corporate Profit Tax, Law on real property transfer tax, Law on games of chance etc., because of the fact that NGOs have the status of a legal entity, and facilities for NGOs are regulated by laws by which all legal entities regulate issues in certain areas.

Strategic framework

The Government of Montenegro adopted the **Strategy for Cooperation between the Government of Montenegro and Non-Governmental Organisations** in 2009 with the Action Plan for the period 2009-2011 and in 2013 the **Strategy for Development of Non-Governmental Organizations in Montenegro 2014-2016** with the Action Plan.

The Action Plan for the period 2009-2011 was implemented to a great extent, while in early 2011 numerous activities were incorporated into the **Action Plan for implementation of recommendations from the Opinion of the European Commission** (regarding to cooperation with NGOs issue) and was implemented in short time period. The European Commission gave positive assessment of implementation of these measures, which partly contributed to the decision of the European Council to open negotiations on full-fledged membership with Montenegro.

Within the AP of the **Strategy for Development of Non-Governmental Organizations in Montenegro 2014-2016** are defined measures for creating an enabling environment for the development of NGOs. Within AP for Chapter 23 is defined a separate segment "Cooperation with NGOs" which includes measures to create an enabling environment aforementioned, as well as building capacity of public administration and NGOs through conducting specific educational trainings both for employees in NGOs and state administration bodies.

Institutional mechanism

With the aim of strengthening cooperation and partnership with NGOs, the Government established two special bodies: **Office for Cooperation with NGOs and Council for Cooperation of the Government of Montenegro and Non-Governmental Organisations**, in 2014 "replaced" with the **Council for the Development of NGOs**. The Council is an example of good practice— it should be emphasized that it has same number of Government representatives and representatives of non-governmental organizations. It is responsible for monitoring implementation of **The Strategy for Development of Non-Governmental Organizations in Montenegro 2014-2016** and Action plan and to give an opinion on acts relevant for functioning of NGOs.

Except aforementioned mechanism in ministries and other state administrative bodies are envisaged focal points for cooperation with NGOs.

The development of institutional mechanisms of cooperation is the key for sustainability of the reforms undertaken in the EU accession process. The civil sector in Montenegro has been recognized as a partner that may contribute to further democratization of the society and to its dynamic and sustainable development, and because of that CSOs are involved in the implementation of a series of measures from the AP for the Strategy for Development of NGO.

Principles of the intersectoral cooperation are: partnership, transparency, responsibility, mutual informing and independence of NGOs, and cooperation has further aims: improvement

of legal, institutional and financial prerequisites for unhindered work of NGOs, strengthening institutional framework for cooperation, higher degree of participation of NGOs in public policy making and implementation, creating legal and institutional prerequisites for greater financial sustainability of NGOs, creating an enabling environment for the work and development of NGOs and building organisational capacity of NGOs.

Montenegro recognised importance of the role of civil society in social and political life, so the representatives of NGOs are involved in working groups for negotiation chapters and they are appointed in many Government advisory bodies, as well in working groups for drafting laws and by-laws, in accordance with procedure and criteria from Decree on the manner of and procedure for establishing cooperation between state administration bodies and non-governmental organisations.

However, the engagement of civil society in mentioned processes is still not affirmed enough, so citizens are still not sufficiently acquainted with their opportunities to influence the policy – making process in every area of social life, although there are visible improvements on this issue. In that regard, the informative and educative role of media would be of a great importance, because the CSOs, as well as state bodies, could be able to make this topic familiar to public, highlight it's significance and present their achievements and aims in the areas they are engaged in. However, there is dissatisfaction in non-governmental sector with their representation in media, because they consider that the media do not pay enough attention on their work although they are also part of civil society. In that purpose, TASCO office in Montenegro and European movement in Montenegro, through project "National convention on EU integration in Montenegro", organised sessions about cooperation between media and NGOs and NGOs and labour, in order to establish better understanding and cooperation.

Emphasis

The Strategy for development of NGOs and other acts set long-term objectives for further improvement of legal, institutional and financial precondition for NGOs to act freely and independently, development of social capital and cooperation of state bodies and NGOs, as well for the building organisational capacities of NGOs. Through Strategy, Government promoted several measures for capacity building and a part of them is regulated due to integration process.

Significant number of NGOs don not have developed capacities, hence there is a need for capacity building through education about writing and managing projects, learning about mechanism of cooperation and mutual networking. In addition, training about self-regulation mechanisms is very important (codes, standards of quality and the like), in order to promote good governance, transparency and higher quality of work, what will lead to increased confidence of citizens in their work.

In particular, it is necessary to improve their knowledge about the EU policies and European integration process, considering that development of civil society is one of the political criteria for membership in EU and the Government has recognized civil sector as important factor and included their representatives in working groups for negotiation chapters.

However, main sustainability issue of NGOs and development is establishing the mechanism of financial support to NGOs from public and other funds. In that regard, role of the state is determined through legislation, which envisages that a part of resources from state and the local governments' budget is intended for financing CSOs. Currently, there is centralised form of financing NGOs' programs and projects at the national level, and part of revenues from the games of chance also goes to NGOs – only six areas through special Commission, which includes equal number of representatives from NGOs and state administrative bodies. Currently, the Law on Amendments to the Law of Non-governmental organisations is in the preparation phase, and it envisages changes in a manner of providing support for programs and project, in order to link them with implementation of strategic and planned priorities of public policies in various areas, and allocation funds for support of projects of NGOs' will thereby be considered as an instrument of realization of public policies in various areas.

Also is envisaged the education of employees in state administrative bodies and NGOs in managing EU funds, which should be realised in forth coming period.

Financial support is not the only manner of state support in capacity buildings. It is planned to create legal framework for non-financial support (space, equipment and the like), and promoting of social entrepreneurship, as a model of improvement the sustainability of NGOs as well. Also envisaged to ensure access of the premises of state administration bodies to the persons with disabilities and reduced mobility as well to adapt the existing and create new websites of state administration bodies in a way to make them accessible to the screen readers.

In 2015 representatives of NGO are also involved in sectoral groups for programming IPA II. The Ministry of Foreign Affairs and European Integration published a public call to NGOs for proposing candidates for membership in those sectoral groups. It should be emphasized that NGO candidate for whom is provided the most support of NGOs in appropriate areas of activity, which means that representatives of NGOs are proposed and chosen by their colleagues while the state administrative body is only administrative and technical support to this procedure, which is from beginning to end transparent.

Free access to information

The Office for Cooperation with NGOs on the basis of data collected from the state administrative bodies, for the purposes of creating Report on the implementation of the AP for the Strategy for Development of NGO 2014-2016, has concluded that the greatest number of requests for access to information was submitted by NGOs, and mostly replies are provided. Our assessment is that the time limit fixed for responding to these requests is brief. This fact is being more complexed because some NGOs, wishing to test the authorities, submit a huge number of requests very often on marginal issues, but the law must be obeyed.