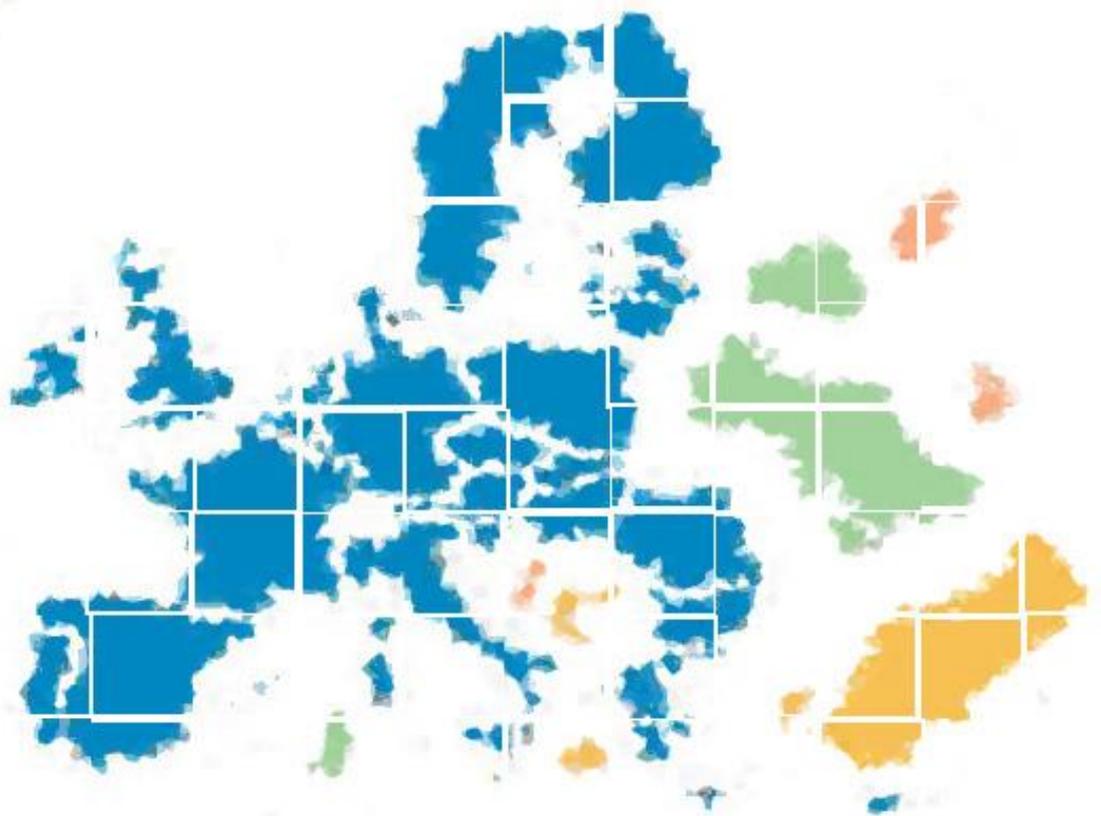


The role of the Macedonian civil society in advancing democracy in a captured state

Damjan Zdravev



July 2017

Center for European Neighborhood Studies

The Center for European Neighborhood Studies (CENS) is an independent research center of the Central European University (CEU) located in Budapest, Hungary. Its main goal is to contribute to an informed international dialogue about the future of the European Union in the world, while capitalizing on its Central European perspective and regional embeddedness.

The strategic focus of the center is academic and policy-oriented research on the place and role of the European Union in its rapidly changing and increasingly volatile neighborhood. Through its research, CENS seeks to contribute to the understanding of the environment where the EU, its member states and partners need to (co)operate, and it aims at supporting the constructive development of these relations by providing opportunities for discussion and exchange. The center's geographic focus areas are Central and Eastern Europe, the Western Balkans and Turkey, Eastern Europe, the South Caucasus and Russia.

EU Frontiers

The 'EU Frontiers' publication series aims to provide an account of actors and developments along the enlargement frontiers of Europe. It fills an academic gap by monitoring and analyzing EU related policies of the broad Central – and Eastern European region, studying the past and evaluating the prospects of the future. Furthermore, it follows and gives regular account of the EU Enlargement process both from an inside and an applicant perspective.



This report has been produced with the kind support of the Friedrich-Ebert-Stiftung Budapest. The opinions expressed in this report are those of the authors.

About the author

Damjan Zdravev

Damjan Zdravev is a civil society activist and researcher. He holds an MA in conflict transformation and peace building from the Eastern Mennonite University in the USA. Damjan is a long standing activist from Macedonia and has more than ten years' experience in developing and implementing various interventions for community organizing, civic engagement, gender equality and good governance. He currently lives in Serbia where he researches youth employability.

The role of the Macedonian civil society in advancing democracy in a captured state

Abstract

Enlarging the space for civil society and creating an enabling environment for its development and for participation in public affairs is fundamental for the democratic reforms in Macedonia. However, in the past decade, particularly since the beginning of the most recent political crisis in 2015, the civil society in Macedonia has been under constant and severe pressures and attacks despite its constructive role and efforts in a peaceful resolution of the crisis. The overall decline of democracy, systemic corruption and continuous violations of human rights resulted, among other things, in a precariously decreased representation and participation of citizens in decision and policy making. The increasing mistrust in democratic institutions and citizens' inability to act allows corrupt elites to govern without much respect for the rule of law.

This paper looks at the position of the civil society in Macedonia and its efforts in restoring democratic principles and practices, as well as the everyday problems it faces while doing so. Furthermore, the paper analyzes the institutional and the policy frameworks of the CSO's activities and discusses ways for creating an environment that will enable civil society to advance good governance as well as civic participation in decision and policy making.

Introduction

The Republic of Macedonia has been continuously facing many challenges on the road of democratic consolidation and European integration. As a candidate country for EU accession since 2005, the country was making progress in the reform processes. The subsequent stagnation of the Euro-Atlantic integration process resulted from backsliding of democratic reforms. The situation further deteriorated in early 2015 when the largest opposition party, the Social Democratic Union of Macedonia (SDSM), presented evidence of mass illegal wiretapping of government officials, members of the opposition, judiciary, media and civil society. The recordings showed what many suspected – widespread abuse of power by the ruling elite, grave human rights violations, pressure on the legislative branch as well as severe intimidation and politicization of the public administration and the judiciary. These events led to the most severe political crisis in the country since the violent ethnic conflict in 2001. The severity of the crisis is such that the European Commission, in its 2016 Report on Macedonia, states that “Democracy and rule of law have been constantly challenged, in particular

due to state capture affecting the functioning of democratic institutions and key areas of society.”¹

Even though democracy has worsened in the country, the citizens, organized in formal CSOs as well as in informal groups, demand accountability and rule of law despite facing many structural barriers. Civil society plays a constructive role in supporting democratic processes and ensuring greater checks and balances. At the same time, CSOs continue to express their concerns about the deterioration of the climate in which they operate and the limited government commitment to dialogue, as well as about public attacks by politicians and pro-government media.²

This document provides a brief overview of the civil society sector in Macedonia, analyzes the normative and institutional frameworks that regulate its operations and development and discusses the environment in which CSOs’ work and interact with other stakeholders. Furthermore, the document elaborates the political context in the country, the challenges and barriers civil society actors face and proposes recommendations for advancing civil society.

Civil Society in Macedonia in numbers

Reliable statistical data about the civil society sector in Macedonia is difficult to obtain. The Central Registry of the Republic of Macedonia as the statutory institution for registration of associations and foundations collects relevant data which are available only with remuneration. Although it is difficult to determine the exact number of CSOs operating in the country, available data shows that there are approximately 14.000 registered organizations, with just little less than 4.000 being active. In this regard it should be noted that around two thirds of these organizations have annual budgets which do not exceed 2.500 EUR.³ A total of 1.990 persons are formally employed in the civil society sector or on average 1, 97 per organization. The income of CSOs for 2014 was 81.516.756 EUR or 0, 96% of the national GDP which is the highest participation of total CSO income in the national GDP among the Western Balkan countries. However, the CSOs in Macedonia are highly dependent on donations and grants and have a low level of economic activity as a mean for generating funds. It is estimated that 68% of the total income comes from grants and donations; income from product sale and services is 12%, while other income is at 20%.⁴

¹ European Commission, *The Former Yugoslav Republic of Macedonia 2016 Report*, (European Commission, 2016), 4, Accessed April 15, 2017. <https://goo.gl/ztCD2S>

² Ibid

³ Simona Ognenovska, *Report on Enabling Environment for Civil Society Development in Macedonia 2015*, (Macedonian Center for International Cooperation, 2016). Accessed April 12, 2017. <https://goo.gl/cK7Uw>

⁴ Dubravka Velat, *REPORT on the economic value of the non-profit sector in the countries of the Western Balkans & Turkey*, ed. Tanja Hafner Ademi, (Balkan civil society development network, 2015), 33-34. Accessed April 11, 2017, <https://goo.gl/nOkJ8p>

Frequent changes of the legal framework impede the work of civil society

The functioning of the civil society sector in the Republic of Macedonia is predominantly regulated with the Law on Associations and Foundations.⁵ The law enables the operationalization of the right of citizens to free association for the purpose of addressing their goals, rights, interests and beliefs. Additionally, the law regulates the manner, the requirements and the procedure for establishing, registering and terminating associations, foundations and unions, as well as the organizational forms of foreign organizations in the Republic of Macedonia, and further the available assets, the supervision, the status changes and the status of organizations of public interest. At the same time, other important actors that operate within the realm of civil society - political parties, churches, religious communities and religious groups, trade unions, chambers and other types of associations are regulated by separate laws. Overall, it is considered that the law clearly and comprehensively regulates the work of the organizations, their management and procedures for reporting. However, the legal environment in which CSOs' function has deteriorated due to frequent legal changes that created uncertainty affecting CSOs' daily operations. In a single day in August, for example, the Parliament amended sixty-four laws without public consultation, several of which affected the work of CSOs and increased penalties for violations.⁶

Insufficient public funding limits the sustainability of CSOs'

The institutional cooperation, or more specifically the state financing of CSOs is conducted with inconsistencies regarding programing, application, disbursement and reporting. Even though the national budget has been constantly increasing, the funds allocated for civil society remain the same and are insufficient. They are significantly lower compared to Bosnia and Herzegovina, Croatia and Serbia. With the adjustment of the Budget in 2015, 42% of the funds were redirected towards support of political parties through the Ministry of Justice.⁷ The funds from games of chance and entertainment games (lottery) which amount to around 1 million EUR per year are also a significant source of funding. However, each year they are disbursed to the National Organizations of the Disabled, their Associations and Unions, Associations for Fight against Domestic Violence and the Red Cross of the Republic of Macedonia in a non-transparent procedure, without a public call.⁸ An additional problem when it comes to public funding arises from the fact that the funds from the national budget and the budgets of the units of local

⁵ Law on Associations and Foundations (Official Gazette of the Republic of Macedonia no. 52/2010 and 135/2011 and 55/2016)

⁶ USAID, *The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia*, (United States Agency for International Development, 2016), Accessed April 16, 2017. <https://goo.gl/9E8bHu>

⁷ Simona Ognenovska, *Direct Budget Funding for Civil Society Organizations: Basic Overview*, (Macedonian Center for International Cooperation, 2016), 39-40. Accessed April 14, 2017 <https://goo.gl/M6kwgF>

⁸ Ibid

self-government are disbursed on an annual basis. In this way, the possibility for long term planning and sustainability of the organizations is significantly limited.

Institutional and policy frameworks for cooperation are weakly operationalized in practice

The institutional framework for cooperation between the government and civil society has been developing over the years, but the cooperation remains very weak. In 2004, within Sector for Policy Analysis and Coordination in the General Secretariat of the Government, a Unit for Cooperation with CSOs has been operationalized. Its main role is to serve as a primary focal point for exchange of information, to coordinate activities for cooperation as well as to report and propose measures for improvement of the cooperation. Additionally, the Government established a network of civil servants in ministries and other government bodies mandated to cooperate with the civil society. Two consecutive strategies for cooperation with the civil society for the period 2007 – 2011⁹ and 2012 – 2017¹⁰, as well as a Code of Good Practices for Participation of the Civil Sector in the Process of Policy Making¹¹ have also been adopted by the Government. In terms of financial support of CSOs, the Government has adopted Code of Good Practice for Financial Support to Citizen's Association and Foundations and the Decision for Criteria and Procedures for Allocation of Resources for Financing Programme Activities of Citizen's Association and Foundations¹² from the Budget of Republic of Macedonia¹³, while yearly allocation of funds is based on annual programs.

While on paper, the institutional and policy framework is well developed, in practice the situation is very different and the cooperation between the Government and the civil sector is deteriorating. One of the more prominent measures for improvement of the cooperation foreseen with the Strategy for cooperation of the Government with Civil Society 2012 – 2017 was the establishment of the Council for Cooperation between the Government and the Civil Sector. Neglecting previous consultations and recommendations from civil society, the Government adopted a Decision for the establishment of the Council and selection of members. Despite the reaction of

⁹ Government of the Republic of Macedonia. *Strategy For Cooperation Of The Government With The Civil Society: 2007-2011*. Skopje, 2011. <https://goo.gl/Kh0WYc>

¹⁰ Government of the Republic of Macedonia. *Strategy For Cooperation Of The Government With The Civil Society: 2012-2017*. Skopje, 2012. <https://goo.gl/WgI4NB>

¹¹ Code of Good Practices for Participation of the Civil Sector in the Process of Policy Making (Official Gazette of the Republic of Macedonia no.99/2011)

¹² Code of Good Practice for Financial Support to Citizen's Association and Foundations (Official Gazette of the Republic of Macedonia no.130/2007)

¹³ Decision for Criteria and Procedures for Allocation of Resources for Financing Programme Activities of Citizen's Association and Foundations from the Budget of Republic of Macedonia (Official Gazette of the Republic of Macedonia no.23/2009)

approximately 90 CSOs¹⁴ on the lack of transparency, non-inclusive and insubstantial consultations as well as the number of CSO representatives, the Council was established. In this way, the lack of dialogue and cooperation was once again proved and as a result the Council is boycotted by the majority of CSOs and lacks legitimacy.

The process of transparent and participatory policy making is also burdened with many challenges, although there is a comprehensive legal framework that regulates the participation of CSOs in policy making. The Unique National Electronic Register of Regulations (ENER) is an online platform for public consultation in the process of development of regulation. However, research shows that it is not properly utilized and is not fulfilling its mission and potential. More specifically, the relevant Ministries do not publish a significant portion of the proposed legislation; the minimal deadlines for consultation are not respected for almost half of the published legislation, while in two thirds of the cases the relevant institutions did not provide feedback to the submitted comments.¹⁵

When institutional cooperation fails, grievances and demands are articulated on the streets

According to a research study on civic engagement in Macedonia, in the period from 2012 to 2016, on average 83.94% of the citizens aged between 16 and 66 believe that they can have little or no influence on the decisions made on a national level. At the same time, more than half of the citizens feel a personal responsibility to improve society and would have liked to be more involved.¹⁶ Brought in a position of rather formal bystanders, without opportunities to substantially contribute and influence the processes of policy and decision making, CSOs' and citizens are left with no other choice but to protest. Protests have indeed been a constant feature in the Macedonia in the past several years. Civil society self-organized and voiced grievances of specific groups such as honoraria workers, students and journalists. In May 2015 the CSOs organized massive general protests as a response to the wiretapping scandal as well as the protests against the presidential pardon, popularly known as the "Colorful Revolution". The increasing trend to protests is also confirmed by data. If in 2012, only 8% of the citizens participated in a protest, demonstration or public gathering, in 2015 this number increased to 20%, while in 2016 it was 18%.¹⁷

¹⁴ "REACTION: The election of representative in the Council for cooperation between the Government and civil society should be stopped." akademik.mk. June 7, 2016, Accessed April 16, 2017.

<https://goo.gl/axoBMs>

¹⁵ Misha Popovikj and Jovan Bliznakovski, *In The Labyrinths Of The Policy Creation Cycle*, (Skopje: Institute for Democracy Societas Civilis Skopje, 2016) Accessed April 16, 2017. <https://goo.gl/V91ITY>

¹⁶ Vaska Leshoska, et al., *Citizens And Their Communities: Civic Engagement, Activism And Volunteering In The Republic Of Macedonia*, (Reactor - Research in Action, 2016) Accessed April 17, 2017. <http://www.graganskoucestvo.mk/onlineDoc/index.html>

¹⁷ Ibid

In this regard it should be highlighted that the protests, particularly those in 2015 and 2016 have been characterized by abuse of power by the authorities, further shrinking the space for civil society. There is evidence of increased and stricter sanctioning of protesters, including prison sentences and excessive use of force by the police, while restriction on locations for public assemblies without reasonable justification has become a regular practice. Moreover, no police officers have been sanctioned, while detention of protesters has become common. At the same time, recent changes in legislation allow use of rubber bullets and prohibit drone imaging.¹⁸

Furthermore, CSOs are facing various obstacles and are put under severe pressure which jeopardize their operations. The organizations that have voiced criticism against the authorities are continuously labeled as traitors and foreign agents and are subject to public attacks and hate speech by politicians and sections of the media close to the ruling party VMRO-DPMNE. The attacks increased with the intensification of the political crisis and in the period around the elections in 2016. Personal information about earnings of CSO activists have been manipulatively published and widely distributed in order to support the narrative about the ‘sorosoids’ as foreign mercenaries.

In the days before the parliamentary elections, around 20 CSOs, including the Open Society Foundation were subjected to financial controls from the Public Revenue Office (PRO). Following the elections, on December 17, 2016, on a rally of the party in front of the State Elections Commission, the former Prime Minister read the proclamation¹⁹ of VMRO-DPMNE where it is stated that “[they will] fight for ‘de-soros-ization’ of Macedonia and the strengthening of an independent civil sector. We will regulate the funding of NGOs and foundations, in the style of the most advanced democracies in the world.” In the period that followed, the financial controls of the PRO intensified with a broadened scope as well as involvement of the Financial Police and some of them are still ongoing in April, 2017. The outcomes of the controls that were completed remain unknown as no reports or conclusions have been issued by the authorities.

To conclude, the space for civil society in Macedonia is significantly shrinking and the environment in which CSOs’ operate has significantly worsened. CSOs have increasing difficulty in accessing and cooperating with government institutions, and CSO involvement in policy development deteriorated. The sustainability also deteriorated, with negative developments noted in the public image, leaving little space for CSOs to present their work.²⁰ The insufficient administrative capacity and the lack of funds in the Government’s Unit for Cooperation with the Civil Sector prevent the implementation of the Strategy for Cooperation with Civil Society 2012-

¹⁸ Reactor – Research in Action, Freedom of Assembly in Macedonia, (European Center for Not-for-Profit Law, 2016), Accessed on April 17, 2017. <https://goo.gl/SqvCDp>

¹⁹ Proclamation of VMRO-DPMNE <https://goo.gl/mjfxJ8>

²⁰ USAID, The 2015 CSO Sustainability Index

2017. The drafting of the 2015-2017 action plan is still pending. A binding framework for standardized rules for state financing of civil society has not yet been adopted and the allocation of state funds remain insufficient. A fully functional legal framework, based on the Law on Associations and Foundations, is still not in place.²¹

How to move forward

The Republic of Macedonia is in a political impasse with increasingly present hate speech and vehement rhetoric that can easily escalate and turn violent. If the country wants to continue on the path of democratization and Euro-Atlantic integration, it must prioritize the fulfillment of the Urgent Reform Priorities.²² As it was the case thus far, civil society can and must play a significant role in the process of democratization because an empowered civil society is a crucial component of any democratic system and should be recognized and treated as such by state institutions. However, in order to enable civil society to pursue its mission and contribute to democratic development, changes in several areas are needed.

Primarily, in accordance with international standards, the state must ensure legal and practical protection of the rights needed for civil society to operate freely including the right to freedom of assembly and association, freedom of opinion and expression and the right to participate in public affairs.

Specific changes of legislation are needed in order to establish a fully functional legal framework that will enable the development and sustainability of the civil sector. By-laws of the Law on Associations and Foundations related to public funding and changes of the tax laws in the regulations that concern civil society organizations should be adopted. Additionally, it is necessary to ensure tax benefits for the organizations that will have a status of public interest.²³

Freedom of assembly as a fundamental right must be firmly protected. The state has a positive obligation to ensure the exercise of this right, particularly in times when public assemblies are so frequent. Legislation should be revised and exclude the use of 'non-lethal' means of coercion or at least further developed with by-laws that will strictly define the conditions and manners in which these means can be used. Furthermore, the Law on Public Assemblies must be fully respected and arbitrary limitations on locations for assembly should not be imposed. Most importantly, cases of excessive use of force by the police should be thoroughly investigated and accountability must

²¹ European Commission, *The former Yugoslav Republic of Macedonia 2016 Report*

²² European Commission, *Urgent Reform Priorities for the Former Yugoslav Republic of Macedonia*, (Brussels, European Commission, 2015), Accessed April 17, 2017. <<http://goo.gl/r37PDX>>. The priorities are focused on five areas: interception of communication, independent judiciary and prosecution, external oversight of independent bodies, elections and media.

²³ Ogdenovska, *Report on Enabling Environment for Civil Society Development*, 15.

be imposed, while the judiciary should use European jurisprudence when prosecuting alleged offenders.

The decision to establish the Council for Cooperation with Civil Society in accordance with proposals given by the CSOs in the consultation process before the adoption must be revised. In order for the Council to be representative and legitimate, the selection must be transparent and CSOs should have a leading role in this process, while the Chairperson/President of the Council as well as the majority of the members should come from civil society. Similarly, in order to ensure independence, the Council should be upgraded and have a separate budget as well as legislative initiative.

It is necessary to review and evaluate the implementation of the Strategy for Cooperation with the Civil Society and the Action Plan. This will enable the identification of shortcomings and key areas of concern which will serve as a basis for the development of a new strategy because the current one ends in 2017. The development a new strategy for the following five years, should start as soon as possible and be an inclusive and participatory process with equal participation of all interested CSOs, particularly the existing thematic CSO networks and allocate appropriate funds for timely development and implementation of the strategy.

Reforming the system for public funding and the development of the civil sector in a way that will ensure multi-annual financing, core/institutional funding and co-financing for international project is a must. The processes of application, selection and reporting in order to guarantee transparency and accountability should be approved. The existing Law on Games of Chance and Lotteries Proceeds that provides a possibility for funding should be revised so as to include a mandatory public call and competition for the funds.

Due to a lack of political will and the weak democratic culture, legislation on the involvement of CSOs in policy and decision making processes should be improved and include stricter safeguards that will ensure transparency and participation of stakeholders in all phases. The ministries should be proactive in publishing draft legislation on ENER and provide adequate time frames for feedback. Furthermore, establishing inter-sectorial working groups, committees, councils, etc. should become a regular practice and should ensure clear criteria, mandates and guidelines for operating.

References

Code of Good Practice for Financial Support to Citizen's Association and Foundations (Official Gazette of the Republic of Macedonia no.130/2007)

Code of Good Practices for Participation of the Civil Sector in the Process of Policy Making (Official Gazette of the Republic of Macedonia no.99/2011)

Decision for Criteria and Procedures for Allocation of Resources for Financing Programme Activities of Citizen's Association and Foundations, Republic of Macedonia no.23/2009)

European Commission, the Former Yugoslav Republic of Macedonia 2016 Report, (European Commission, 2016). <https://goo.gl/ztCD2S>

European Commission, Urgent Reform Priorities for the Former Yugoslav Republic of Macedonia, (Brussels, European Commission, 2015). <http://goo.gl/r37PDX>

Government of the Republic of Macedonia. Strategy for Cooperation of the Government with the Civil Society: 2007-2011. Skopje, 2011. <https://goo.gl/Kh0WYc>

Government of the Republic of Macedonia. Strategy for Cooperation of the Government with the Civil Society: 2012-2017. Skopje, 2012. <https://goo.gl/WgI4NB>

Law on Associations and Foundations (Official Gazette of the Republic of Macedonia no. 52/2010 and 135/2011 and 55/2016)

Leshoska, Vaska., Tanja Maleska, Jana Korunovska Srbijanko, Neda Korunovska, Damjan Zdravev, Blazen Maleski, Filip Dimchevski. Citizens And Their Communities: Civic Engagement, Activism And Volunteering In The Republic Of Macedonia, (Reactor - Research in Action, 2016). <http://www.graganskoucestvo.mk/onlineDoc/index.html>

Ognenovska, Simona. Direct Budget Funding for Civil Society Organizations: Basic Overview, (Macedonian Center for International Cooperation, 2016), 39-40. <https://goo.gl/M6kwgF>

Ognenovska, Simona. Report On Enabling Environment for Civil Society Development In Macedonia 2015, (Macedonian Center for International Cooperation, 2016). <https://goo.gl/cK7Uw>

Popovikj, Misha and Jovan Bliznakovski. In The Labyrinths of the Policy Creation Cycle, (Skopje: Institute for Democracy Societas Civilis Skopje, 2016). <https://goo.gl/V91ITY>

The role of the Macedonian civil society in advancing democracy in a captured state

REACTION: The election of representative in the Council for cooperation between the Government and civil society should be stopped.” akademik.mk. <https://goo.gl/axoBMs>

Reactor – Research in Action. Freedom of Assembly in Macedonia, (European Center for Not-for-Profit Law, 2016). <https://goo.gl/SqvCDp>

United States Agency for International Development. The 2015 CSO Sustainability Index for Central and Eastern Europe and Eurasia (USAID, 2016).

https://www.usaid.gov/sites/default/files/documents/1861/Europe_Eurasia_CSOSIReport_2015_Update8-29-16.pdf

Velat, Dubravka. REPORT on the economic value of the non-profit sector in the countries of the Western Balkans & Turkey, ed. Tanja Hafner Ademi, (Balkan civil society development network, 2015). <https://goo.gl/nOkJ8p>

EU Frontiers - Policy Brief No. 16

July 2017

Damjan Zdravev

**The role of the Macedonian civil society in advancing democracy
in a captured state**

Published by the
Center for European Neighborhood Studies
Central European University

Nádor utca 9, 1051 Budapest, Hungary
Phone: 0036-1-327-3000x2391; E-mail: cens@ceu.edu
Responsible publisher / Series editor: Péter Balázs
ISSN 2498-7875



2017 © All rights reserved