



# **National Assessment of the Enabling Environment for Civil Society Organisations (CSOs)**

**BURKINA FASO**

*(Translated from French)*

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Compiled by RESOCIDE



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## ACRONYMS

ADP	:	Assemblée des Députés du Peuple/ Assembly of Deputies of the People
NA	:	National Assembly
NC	:	National Consultation
CDCAP	:	Centre de suivi et d'analyses citoyens des politiques publiques
CGD	:	Center for Democratic Governance
CPF	:	Confédération Paysanne du Faso
EENA	:	Enabling Environment National Assessment
UNFPA	:	United Nations Population Fund
CAGIDH Humains	:	Commission des Affaires Générales, Institutionnelles et des Droits
CDP	:	Congrès pour la Démocratie et le Progrès
CSC	:	Conseil Supérieur de la Communication
CSI	:	Civil Society Initiative
JO	:	Official Gazette
MATS	:	Ministry of Territorial Administration and Security
MBDHP	:	Mouvement Burkinabé des Droits de l'Homme et des Peuples
MPP	:	Mouvement pour le Progrès du Peuple
NGO	:	Non-Governmental Organisation
CSO	:	Civil Society Organisation
UNDP	:	United Nations Development Program
REN LAC	:	National Anti-Corruption Network
RESOCIDE	:	Réseau des Organisations de la Société Civile pour le Développement
RHV	:	Republic of Upper Volta
SCADD	:	Strategy for Accelerated Growth and Sustainable Development
SPONG	:	NGOs Permanent Secretariat
UNICEF	:	United Nations Children's Fund

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## 1. INTRODUCTION

Legal, regulatory, and political conditions in which civil society organisations (CSOs) operate, greatly shape their performance in their mission to influence institutions and drive social change. Conditions in which associations can or cannot efficiently register, operate and access funding and advocate, are essential elements to the prosperity and success of civil society.

Furthermore, laws and regulations CSOs need to comply with, and how these are applied are, to a large extent, are a large part of civil society's "environment". This environment forms the basis of other essential aspects, which are: the possibility for CSO's to communicate or partner with others, to organise or participate in a peaceful assembly, to benefit from tax exemptions, and to drive philanthropic activities and access public information. All these factors, as well as CSOs relationships with public authorities, assist in defining the nature of civil society's environment in a given country.

Another major point is that all these factors put together, affect the receptivity of the public to civil society actions, which is essential for CSOs' operation.

To improve and reinforce the civil society sector, it is essential to evaluate the health of its environment in an accurate and objective way. The CSOs Enabling Environment National Assessment (EENA<sup>1</sup>) methodology was jointly developed by CIVICUS: World Alliance of Citizen Participation and the International Center for Not-for-Profit Law (ICNL), within the framework of the Civic Space Initiative (CSI). The EENA methodology provides step-by-step guidelines for the assessment, which allows for a comprehensive characterisation of the nature of the enabling environment for civil society at the national level<sup>2</sup>. These national assessments are conducted at the local level, and are rooted in primary data collection at the grassroots and national levels. The research findings are validated by consensus and following a multi-

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<sup>1</sup> For the purpose of coherence , the French version of this document kept the English acronym EENA, "Enabling Environment National Assessments"

<sup>2</sup>One of the reasons for the creation of EENA was the shared feeling that the Enabling Environment Index (EEI), a composite index developed by CIVICUS, was too restricted. Given the little data available on civil society's legal and regulatory environment, the EENA is an attempt by ICNL and CIVICUS to establish a wider monitoring framework on a national level, in addition to the EEI.

stakeholder dialogue.

At the same time, EENAs aim at encouraging local actors to improve the conditions of CSOs. EENAs, by allowing local partners to efficiently advocate for CSO's rights, contribute to the strengthening of civil society and the improvement of the relationship between CSOs and public authorities.

Burkina Faso's EENA process was initiated at the beginning of 2014 by RESOCIDE (Réseau des Organisations de la Société Civile pour le Développement) network, in partnership with CIVICUS and ICNL. The EENA in Burkina Faso followed the method as described in the EENA Research Guide.

## **2. METHODOLOGY**

The EENA methodology was jointly developed by CIVICUS and ICNL in order to streamline the research process for all the countries included in the project and to allow for a certain comparability between countries. Some minor adjustments were made to the general methodology as to reflect national conditions.

### **2.1. GENERAL GUIDELINES**

To ensure precision in assessing the main factors impacting the environment of civil society at the national level, guidelines with step-by-step, detailed instructions on how to conduct an EENA was provided to the research teams of the relevant countries. To clarify the scope of the study and to facilitate the comparability of the EENA country studies, ten (10) dimensions were identified to guide the assessment. Each of the ten dimensions were subsequently subdivided into questions used in the various interviews. For each dimension, questions were classified as perception questions and factual questions. Therefore, all aspects of a particular dimension are captured by the assessment and provide an accurate picture of said dimension, and the general environment.

The assessment is based on a series of questions, specific to each of the 10 dimensions that have an impact on civil society's environment. Five of these dimensions, the so-called

"mandatory dimensions", are considered essential in all contexts, and therefore are considered all EENAs. Five other dimensions, the so-called "optional dimensions", are considered important, however, without having the same influence on civil society's environment in all countries. These five dimensions should be carefully assessed on whether they provide additional information on CSOs environment, and whether they complete and further the analysis of the five mandatory dimensions. Depending on the country context and within the available resources and time, one or more of these optional dimensions are integrated into the assessment.

Mandatory dimensions are as follows:

- (1) Formation
- (2) Operation
- (3) Access to resources
- (4) Expression
- (5) Peaceful assembly

These five dimensions aim at assessing the degree to which CSOs:

- can play the important role they have in a democratic society;
- have the possibility to form themselves freely;
- operate without government interference;
- access funding without this access being regulated;
- can effectively express their opinions (especially those critical towards the government)
- can gather or convene assemblies

It is essential that these five dimensions are assessed in a comprehensive way.

The five optional dimensions are as follows:

- (6) Internet freedom
- (7) Government - CSOs relationships
- (8) Cooperation between CSOs/CSOs coalitions
- (9) Taxation
- (10) Access to information

While each of these optional dimensions has consequences on the work of CSOs and their possibilities to operate effectively, the importance of each of these vary from one country to another. If a more in-depth analysis of one (or more) of these dimensions can bring additional information on and clarify the nature of the environment of civil society in one country, this is not necessarily the case for other countries. Indeed, the pervasiveness of one dimension on civil society's environment in a given country, depends on its political history and, in the case of African countries, the survival of cultural and sociological factors in the current society. Furthermore, financial or time constraints can also influence the decision to only study some of the optional dimensions, or none of them. National EENA-partners had the option to add one (or several) optional dimensions to their EENA.

The EENA methodology includes several research methods that were used, and the data produced was triangulated to obtain the highest possible level of precision in depicting the environment of Burkina Faso's civil society.

#### **2.1.1. DESKTOP REVIEW**

The object of this review was to gather and analyse documents related to research on civil society and its environment. It appears that studies similar to EENA have been conducted, focussed on civil society or associated with civil society in general, where one can find secondary data on the environment of Burkina Faso's civil society. Desktop review was the first step in the EENA in Burkina Faso and several research reports were gathered. The data was used as a source of information in the analysis of the environment of civil society.

#### **2.1.2. INTERVIEWS**

Interviews were undertaken with the help of the Research Guide were used to gather information from people involved with civil society or political governance in general. Preferred targets for these interviews were the administrative managers of ministry departments in charge of freedom of association. Media has also been a major source of information on civil society's environment, since under the fourth Republic, CSOs often had a prominent role through their multiple activities. The profile of the interviewees:

- General director of freedoms

- Director of associations
- Director of NGOs monitoring
- General Director of State Security
- General Director of Budget
- General Director of Taxes (tax legislation)
- Permanent Secretariat for good governance
- National Technical Secretariat for Accelerated Growth and Sustainable Development Strategy
- Omega Radio
- Canal 3 Television
- Observateur Paalga daily newspaper
- Evening newspaper

### **2.1.3. FOCUS GROUPS**

Besides individual interviews, information on civil society's environment has been collected through focus groups discussions organised from the 11th to the 25th of February 2014. Focus groups were organised in the districts of Ouagadougou (Center), Bobo Dioulasso (West), Dori (North) and Diebougou (South-West).

Focus groups were organised according to several selection criteria. One group was made up of state actors (civil servants of deconcentrated services and decentralised staff). Another group consisted of CSOs. Grassroots, community based organisations made up the group whose point of view was considered as external and neutral. Technical and financial partners have rather been the object of individual interviews than focus groups. This last group was very difficult to reach.

### **2.1.4. NATIONAL CONSULTATION**

The third tool making EENA's methodology an innovative and relevant research is the national Consultation. The Consultation gathered relevant stakeholders in the enabling environment for civil society in Burkina Faso.

The Consultation led to wide and in-depth data collection through the use of the assessment matrix containing all questions used for individual interviews and focus groups discussions. Participants in the Consultation were grouped in two working groups, and responded to all the questions contained in the matrix. Since the groups include both civil society actors and government officials, the probability that the answer to any given question is as close to reality as possible, is high.

During the National Consultation fruitful discussions between civil society actors and other stakeholders involved in civil society's environment in Burkina Faso, such as the Directorate for Associations of the Ministry of Territorial Administration and Security, the Directorate for NGO monitoring and the Directorate General for Tax of Ministry of Economy and Finance. Several important pieces of information, especially in the area of tax exemptions, were brought to the attention of civil society actors. This Consultation, by reviewing the dimensions and the questions in the matrix, especially fostered discussions on key aspects of the national environment for civil society. In particular the review of the law on freedom of association in Burkina Faso was discussed, and caused a disagreement between government officials and civil society actors.

The Consultation also led to the establishment of a dialogue between state actors and civil society organisations, on improving civil society's environment in a democratic and effective way. In this manner, conflicts can be avoided, and civil society can play its role in contributing to the country's development.

The commitments of the main stakeholders was translated into a minimal advocacy plan which includes major actions to be initiated to improve the environment of civil society.

## **2.2. LOCAL ADJUSTMENTS**

A meeting was held on the 26th of March 2014 in SPONG's meeting room, to discuss the EENA research methodology. During this meeting, experts chose the optional dimensions, and decided to include nine (9) dimensions out of the ten in the EENA Research Guide. Only the dimension on internet freedom was not considered enough of a concern to be the object of the research.

The group of experts considered that this dimension could be touched upon in the dimension of freedom of expression.

Discussions during the National Consultation led to a renegotiation of this decision on internet freedom. Some views tend to minimise the reasons mentioned to not select dimension six (6) among dimensions to study for Burkina Faso's EENA. The review of the questions in the assessment matrix therefore concerned all ten dimensions, which totalled 121 questions.

The data collected through research methods proposed by EENA's guide provided a composite profile of civil society's environment in Burkina Faso.

### **3. RESULTS OF THE RESEARCH**

The environment of civil society in Burkina Faso has r been studied using two major dimensions which are the legal framework and practices on the ground. However, this environment is so composite, referring to previous studies, that it is in practice difficult to stick to these two major dimensions. These dimensions offer a static view of civil society's environment while, in order to understand the dynamic reality, it would be more logical to go beyond these two basic dimensions and use the ones suggested by EENA's research methodology.

#### **3.1. THE LEGAL FRAMEWORK**

Several studies found that the legal framework surrounding the freedom of association in Burkina Faso, which at the core of civil society's legal environment, is quite enabling. Such conclusions are based on the liberal orientation of the law on freedom of association (10/92 ADP of the 15th of December 1992), establishing the principle of declaration for the establishment of associations. This law was considered as a major step forward from the preceding legal regime that regulated the freedom of association.

The Law 10/92 itself rests on a higher rule in the Constitution establishing the liberal principle of freedom of association.

Indeed, the Constitution of 2 June 1991 states, in its article 21, that: *"The freedom of association is guaranteed. Every person has the right to constitute associations and to participate freely in the activities of the associations created. The functioning of the associations must conform to the laws and regulations in force."*

Additional to this constitutional article, article 2 of the Law No 10/92/ADP of 15 December 1992 on the Freedom of Association in Burkina Faso states: *"Associations are freely established, without prior administrative authorisation. In terms of their validity, associations are regulated by the general law principles applicable to contracts and obligations. They can however only enjoy legal capacity under conditions provided for by this law. They can be declared of public utility."*<sup>3</sup>

Freedom of association in Burkina Faso has evolved since the time before national independence, when the Legislative Assembly of the Republic of the Upper-Volta adopted *Law No 18/59/AL of the 31st of August 1959 on Associations other than Trade Companies, Benefit Societies, Cultural Associations and Congregations* (J.O. RHV N° 04 of 1 September 1959, page 13). This law, which includes 37 articles combined under six titles, describes the association as being "the agreement through which several people put together, in a permanent manner, their knowledge or activities, in a goal other than sharing benefits. In terms of its validity, it is regulated by the general law principles applicable to contracts and obligations."

This liberal regime, inspired from the French law of 1901, regulated the field of freedom of association in Burkina Faso for thirty years. The legal regime, based on French law, lasted until ZATU No AN VII-24 FP PRES of 12 March 1991 on the Freedom of Association in Burkina Faso was established, limiting the freedom of the formation of associations. This ZATU (which is the name given to presidential decrees under the democratic and popular revolution and under the Popular Front, which adopted this law) established an authorisation regime for associations. The law, enacted by the Popular Front<sup>4</sup>, came in addition to a State of Emergency, associated with general freedom restrictions. The prior authorisation regime was used by the political

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<sup>3</sup> For more information on civil society's history, see Ministry of Economy and Finance *Rapport de l'étude relative à la relecture de la loi 10/92 ADP du 15 décembre 1992 portant liberté d'association au Burkina Faso*, July 2009, or Augustin Loada, *La gouvernance des organisations de la société civile au Burkina Faso*, L'historicité de la société civile au Burkina Faso

<sup>4</sup> The political regime replacing the Democratic and Popular Revolution on the 15th of October 1987, ending with the enactment of the Fourth Republic Constitution on the 2nd of June 1991.

authorities to control the formation of associations. This ZATU was quickly repealed by Law 10/92 on freedom of association adopted in 1992, in line with the democratisation momentum initiated in Burkina Faso in 1991.

Article 1 of Law 10/92 defines an association as "*any group of physical or moral persons, domestic or foreign, intended to be permanent, not for profit and aiming at achieving common goals, especially in the cultural, sports, social, scientific, professional or socio-economic fields*". "Associations can be freely established, without prior authorisation", according to article 2 of the law. However, associations can only enjoy legal capacity once they have fulfilled the formalities of declaring their existence:

- Hold a constitutive meeting (General Assembly, Congress, etc.);
- Submit to this instance, in view of its adoption, draft statutes including the objective, the goals, the duration, the head office and procedural rules of the future association;
- Proceed with appointing the association's executive members; and
- Establish a record of decisions taken by the constitutive meeting, with mandatory provision of the composition of the executive body, indication of the identity and full details of its members.

Law 10/92/ADP of 15 December 1992 provides for four types of associations:

1. **Ordinary associations:** these are defined in article 1 of the law: "*An association, in the meaning of this Law, is any group of physical or moral persons, domestic or foreign, intended to be permanent, not for profit and aiming at achieving common goals, especially in the cultural, sports, social, scientific, professional or socio-economic fields.*"

2. **Associations of public utility:** these are defined in article 9 of the law: "*Any association or union of associations recognised of public utility, with activities pursuing an aim of general interest, especially in the areas of economic, social and cultural development in the country or a given region, can be considered of public utility.*" To obtain the status of public utility association, the association needs to apply for such a status. Such request is sent to the Minister in charge of associations. A positive response from the government, confirming the association is of public utility, is given in the form of a Decree by the Council of Ministers.

3. **Foreign associations:** the enjoyment of freedom of association by foreign associations is subject to prior authorisation by the Ministry in charge of Public Freedoms. Article 21 of the Law states that: "*Following authorisation or public utility acknowledgement, the foreign association shall sign with the Ministers of Finance and Planning an establishment agreement.*" Associations are considered as foreign when they fulfil one or more of the following requirements:

- *having their head-office of main establishment outside of Burkina Faso;*
- *having an executive body mainly consisting of foreigners; and*
- *having at least 75% of its founding members of foreign nationality.*

Article 18 of the Law also states that the "*foreign association can be acknowledged of public utility under the provisions of Title II of the present Law*".

4. **Trade union:** these are defined in article 25 as being: "*any organisation or group of organisations of workers or employers, aiming at promoting and defending moral, material and professional interests of their members*".

The existence of a legal framework gives a legal status to civil society's action. Its legitimacy remains to be studied, since the understanding of the role of associations remains one of the needs of the public space. A specialist of political sciences considers to this effect, that "*The separation of the State and of civil society is a fact that today's political reflection has to face. We can see, through the analysis made on contemporary political life, the conflict between so-called civil society organisations' actions and state decisions. Such a conflict cannot be only understood inside the borders of one or several specific states, which would need to be considered as the most representative of their time. No continent is spared. On a planetary level, a solidarity between so-called civil society organisations is taking shape, as to respond to consultation between states within the framework of international institutions*".<sup>5</sup>

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<sup>5</sup> Mahamadé Savadogo Etat et société civile, in *Souverainetés en crise*, sous la direction de Josiane Boulad-Ayoub et Luc Bonneville, pp. 533-552. Collection: Mercure du Nord. Quebec: L'Harmattan and Les Presses de l'Université Laval, 2003, 569 pp.

### 3.2. THE ENVIRONMENT IN PRACTICE

Since the enactment of the Fourth Republic constitutional regime in 1991, the reflections and the debate on the nature and the role of civil society emerged. Several attempts at definitions and typology were made, especially under the aegis of the development partners. In the numerous attempts made at clarifying civil society and the reinforcement of the framework of its action, UNDP, involved in global governance, tried to play a major role.

In view of giving Burkina Faso's civil society objective references in terms of definition and organisation, a major workshop was held in Bobo, in December 2004, which led to a consensus on the major axis of Burkina Faso's civil society. Participants agreed to define civil society as *"any form of organisation outside family and the state, or any form of organisation between the domestic realm and the public realm. These are independent organisations, playing a role of interface between the state and the rest of society, and of checks and balances in the face of hegemonic attempts by public authorities. Civil society is opposed to political society that expresses itself through state institutions, as well as to economic society that expresses itself through organisations and activities especially motivated by financial rewards."*<sup>6</sup>

In support to this definition, criteria were identified to characterise a civil society organisation (CSO). These criteria are as follows:

- independence in its establishment;
- freedom of organisation;
- not-for-profit, i.e. non distribution of generated profits;
- apolitical and non-partisan in nature;
- citizen activity; and
- promotion of goals of general interest.

The Bobo Dioulasso workshop was a major step in national civil society's evolution since it also led to a consensus on the thematic structuration of civil society. The 11 components defined during this workshop were adopted by the government as well as technical and financial partners, and are still used in state-CSO's relationships until now. Even though such a

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<sup>6</sup> UNDP - Rapport sur le développement humain durable au Burkina-Faso, Ouagadougou, 2002.

structuration leaves room for improvement on a conceptual and practical level, it does exist and has some normative value. The components are as follows:

1. Women organisations
2. Research institutes
3. Trade-unions
4. Religious organisations
5. Human rights promotion associations and specific demands movements
6. Professional media organisations
7. NGOs and development associations
8. Youth movements and associations
9. Organisations representing so-called marginalised people
10. Farmers organisations
11. Sports and cultural associations

The evolution of civil society in Burkina Faso's history is marked by three major phases:

- The ascension phase, marked by an active political role, from the fight for independence (before 1960) until the end of the 1970's.
- The hibernation phase, marked by the repression from authoritarian rule in the 1980's.
- The recomposition phase, with the initiation of a democratic process from the end of the 1980's.

The current environment of associations is the one implemented during the democratisation process. Freedom of association was considered as a pillar of democracy and civil and political freedoms. Beyond the legal regime of associations, the effective constitution of a civil society for democracy and development is the major factor for an enabling environment for associations.

After 20 years of liberal regime, the environment CSOs allows one to see a world with characteristics of plurality and medium effectiveness. Civil society in Burkina Faso is very fragmented. There are indeed thousands of associations, jealous of their respective independence, which often translate in duplication of intervention fields, sterile rivalries and a lack of cooperation. However, there are a few umbrella organisations and alliances active in Burkina Faso.

Among these, there is:

- The *Cellule Nationale de Renforcement des Capacités de la Société Civile* (National Cell of Capacity Development of Civil Society) was an attempt to create an unitary framework by the Bobo Dioulasso workshop in 2004. Through its 11 components, the goal was to gather CSOs by thematic groups. Supported by UNDP, the Cellule lacked real independence to face its mission and was later changed into a Conseil National des OSC (National Council of CSOs) in 2010.
- SPONG (Secrétariat Permanent des ONG; Permanent), which gathers numerous associations and NGOs. It defends the interests of its members and is a dialogue platform between the government and CSOs.
- The Confédération Paysanne du Faso (Peasant Confederation of Faso), gathers actors active in the agricultural production field, including animal husbandry.

Other networks and CSOs operate in thematic fields of civil society.

- The Centre de suivi et d'analyses citoyens des politiques publiques (CDCAP) (Centre of citizen monitoring and analysis of public policy). As a network of 11 thematic CSOs, it monitors public policies, organises citizen participation in the monitoring, leading to the protection of human rights by beneficiaries themselves. It acts at the central and at the local level, where Comités de Suivi à la Base (Grassroot Monitoring Committees) were established within communities.
- The Centre pour la Gouvernance Démocratique (CGD) (Centre for Democratic Governance) has been active since 2001, aiming at defining theoretical dimensions of citizen action in the democratisation process. It also takes on a role as service provider (resource center), for both associations as other actors.
- Other CSOs are active in political governance or development themes, and have gained an undisputable recognition (REN LAC, MBDHP, Labo Citoyenneté, CPF, and Réseau Afrique Jeunesse).

Civil society is supported by partners ensuring the two major tasks of financial and technical support. Among these, we can name the European Union, the Swedish, Danish, German and French Cooperation Agencies, Oxfam, UNDP, UNICEF, UNFPA, Diakonia, etc. These civil

society partners reached a good level of operational consultation, allowing one to get a global picture of donor interventions with civil society. This consultation is also in line with the Paris Declaration (2005) and the Istanbul (2008) Principles.

### **3.3. MANDATORY DIMENSIONS**

#### **3.3.1. FORMATION OF ASSOCIATIONS**

Currently, in Burkina Faso, Law No 10/92/ADP of 15 December 1992 regulates the freedom of association. Associations are freely formed, without the need of prior administrative authorisation. After the formation, the association needs to send a declaration of its existence to the authorities. Everyone has the right to form an association and declare it at the Ministry in charge of Public Freedoms, or at the relevant local administrative authorities.<sup>7</sup> It is possible to form an association with two founding members. Single-member associations do not exist in the association law in Burkina Faso. The option of one founder member is excluded de facto by law since an association is defined as a group of persons (article 2) and requires "the executives" to provide personal information during the registration of the association.

The association need to be registered within eight days after its creation, at the Directorate of Civil Society Organisations (Directorate General of Public Freedoms) of the Ministry of Administration and Security. The documents to be submitted includes the following:

- a stamped request, specifying denomination, object, location of head-office and address of its executive members,
- true copies of the association's statutes and procedural rules,
- after receiving the receipt of the registration, the executive members have to publish this document in the Official Gazette. Publication fees are CFA 25,000<sup>8</sup>.

Statutes and procedural rules shall be detailed and the competent authority assesses its compliance with the law. If the objectives are, for example, of a xenophobic, racist or regionalist

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<sup>7</sup> Associations, whose activities are limited to one region or commune, can register with the Governor (region) or the Mayor (commune).

<sup>8</sup> Approximately 42 USD

nature or challenges national unity, the authorities can refuse to issue an acknowledgement receipt for this association. Refusals are based on legal grounds and objectively presented. Usually, there is no appeal by the founders of the association. In case of amendment of the texts, a new receipt will be delivered by the authorities.

Costs for the process are equal to the cost of the stamps required to legalise the constitutive documents (three copies of the Statutes and procedural rules, and the application for registration/ recognition), equal to CFA 3,500, with fees for the publication of the receipt in the Official Gazette, equal to CFA 25,000. Therefore, the total costs amount to less than CFA 30,000 (approximately USD 60) to register an association.

The draft law on freedom of association provided for an additional amount of CFA 2,500 when submitting an application for recognition of an association. These additional costs have been deemed contrary to the spirit of freedom of association by CSOs involved in this issue.

Once the file has been submitted, the authorities have three months to issue the acknowledgement receipt in case the application is not to be rejected. However, in practice, receipts are issued within less than a month at the moment. In 2013, 1,700 CSOs have been registered. From 1 January to 30 June 2014, 1,025 CSOs have been registered.

In 2014, Law 10/92/ADP was being reviewed for the first time since 2009. The objective stated by the authorities is to improve freedom of association, but the process suffered a lack of consultation to include all concerns by CSOs, NGOs and trade unions. However, the first version of the draft law submitted to the National Assembly was removed by the Government following the action of the Parliamentary Commission (CAGIDH) in April 2014, due to concerns over possible restrictions to freedom of association.

The entity in charge of the registration of associations is sufficiently equipped in terms of human resources to ensure adequate administrative management of associations. This entity is a specialised sub-department called Directorate of CSOs, based in the Ministry of Territorial Administration and Security. Most agents facilitating this service are trained lawyers that are knowledgeable of the laws and principles. The Directorate is deemed as easily accessible. However, it is noteworthy that CSOs whose area of activity goes beyond the local framework, can only be issued a receipt by this central Directorate. Only local CSOs can receive their receipt

from the Prefect (CSO operating on a departmental level), the High-Commissioner (CSO operating on a provincial level), or the Governor (CSO operating on a regional level).

From 2010, with financial support from the European Union, and more specific the CSO Strengthening Programme), the Ministry of Territorial Administration and Security initiated the development of a database of associations and started to register them by computer to simplify the process of recognition of CSOs. The project counted approximately eleven thousand (11,000) associations in the entire country. However, complete computerisation was not achieved, so associations are still counted manually.

One of the aspects requiring improvement is the commitment by the legal authorities to declare associations. If an association can only enjoy legal capacity once it has been declared with the authorities, this would breach the principle of freedom of association itself recognised as a right in the Constitution. This concern should be submitted for reflection during consultations on the review of the law on freedom of association.

In terms of formation, in 2014 and given the current law, there are no major obstacles to the formation of associations. The process associated with the formality of declaration is even easier. No discrimination, preferential treatment (political, ethnic, religious, etc.) and/or corruption has been observed in the registration process. Any citizen of Burkina Faso can freely form an association.

The real challenge lays in the literacy level of the Burkinabé population, especially in rural areas. Procedures associated with the formation of associations are not accessible to all citizens due to the absence of guidelines written in national languages.

Answers provided by the participants to the National Consultation also confirm the global appreciation of the existing legal framework. However, they consider that the Directorate in charge of the registration of associations does not have the necessary tools to execute its function (red flag). From their actions within the framework of the law on freedom of association, they could provide recommendations on the various areas to be reviewed.

### **3.3.2. OPERATION**

CSOs conduct their activities freely, as soon as they have been formed, without even waiting for the acknowledgement receipt. They do not need to request any prior authorisation to convene meetings, whatever its relevance for the CSO.

The law does not require associations to submit periodic reports to sectoral ministries and local authorities. Only associations benefiting from public grants have to comply with this requirement (article 43). In this case, they could also be subjected to governmental inspections or audits. The transmission of reports to public services (especially to the Ministry of Territorial Administration and Security) by associations, outside public grants, is left to the initiative of the executive members of the association. They could do so in the spirit of transparency. However, in practice, they do not always comply with this requirement, since reports submitted to authorities seldom get answered.

In principle, associations do not have to align their programmes and activities according to government priorities. However, it is desirable that their actions are in line with government options in terms of development. Therefore, CSOs, due to being greatly dependant on Official Development Assistance (ODA), have to comply with governmental options, since these are, to a large extent, the result of negotiations with foreign donors. The government's Strategy for Accelerated Growth and Sustainable Development and the Local Development Plans developed by local authorities are now the baseline for the action of associations. They usually advocate for the various themes and for the monitoring of these policies.

In case of a breach of public order, state security, or violation of the law, the government can ban a CSO. The statutes of associations, besides the legal provisions, state the circumstances under which they can dissolve themselves.

There is no formal monitoring of associations by the authorities and administrations. Each CSO freely conducts its activities in compliance with the legislation. However, based on interviews conducted for this study, there is an informal "monitoring", depending on the size of the CSO, and especially, on the impact of its activities on the power in place. A large CSO with the activity of influencing policies faces challenges in its activities or hidden retaliation (disinformation, isolation).

Obstacles of a certain type (lack of coverage of activities by public media for example) exist and can affect CSO's activities, lead to persecutions, prevent access to funding, etc.

Cases of CSOs that were banned are rare due to upstream control, thereby not allowing an authorising association to pursue illegal objectives or goals. However, since the legal framework is one of declaration, a CSO operating outside the law (due to its activities or goals), could be banned.

Some forms of harassment exist that affect CSOs. Some preferential measures can be withdrawn from CSOs as a sanction, should they conduct activities considered as hostile by people in power. This is the example of some NGOs, such as SPONG, who faced a threat of suspension of their tax benefits in June 2013. This threat came after a campaign led by SPONG and other CSOs against the reviewed draft of the law on freedom of association.

### **3.3.3. ACCESS TO FUNDING<sup>9</sup>**

#### *3.3.3.1. GENERAL*

The lack of funding for CSOs is the main constraint to civil society's action in Burkina Faso. CSOs, as the state itself, are highly dependent on international financial assistance. Very few CSOs have developed independent funding systems. Such a funding model is more frequent among cooperative organisations receiving a percentage of their member's earnings. CSOs involved in advocacy, or providing goods and services, need to use a type of funding equal to their intervention needs.

#### **National civil society strengthening funds**

This type of funding includes multilateral and bilateral mechanisms. Multilateral mechanisms, such as the one of the European Union (PROS 2010-2012), the World Bank and the UNDP, are

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<sup>9</sup> See Hochet, P., du Balme, L.A. et all. (June 2011). L'émergence du dialogue politique dans l'espace public local. Etude sur les actions d'interpellation de la société civile dans quatre régions du Burkina Faso, Laboratoire Citoyenne, Ouagadougou.

aimed at strengthening civil society. These mechanisms define several priorities (organisation, communication, network, advocacy, rights of specific categories, etc.) for which CSOs can submit projects, which are selected and monitored by an independent management unit, or hosted within a ministry. CSOs access these funds in compliance with the principle of “call for proposal”. This principle is problematic in the West African situation. Indeed, if we take as an example, the European Union's funds in 2010, foreign NGOs based in Burkina Faso (INADES Formation Burkina Faso, SNV, and ACCORD -which are specialist development NGOs), were the largest beneficiaries of these funds. Very few local organisations, especially those following a more political (as opposed to a developmental) approach, benefitted from funds from these mechanisms.

In most cases, the logic of these funds is action-based learning. CSOs build their capacities and learn by initiating limited actions, followed by the partners providing the funds. While this is a good principle, it also tends to confine actions to a project rationale which is not necessarily suited to the construction of public debate, seldom foreseeable, and has been associated with long term effects.

Responses provided by the participants to the National Consultation clearly highlighted the difficult situation of funding of CSOs in Burkina Faso, especially considering comments made in this regard. Thanks to feedback from the interviews of the CSO actors, it was possible to define this aspect of civil society's environment.

#### *3.3.3.2. PUBLIC FUNDING*

In Burkina Faso, CSOs' access to public funding (state and local authorities) is not yet widespread. There are specific frameworks, where public funds are allocated to specialised CSOs, especially in areas such as education, health and water.

This sub-dimension is one of the very few to be given red flags in the entire assessment matrix (see annex) from the participants of the National Consultation. Besides, participants in focus groups discussions also noted the lack, or the inadequacy of public funding of civil society in Burkina Faso, thereby compromising its effectiveness. This demonstrates the tenuous situation of funding, and its negative influence on civil society's environment. Beyond the availability of funding in support of civil society's actions, their character linked to politics is more harmful to

the effectiveness of civil society. This is one of the reasons that cause civil society's actors, who are aware of the issue, to request public funding of CSOs in order to eventually improve the sector's transparency, but also to clarify roles and actions by enforcing operational and ethical standards for action to CSOs.

Law 10/92 also provides for associations of public utility to benefit from public funds, even though to this day, few cases of such a type of funding have been heard of (Ligue des Consommateurs, Association Burkinabé de Santé Publique).

The principle of globalised public funding of civil society was accepted by the government on 30 of April 2013 during the Annual Review of the SCADD (Strategy for Accelerated Growth and Sustainable Development). Feasibility studies are under way and this type of funding could be available in the future.

### *3.3.3.3. INTERNATIONAL FUNDING*

International funding is the major source of funding for CSOs in Burkina Faso, be it through agencies located in the country or from overseas, it makes up the major part of civil society's financial means. The participants of the National Consultation confirmed this. Support is subdivided in technical support and direct financial support.

#### **Technical support**

In most cases, technical support is made up of the various programmes implemented by international NGO's who benefit from funds from international donors. A large part of the technical assistance comes directly from international development institutions. We can mention UNDP for elections (BRIDGE Programme), the World Bank for strategic planning, the European Union for budget support, DANIDA for CSOs effectiveness, GIZ, Oxfam, etc. Technical assistance methods vary significantly from one institution to another. Known examples are the ones from Diakonia and Oxfam. In broad terms, they assist local CSOs to achieve objectives in building public debate or human rights protection objectives. This type of funding is largely dependent on the procedures of international NGOs, and the logic of the project. Areas that are covered by technical assistance are subjected to trends, and some issues became popular at specific times. For example, gender and budget monitoring are currently a focus areas.

## **Direct support**

Some partners support a few major national or local CSOs directly. They support these CSOs to implement their projects regarding building public debate and governance. Often, this type of support stems from long-term relationships between the donors and the CSOs. They allow for the opportunity to develop programmes in the long term. Support to CSOs is quite important, seen that Burkina Faso has a long tradition of NGOs and of interventions by international institutions. In 2012, SPONG estimated that CFA 140 billion was invested through civil society organisations. Development and humanitarian aid sectors receive most of civil society's direct funding. Organisations active in areas of governance and human rights receive the raw end of funds to civil society.

In practice, public funds are difficult to come by, causing CSOs to turn to other sources of funding (development cooperation). Currently, there are no legal restrictions in accessing these funds. However, there are clouds of uncertainty over this legal aspect of civil society funding. A draft decree regulating NGO's funding, accompanying the review of the law on freedom of association, foresees the obligation for all NGO's to prove that they have their own funds (membership fees, own revenue) constituting at least 10% of its budget. This passing of this draft decree, together with the draft (review) law on freedom of association, in the Parliament was postponed.

In Burkina Faso, CSOs seldom resort to traditional funding instruments such as bank loans to fund their activities, although no legal restrictions exist on this type of action. In the same vein, support from companies are relatively rare. The progressive emergence of the notion of corporate social responsibility will create new civil society funding mechanisms through companies. Such a source of funding could contribute to the financial autonomy of CSOs.

In terms of employee's earnings, CSOs must comply with the provisions of Burkina Faso's labour law and try to comply with pay scales applied in the country. CSOs are self-regulating to a certain extent, aiming at aligning salaries and other benefits to the activities effectively executed by the executives of these CSOs. In other words, a benefit or a salary should be justified. In case of closure and dissolution of a CSO, assets are transferred to another CSO with the same goals or the member(s) who decide(s) to pursue the CSO's activities. It should be noted that CSOs are subject to all tax obligations in terms of salaries and stipends.

The vast majority of CSO employees in Burkina Faso consists of volunteers. Very few associations have enough means to recruit permanent remunerated staff and have to depend on volunteers.

A few unofficial barriers affect the access of CSOs to various funding sources. Being unofficial, it is difficult to unveil them, and in order to do so, it is necessary to refer to the experiences of CSO leaders. According to them, there exists pressure from certain individuals within the political regime on donors, to prevent funding of certain CSOs which are not in the regime's good books. These pressures are used to intimidate or discourage donors wanting to support CSOs due to their activities. The argument given is that some CSOs afford a place of refuge for political opponents of the regime and therefore to fund them would be equal to supporting the destabilisation of the regime, a risk no development cooperation partner can take. Therefore, CSOs designated as unwanted by the country's leaders fall into disfavour with donors.

Financial support is varied and covers several types of activities. Funding is granted according to CSOs proposed activities. It depends on the quality of the project proposal and relationships between the executive of the CSO and donors. In view of CSO diversity, there is a very wide range of projects and activities that benefit from donor's funding: areas such as human rights, health, citizenship, democracy, etc., are covered.

The politicisation of a few CSOs is also a reality of civil society's environment in Burkina Faso. Several CSO leaders are also members of political parties, sometimes openly, but mostly prefer not to divulge this. This appears during elections where lists of candidates of political parties<sup>10</sup> include a significant percentage of CSO leaders. The most recent case is the one of Alfred Ouédraogo, Coordinator of the NGO Handicap International and member of the Centre de Suivi et d'Analyses Citoyens des Politiques Publiques (Centre for Citizen Monitoring and Analysis of Public Policy). He appeared in the media<sup>11</sup> on Friday, 29 August 2014, and announced that he was leaving the Mouvement du Progrès pour le Peuple (MPP; Movement of Progress for the People) to join the Congrès pour la Démocratie et le Progrès (CDP; Congress for Democracy

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<sup>10</sup> In Burkina Faso, independent candidates for legislative and municipal elections does not exist yet.

<sup>11</sup> L'Express du Faso (1 September 2014). Démission au sein du MPP Pabré : « Moi Alfred Ouédraogo, je suis venu au MPP avec 200 jeunes, je repars avec eux au CDP ». More information: <http://bayiri.com/politique/partis-politiques/demission-au-sein-du-mpp-pabre-moi-alfred-ouedraogo-je-suis-venu-au-mpp-avec-200-jeunes-je-repars-avec-eux-au-cdp.html>

and Progress), the party in power. CSOs which are politically close to the regime and can therefore benefit from external funding from ministries or administered by the latter or from support from major economic entities (companies) close to the regime. Most of the relationships between CSOs and partisan forces are invisible since in Burkina Faso, relationships between associations and politics is marked by a clear separation, contrary to other contexts. Without being included in the law regulating associations, the distance they take from partisan activity is part of local society's ethics and is very vivid in the perception of the population.

### **3.3.4. FREEDOM OF EXPRESSION**

As a liberal democracy, Burkina Faso enjoys formal freedom of expression. Article 7 of the Constitution guarantees this freedom of expression. Besides the constitutional guarantee, the country ratified several international treaties. Numerous instruments of varying scope can be mentioned. On an international level, Burkina Faso has ratified the following instruments:

- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, ratified on 6 September 2006;
- African Union Convention on the Prevention and Combatting of Terrorism, ratified on 27 October 2005.
- Convention on the Rights of Persons with Disabilities and Optional Protocol thereto, ratified on 23 July 2009;
- UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, ratified on 20 July 2006;
- Rome Statute of the International Criminal Court, ratified on 16 April 2004;

Under legislative norms, the following documents can be mentioned:

- Law No 062-2009/AN of 21 December 2009 on the institution on a National Commission of Human Rights;
- Law No 10-2009/AN of 16 April 2009 on the establishment of quotas to legislative and municipal elections in Burkina Faso;
- Law No 030-2008/AN of 20 May 2008 on the fight against HIV/AIDS and the protection of people living with HIV/AIDS;

- Law No 29-2008/AN of 20 May 2008 on the fight against human trafficking and assimilated practices;
- Law No 010-2004/AN of 20 April 2004 on the protection of private data.

Under regulatory acts, we can mention:

- Decree No 2009-558/PRES/PM/MJ/MEF/MATD of 22 July 2009 on the organisation of judicial assistance in Burkina Faso;
- Decree No 2009-530/PRES/PM/PTSS/MASSN/MS of 17 July 2009 establishing employment and training conditions of people with disabilities;
- Decree No 2005-100/PRES/PM/MPDH of 23 February 2005 on the establishment, composition, attributions and operating of the Interministerial Committee on Human Rights and International Humanitarian Law (CIMDH);
- Bylaw No 2004-077/SECU/CAB of 27 December 2004 instituting a Code of Conduct for the members of the National Police.

These laws and regulations ensure freedom of opinion, freedom of the press and the right to information. Every person has the right to express and disseminate their opinions within the limits of the laws and regulations in force. Radios and written media have become more popular since the beginning of the democratic process. Press bodies benefit from state subventions. The country has 143 media entities, including 119 radios and 24 television channels with broadcasting licences. In the sector of the written press, over 100 newspapers are published.

Individuals can formally criticise the government in public or in private without retaliation. However, a few attacks on freedom of expression have been reported under the Fourth Republic, especially against media professionals. We can recall the assassination of the publishing director of the weekly newspaper L'Indépendant in 1998, the arson attack against Sams'k le Jah, a radio host, in 2009, and abduction attempts against the chief editor of l'Événement, Newton Hamed Barry, in 2012. Anonymous people have also been victims of violence as a consequence of some declarations they made. Since 2010, incidents of harassment of this nature have been significantly reduced thanks to the reaction of citizen against rights violations.

Official media, radio and television channels controlled by the state deal mostly with the government's political communication, but also allow for a significant participation of people representing the opposition's views in their programmes. Numerous newspapers, satirical weekly papers and independent radio and television channels are extremely critical of the government. Foreign radio programmes are broadcasted without any interference from the government. But journalists questioning the Head of State, his family or closest allies can be subjected to anonymous incidents of intimidation (even death threats), sometimes followed by worrying actual physical attempts (vandalised vehicles or homes). The Higher Council of Communication (CSC) also regulates media by monitoring the content of radio and television programmes, as well as the content of newspapers, to ensure they comply with the standards of professional ethics as well as the laws regulating information and communication. In case of the alleged violation of information or human rights ethics, the CSC opens proceedings against the broadcaster or the offending body, including audiences. Such audiences can bear on alleged defamation cases, public unrest or violation of state security. About five journalists received such a notice in 2013.

Other practices also reduce CSO's capacity for expression. This is for example the case of state control on public media, which is also the one covering the largest part of the national territory. National television, for example, remains a state media which conveys the regime's voice and facilitates its propaganda, rather than being a public media representing society's diversity. This control often translates into a refusal to broadcast documentaries on some CSO activities, therefore contributing to the reduction of their capacity of expression.

### **3.3.5. PEACEFUL ASSEMBLY**

In compliance with the Constitution, Law No 22-97/II of 21 October 1997 on freedom of assembly and demonstration on public roads specifies the conditions of the freedom of demonstration provided for in the Constitution.

Freedom of assembly does exist without any prior authorisation obligation. Therefore, for social, political, economic or religious reasons, people often gather without acquiring prior authorisation. However, besides these cases, major gatherings should be brought to the attention

of the administration before the stated date, whether such gatherings are the consequence of a strike or not. In this case, prior notification from the trade union is necessary.

Demonstrations (gathering of a large number of people and processions) are subject to a prior declaration regime, and not to prior authorisation. At least 72 hours before the demonstration, organisers should address a mail to the Mayor of their town to inform him or her of the demonstration, and especially of the itinerary. The itinerary allows the authorities to ensure conditions of safety and order. The main reason for the refusal of demonstrations is the choice of a space or an axis classified on the "red" list, such as the one defined by the city of Ouagadougou by Decree No 2010-O11/CQ/SG/DAJC of 1 February 2010, establishing the red areas in the city of Ouagadougou.

A very recent example of this legal regime pertaining to demonstrations happened on the 23rd of August 2014, as shown in the attached document.



The Mouvement Burkinabé des Droits de l'Homme et des Peuples (the Burkinabé Mouvement of Human Rights and People) says that freedoms of assembly and demonstration, even though guaranteed under fundamental norms, including the Constitution of 2 June 1991, are repeatedly violated. Beyond the conditions to exercise this right, central or local public authorities issue

regulations or take actions which limit these rights. For example, some usual meeting places for trade unions can be closed.

Furthermore, when a demonstration, even if authorised, escalates into violent actions, organisers are liable to criminal prosecutions. In 2008, an activist and political persona, Nana Thibaut, was jailed following violent protest movements after a price hike in basic necessities. The violence and material damage that occurred during demonstrations initiated by him were attributed to him. Today, such violent protest demonstrations fall under the so-called anti-breakage law.

Despite liberal provisions in the legal framework for peaceful assembly, the government voted Law No 026-2008/AN of 8 May 2008 on the repression of acts of vandalism perpetrated during demonstrations on public roads. This law eventually reduced freedom of demonstration on public roads by establishing such severe conditions against the organisers of demonstrations, who according to this law bear responsibility for every criminal offence committed during demonstrations, even if they are not the perpetrators of such acts. Law No 026-2008/AN of 8 May 2008, or the anti-breakage law, is considered as a restriction of the freedom of demonstration, especially in terms of protest actions. CSOs see in it a measure used to restrain their capacity to protest.

Usually, the political authorities deal severely with protests which are not endorsed by the latter, be it peaceful or not. Such an attitude is a characteristic of the regime, which tends to try to control any social and political movement. Trade union leaders and human rights organisations have accused the public authorities of organising provocations in order to get peaceful movements to take a more violent turn. In this way the regime justifies the repression and, as a consequence, the arrest of the organisers of these protests. This was verified on several occasions, with demonstrations organised by students associations, such as the Association Nationale des Élèves Burkinabé, and during the time of the Norbert Zongo affair.<sup>12</sup> In 2013, 49 students were arrested and jailed following demonstrations against the closing of university campuses in the month of August.

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<sup>12</sup> Famous investigation journalist assassinated on the 13th of December 1998.

### 3.4. OPTIONAL DIMENSIONS

#### 3.4.1. INTERNET FREEDOM

There are no governmental restrictions on internet access, nor is there any legislation by which the government could legally monitor emails or online chat rooms. Individuals or groups are free to peacefully express their view through the internet, including via email. However, poverty and the high unemployment rate limit public access to the internet.

Law No 010-2004 of 20 April 2004 on protection of private data was adopted to protect digital information of individuals and to establish an Information and Freedoms Commission. This Commission aims at protecting private data and to implement the law. Burkina Faso was the first country in Africa to establish such an institution.

**Table : Data on the number of internet users in Burkina Faso<sup>13</sup>**

	<b>Number of subscribers</b>	<b>Rank Africa</b>	<b>Rank World</b>
Number of internet users (2011)	509 035	22 out of 54	121 out of 195
Share of internet users in the population	3.00%	38 out of 54	161 out of 195

(Source: JDN, according to the World Bank)

**Table . Data on broadband internet subscriptions in Burkina Faso**

	<b>Number of subscribers</b>	<b>Rank Africa</b>	<b>Rank World</b>
Broadband subscribers (2011)	14 063	23 out of 54	132 out of 195
Broadband internet penetration rate	0.08%	24 out of 54	141 out of 195

<sup>13</sup> JDN – L’Economie Demain. Burkina Faso : les chiffres clés de l’Internet. More information : <http://www.journaldunet.com/web-tech/chiffres-internet/burkina-faso/pays-bfa>

This table shows that Burkina Faso counts 14,063 internet subscribers, placing the country in 23rd position out of 54 countries in Africa, and in 132nd position out of 195 countries in the world. In terms of broadband internet penetration rate, it amounts to 0.08%, placing Burkina Faso in 24<sup>th</sup> position in Africa, and in 141<sup>th</sup> position in the world out of 195 countries.

**Table :Telephone data in Burkina Faso**

	<b>Number of subscribers</b>	<b>Rank Africa</b>	<b>Rank World</b>
<b>Mobile telephone</b>			
Number of subscribers (2011)	7 682 100	25 out of 54	90 out of 195
Penetration rate (2011)	45.27%	36 out of 54	157 out of 195
<b>Landlines</b>			
Number of subscribers (2010)	143 963	23 out of 54	129 out of 195
Penetration rate (2010)	0.83%	33 out of 54	158 out of 195

These tables show that mobile telephones is the most performant sector in Burkina Faso. This is the preferred means of communication, with a penetration rate of 45.27%. However, this study does not reflect the fact that a number of mobile phone subscribers are accessing the internet on their phones, especially due to broadband access difficulties. In major cities, telephone companies cannot satisfy the entire broadband installation requests, forcing the inhabitants in certain areas to use the internet on their phone.

The relative quality of mobile telephones and of the access to the internet should be noted. Very often, these two services are defective for very long periods of time, affecting information and communication transmission. Therefore, we can conclude that in Burkina Faso, internet freedom does exist, but is subjected to infrastructure and service quality.

### 3.4.2 GOVERNMENT-CSOS RELATIONS

In Burkina Faso, CSOs benefit in that they have some freedom of action. While conducting political activities, which seems to be the prerogative of political parties aspiring to conquer the state's political power, it should be noted that political processes are shared between them and CSOs. Indeed, CSOs have taken an interest in political processes, especially through civil and political advocacy and promotion, by conducting a very wide range of activities. Such activities can go from the training of people involved in the electoral process, to citizen awareness on development themes. Promotion of citizen participation is also close to politics. CSOs can even intervene to try and influence the rules of political battles. For example, intense activity of CSOs could be noted around the issue of independent candidates for legislative and municipal election, issues of constitutional review, the issue of quotas in favour of women and the youth, etc. To this end, CSOs are capitalising on fields they typically use, such as political advocacy, lobbying, petitions, demonstrations, and awareness raising. It should be noted that consultation frameworks exist, such as SCADD, integrating CSOs suggestions and, since 2014, a formal cooperation framework between the government and CSOs.

As stated, there has been an increase of cooperation frameworks between the state and CSOs. Increasingly, CSOs are consulted, and associated with some public policies, and formal frameworks are implemented, allowing CSOs to contribute to the dialogue on policies. Decree 2009-838 PRES/PM/MEF/MATD on the establishment, composition, and the operating of consultation frameworks for decentralised rural development, established the regional, provincial and municipal consultation frameworks, providing for a rather large citizen participation forum. In its article 3, decree 2009-838 defines consultation frameworks as "consultative structures including development actors present or intervening on a regional, provincial or municipal level". The decree mentions the active participation of civil society organisations at each of these consultation levels.

The existence of these frameworks and of the practice of citizen involvement does not categorise the challenges encountered in state-CSOs relationships. CSO's responsibilities in political governance and the conduct of development processes are still residual and resistance to citizen involvement<sup>14</sup> still remains. In particular, public agents in charge of implementing

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<sup>14</sup> Coulibaly, S. (November 2013). Etude sur l'ouverture de l'Etat à la Participation Citoyenne, SPONG/GIZ.

consultation with civil society are still reluctant to becoming involved in this type of contribution by non-state actors. The area of access to public information reflects this resistance. Despite the existence of conducive laws, access to public information by ordinary citizens remains challenging.

Some of the successes should be attributed to the activities of CSOs in their investment in public life, as was the case in the ban against adverts for skin lightening products. In this specific case, the initiative stemmed from CSOs, who managed to influence the political authorities.

CSOs are at times consulted and their opinion can be either taken into account, or not. For example, the law on quotas in favour of one or the other gender, voted on in April 2009, saw some CSOs eagerly take the opportunity, and then start to lose hope of seeing their initiative in favour of women's access to elective office becoming a reality. CSOs are sometimes not consulted on their views, depending on the will of the authorities. Therefore, the lobbying activities of CSOs in favour of individual candidates for legislative and municipal elections are currently fruitless. This therefore highlights the limits of CSOs capacities to change or influence some of the political and public decisions.

The state-CSO dimension is characterised by an enabling context on a formal level, with a less enabling practice. Indeed, resistance to citizen participation and unofficial practices aim at trying to silence CSOs which are not in the government's good books, and manipulation and instrumentalization are common.

### **3.4.3. COOPERATION BETWEEN CSOs/CSO COALITIONS**

Previous studies (CIVICUS Civil Society Index) already pointed out the great number of organisations in Burkina Faso, the weakness of CSO coalitions and networks, and especially the weakness of the collective action dynamic. There are no society umbrella organisations as is the case in the other countries of the West African sub-region for example. A process aimed at implementing a single framework was initiated from 2007 to 2010. The result did not lead to the necessary consensus, and the need for a single framework still remains.

The fragmentation of and the almost irrational competition between CSOs is a reality. Relationships between some CSOs and partisan forces, especially those in power, can be explained by the need to chances of success, and distance the "competition". Politisation is not exclusively the fault of the political power. Organisational selfishness takes its roots from some human factors, and the scarcity of funding.

One of civil society's components, namely agricultural organisations, enjoy a rather different and better, cooperative situation. Law No 014/99/AN on the regulation of cooperative societies and groupings in Burkina Faso of 1999, regulates cooperative societies and groupings, their trade unions and federations, as well as the cooperative societies and groupings confederation, operating in any economic activity and sector, without any restriction in terms of territory.

Article 3 of this law states that cooperative societies and groupings are moral persons governed by private law with a variable number of shareholders, distinct from their members, enjoy full legal capacity and financial independence. A cooperative society is considered as, any independent association of persons gathering voluntarily, on their own initiative, to satisfy their common economic, social and cultural needs and aspiration through an economic enterprise, democratically managed, providing an equal share of the necessary share capital and accepting a fair participation in the risks and profits associated with this enterprise, to the operation of which where members actively participate, and are the only owners and main users. All voluntary organisations of persons of a social nature, and especially economic nature, enjoying moral personality, and whose members have common interests, are considered as "groupings". Organisations of producers from the rural areas are experiencing better cooperation, and have legitimate umbrella organisations (Confédération Paysanne du Faso, Fédération Nationale des Organisations Paysannes).

The General Local Authorities Code (CGCT, Law No 055-2004 of 21 December 2004) advocate for participative democracy. Article 12 of the CGCT authorises the municipal or regional council to establish consultation bodies for any issue of local interest. These bodies have a consultative role to play and can include: representatives of local associations, local figures, and local capacities in targeted fields (article 12).

### **3.4.4. TAXATION**

The formal taxation of associations is not very clear. No legal instrument regulates the taxation of associations. Taxation is therefore subject to common taxation law, some of its rules applying to associations. This situation was about to be resolved with the review of the law on freedom of association, since a draft decree was about to be signed in the framework of the review process. Neither this draft decree, nor the draft law could count on approval of the CSOs.

In practice, a distinction is made between associations and NGOs on the basis of a convention signed by NGOs with the state (Ministry of Economy and Finance). Therefore, this convention separates NGOs from associations. The convention exempts the signatory NGO of taxes, and is periodically reviewed.

Participation of a manager of the Directorate General for Tax in the National Consultation was beneficial in clarifying this part of civil society's environment. Legal avenues facilitating CSO taxation have been clarified. For example, the registration of CSO projects with the Directorate of Enterprises allows this project to benefit from tax exemptions outside of an NGO convention.

## CONCLUSION

Ultimately, Burkina Faso's environment is ambivalent, with a globally enabling legal framework, but with practices that may prevent this environment from producing positive effects. From our research, the formation of an association is rather easy. This is due to the existence of a conducive law. However, this area encounters threats associated with the political will to review this law as well as associated regulations, likely to restrict the space of freedom of association.

CSO's continued operation remains subject to funding challenges and unofficial attacks on civil society's action. For example, international funding is most often subject to political control from partisan actors, who manage to prevent support to CSOs which are not in the regime's good books. State-CSOs relationships are based on an enabling institutional foundation, with the existence of documents and frameworks allowing for important citizen participation. Individual resistance still limit this participation in certain places. Access to public information is a particular constraint. This dimension has been constantly improved since 2012, and the major shortfalls will quickly be sorted.

The adoption of a minimum advocacy plan by the national Consultation will be used as a roadmap for Burkina Faso's civil society's engagement in terms of monitoring and watching over freedom of association and civil society's environment.

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#### *International*

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Convention of the African Union on the Prevention et the Fight against Terrorism, ratified on 27 October 2005;

Convention relative on the Rights of Disabled People and its facultative Protocol, ratified on 23 July 2009;

UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, ratified on 20 July 2006;

Statute of the International Penal Code, ratified on 16 April 2004

#### *National*

Constitution of Burkina Faso of 2 June 1991;

Law n°18/59/AL of 31 August 1959 on Associations other than Commercial Societies and Mutual Aid Societies, Cultural Organisations and Congregations (J.O. RHV n° 04 special of 1 September 1959) ;

ZATU N°AN VII-24 FP PRES of 12 March 1991, on Freedom of Association in Burkina Faso;

Law n°10/92 ADP of 15 December 1992, on Freedom of Association ;

Law n°22-97/II of 21 October 1997, on Freedom of Assembly and Manifestation on Public Roads;

Law n°026-2008/AN, of 8 May 2008 on the Repression of Acts of Vandalism committed during Manifestations on the Public Road;

Law n°010-2004 of 20 April 2004 on Protection of Personal Data;

Law N° 014/99/AN regulating Cooperatives and groupings in Burkina Faso;

Law n°055-2004 of 21 December 2004, on the General Code of Territorial Collectives;

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Decree n°2009-558/PRES/PM/MJ/MEF/MATD of 22 July 2009 concerning the Organisation of Judicial Assistance in Burkina Faso;

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Decree n°2005-100/PRES/PM/MPDH of 23 February 2005 concerning the Creation, Composition, Attribution and Functioning of the Interministerial Committee of Human Rights and International Humanitarian Right (CIMDH) ;

Decree 2009-838 PRES/PM/MEF/MATD, concerning the Creation, Composition and Functioning of the Consultation Frameworks for Decentralised Rural Development;

Order n°2004-077/SECU/CAB of 27 December 2004 establishing a Code of Conduct for National Police;

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**ANNEX 1: Non exhaustive list of institutions and resource persons interviewed**

Institutions	People or position
Ministry of Territorial Administration and Security	CSOs Director
Ministry of Territorial Administration and Security	Director General of Public Freedoms Béré Aristide
STN/SCADD	Somé Abel
Journal du Soir	Sawadogo Lookman
CNOSC	Hien Jonas
RAME	Kaboré Simon
CDCAP	Badolo Célestin
FPDAH	Mrs Halidou Ouedraogo, Zoundi
CGD-IGD	Abdoul Karim Saïdou
Directorate of partnership monitoring	
Directorate General for Tax	

## ANNEX 2: Assessment Matrix

EENA Assessment Matrix			
Mandatory Dimensions			
<i>Dimension #1: Formation</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What legal instruments (laws, regulations, decrees, etc.) currently govern(s) the formation of Civil Society Organizations (CSOs) <sup>15</sup> ?	Few enabling legal instruments; clear, non-overlapping regulatory regimes	Several legal instruments; some overlap, lack of clarity in regulatory regimes	Many legal instruments; unclear, overlapping regulatory regimes
2. Who is legally permitted to serve as a CSO founder? Who is excluded from serving as a founder?	Minimal eligibility requirements (e.g., residency of founders)  <i>Consider in the provisions that political figures who have high administrative responsibilities do not cumulate these in addition to their management function in associations.</i>	Extensive eligibility requirements (e.g. residency and citizenship of founders)	Extremely burdensome eligibility requirements (e.g. citizenship and clean criminal record or license/occupation of founders)
3. What minimum number of individuals is required to form a CSO? What are the requirements of membership?	Fewer than 5 minimum members; minimal eligibility requirements	5-10 minimum members; extensive eligibility requirements	More than 10 minimum members; extremely burdensome eligibility requirements
4. What procedures are required to register/incorporate a CSO? (A	Minimal registration procedures; comparable with	Extensive registration procedures	Extremely burdensome registration procedures

<sup>15</sup> A Civil Society Organization (CSO) is defined, for the purposes of this assessment, as a formalized group of individuals that are independent of government and do not function as for-profit businesses. Owing to the fact that different legal frameworks govern their formation, CSOs in this assessment do not include trade unions, political parties, or communities of worship.

comparison can be made with registering business entities.)	registration of for-profit legal entities  <i>But the publication in the Official Gazette is 25 000 FCFA</i>		
5. Is there a minimum capitalization requirement to register a CSO?	No minimum capitalization requirement (except for a reasonable requirement for foundations)	Nominal minimum capitalization requirement for most CSOs and/or burdensome capitalization requirement for foundations	Burdensome minimum capitalization requirement for associations and/or foundations
6. What are the specific grounds for rejecting a CSO's application for registration/incorporation? Are such grounds sufficiently detailed?	Minimal, clearly defined grounds for rejecting a CSO's application	Numerous, somewhat unclear grounds for rejecting a CSO's application	Extensive, vague grounds for rejecting a CSO's application (excessive discretion accorded to registrar)
7. Must CSOs adhere to certain categories of purpose before being allowed to form; or are some CSOs with certain agendas (human rights protection or democracy-promotion, for example) forbidden from forming?	No restrictions on CSO's purpose	Requirement that CSOs adhere to purposes stated in the law  <i>From the birth of the association, the state must ensure the registration of the association in the sector of development</i>	Restrictions on CSO's purpose; prohibition of certain purposes
8. Can registration decisions be appealed? If so, how frequently are registration decisions appealed? What are the results?	Clear, available means for unbiased appeal	Somewhat unclear or unavailable means for appeal; biased review (appeal is to the registrar or other implicated official)	No means for appeal
9. What documentation is required for a CSO's incorporation/registration?	Minimal documentary requirements (such as basic contact information and bylaws)	Extensive documentary requirements (e.g., minutes of founders' meeting, ministerial certification, detailed statement of purpose/activities)	Extremely burdensome documentary requirements (contact information for all board/members/staff/participants, workplans, statement of assets)
10. Are CSOs required to regularly renew their registration?	No renewal required	Renewal required every few years	Renewal required annually

11. What registration fees are required?	No or nominal registration fees	Nominal registration fees; comparable with private sector registration fees  <i>Stamp fee, publication in the Official Gazette is 25 000 FCFA</i>	Burdensome registration fees; excessive compared to private sector registrations fees
12. Are there draft laws or regulations that, if adopted, would restrict or, alternatively, ease the formation of CSOs? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	Pending legislation/regulations that will significantly ease the formation of CSOs	Pending legislation/regulations that may restrict the formation of CSOs	Pending legislation/regulations that will severely restrict the formation of CSOs
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. Is the entity responsible for registering CSOs sufficiently funded and staffed?	Yes	Some lack of capacity/resources	Unable to fulfill mandate
2. Is registration easily accessible? E.g., are there sufficient locations/centers around the state for registering CSOs, or is the process all done electronically?	Yes	Registration difficult to access for many CSOs  <i>There needs to be a decentralisation on the regional level; the possibility to register online should also be created.</i>	Registration accessible to only a few CSOs
3. What non-legal and/or non-governmental barriers, such as slow or ineffective bureaucracies, inability to access funds, or difficulty buying/leasing	No non-legal or non-governmental barriers to formation	Some non-legal and/or non-governmental barriers to formation, such as unreasonable bureaucratic delays that make it significantly more difficult to form a CSO	Prohibitive non-legal and/or non-governmental barriers to formation, such as banks refusing to work with CSOs, that create a significant barrier to entry

property, affect the formation of CSOs?			
4. To what extent is there a perception of excessive discretion, favoritism (political, ethnic, religious, etc.), and/or corruption in the registration process?	None	Some perceived unfairness (discretion, favoritism, corruption)	Widespread perceived unfairness (discretion, favoritism, corruption)
<i>Dimension #2: Operation</i>			
<b>Factual Questions</b>	<b>Green Flag</b>	<b>Yellow Flag</b>	<b>Red Flag</b>
1. What law(s) directly govern(s) the operation of CSOs? Do any other laws affect or influence the operation of CSOs?	Few enabling laws; clear, non-overlapping regulatory regimes	Several laws; some overlap, lack of clarity in regulatory regimes	Many laws; unclear, overlapping regulatory regimes
2. Are CSOs required to notify the government of any meetings? If so, of each meeting or only key meetings? Are they required to notify the government of the list of candidates for the board of directors? Of the results of elections?	No/minimal required notification (i.e. only in case of changes in the board of directors or legal representatives of the CSO)	Some notification requirements beyond the minimal ones	CSOs required to notify the government of all meetings, elections, election results
3. Are CSOs required to submit periodic reports to the government? What kind of reports – e.g. activity or financial reports –, and how often?	Annual reporting appropriate to CSO's size	Multiple and/or extensive annual reports required	Extremely burdensome, frequent reporting required
4. Are CSOs required to periodically report to the government for any other reasons? What reasons and how often?	No/minimal other reporting	Some other reporting required	Extremely burdensome, frequent other reporting required
5. Are CSOs subject to government audits or inspections? How often, and what types?	Annual audits; small CSOs exempt	Annual audits regardless of size; risk of unwarranted inspection	Frequent and/or politically-motivated audits, unwarranted inspections

6. What types of information are CSOs required to publicly disclose?	No/minimal other disclosure required (e.g., use of public resources)	Some other disclosures required (e.g., salaries of lead officials)	Extensive other disclosures required (e.g., names of all members)
7. What administrative requirements affect the operation of CSOs?	Minimal, clear administrative requirements, such as basic documentation of the CSO and a contact person	Several, somewhat unclear administrative requirements, such as certifications from multiple sources	Many, unclear administrative requirements making it prohibitively difficult to abide by the rules
8. Are CSOs mandated to align their activities with governmental priorities as defined in national development plans?	No alignment required	Some alignment required (e.g. for certain types of CSOs)	Full alignment required; and/or non-alignment is penalized
9. On what grounds is the government legally permitted to terminate or dissolve a CSO? Is there an opportunity to appeal this decision?	Very limited grounds for termination/dissolution; sufficient opportunity to unbiased appeal	Many, somewhat unclear grounds for termination/dissolution; limited availability of unbiased appeal	Extensive, vague grounds for termination/dissolution; no means for unbiased appeal
10. On what grounds can a CSO be voluntarily dissolved?	No limitation on voluntary dissolution	Some limitation on voluntary dissolution	Voluntary dissolution prohibited
11. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease - the operation of CSOs? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	Pending legislation/regulations that will significantly ease the operation of CSOs	Pending legislation/regulations that may restrict the operation of CSOs	Pending legislation/regulations that will severely restrict the operation of CSOs
<b>Perception Questions</b>	<b>Green Flag</b>	<b>Yellow Flag</b>	<b>Red Flag</b>
1. What level of oversight does the government have over CSOs? Extensive, moderate, or light?	Light, e.g. required annual reporting with rare, justifiable additional oversight	Moderate, e.g. frequent reporting requirements, permits for certain activities, and/or frequent inspection or auditing	Extensive, excessive reporting and permission requirements and near-constant oversight;
2. In practice, do the legal and administrative requirements referred to above act as impediments to the productive	Helpful administrative requirements (e.g., reasonable documentation related to claiming tax benefits)	Administrative requirements somewhat impede CSO's operation (e.g., requests for additional information once the	Administrative requirements severely impede CSO's operation (e.g. detailed reports on CSO events required for the government;

operation of CSOs? Are they helpful to the daily operation of CSOs?		legally required reports are submitted; slow bureaucracy holds up CSO activities etc.) and/or more than 20% of total staff time devoted to compliance.	frequent audits on a range of regulations - labor, tax, social security etc.); and/or more than 50% of staff time devoted to compliance.
3. Are there non-legal grounds that, in practice, the government uses or cites to terminate or dissolve a CSO? In practice, how have such terminations been conducted: according to the law or otherwise?	No non-legal grounds for termination/dissolution	Non-legal grounds, such as policy directives, sometimes used to terminate/dissolve CSOs	Non-legal grounds, such as action without any stated justification, frequently used to terminate/dissolve CSOs
4. Is there a history of state harassment of CSOs for allegedly not adhering to administrative and/or legal requirements? Is there a history of state harassment of CSOs for other reasons or in general?	No history of harassment	Some history of harassment	Frequent harassment
<i>Dimension #3: Access to Resources</i>			
<i>a. General questions about the funding environment</i>			
<b>Factual Questions</b>	<b>Green Flag</b>	<b>Yellow Flag</b>	<b>Red Flag</b>
1. Which financial resources do CSOs have legal access to: State funds? Earned income? Donations? Foreign donor funding? Other?	No limitation on funding	Some limitations on funding (e.g., legal requirements related to certain income types or volumes of income)	Burdensome limitations on funding (e.g., key funding sources of CSOs are inaccessible)
2. What legal barriers hinder access to each of these potential sources of funding?	No legal barriers to funding <i>But too many constraints in the criteria of certain donors.</i>	Some legal barriers to funding (e.g., must register to receive foreign funding; must establish a company to generate any earned income;)	Burdensome legal barriers to funding (e.g. may not receive foreign funding; may not engage in economic activities)
3. Do laws and/or regulations prohibit CSOs from distributing profits or otherwise providing inappropriate private benefit to	Clear prohibition on profit distribution, private benefit	Somewhat unclear regulation of profit distribution, private benefit	Vague regulation of profit distribution, private benefit

officers, directors, or other insiders?			
4. Upon dissolution or termination, what happens to a CSO's assets? What laws and/or regulations affect distribution of assets upon dissolution?	Few, clear enabling laws on CSO assets after termination/dissolution	Multiple or unclear laws on CSO assets after termination/dissolution; some space for governmental discretion on use of assets	Nonexistent or vague laws on CSO assets after termination/dissolution; ample space for governmental discretion on use of assets
5. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – CSOs access to resources? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	Pending legislation/regulations that will significantly ease CSOs' access to resources	Pending legislation/regulations that may restrict CSOs' access to resources	Pending legislation/regulations that will severely restrict CSOs' access to resources
<b>Perception Questions</b>	<b>Green Flag</b>	<b>Yellow Flag</b>	<b>Red Flag</b>
1. What non-legal and/or non-governmental barriers hinder access to each of the potential sources of funding for a CSO?	No non-legal or non-governmental barriers to funding	Some non-legal and/or non-governmental barriers, such as an under-developed banking system, lack of CSO fundraising capacity	Burdensome non-legal and/or non-governmental barriers, such as financial transaction restrictions, lack of CSO fundraising capacity
2. How reliable is a CSO's access to legally permissible funds? And how freely available are these funds?	Reliable, available funds	Unreliable, somewhat unavailable funds	Extremely unreliable, limited availability of funds
3. How much does a CSO's financial sustainability depend on government oversight and approval?	Not at all (as long as CSO complies with reasonable regulations)	Somewhat (e.g., government can exercise discretion in approving or influencing access to certain sources for CSOs)	Entirely (e.g., government has control over key resources of CSOs; and/or resources are prohibited)
4. How effectively does the legal and policy framework support the mobilization of local resources?	Effectively, e.g., the government takes measures to encourage local philanthropy	Somewhat effectively, e.g., the laws allow donations but do not incentivize them	Not at all effectively, laws hinder philanthropy or it is otherwise not possible to practice philanthropy
5. Does government and donor funding support the full range of CSO programming and activities,	Yes, such funds are generally available	Limited availability of such funds (e.g., only from a couple	Such funds do not exist or are restricted to a very small group of CSOs

including e.g., innovation, core funding, policy development and advocacy?		of donors or for a few types of CSOs) <i>Access to funds is often complicated and politicised.</i>	
6. What type of source of funding are CSOs most dependent on?	A variety of funding sources	Few/not sustainable funding sources <i>And difficult to access.</i>	One or no funding source
7. What is the perceived reliability of different sources of funding? (or what source of funding is more reliable for CSOs)	A variety of reliable funding sources	A few reliable funding sources	No reliable funding sources
8. Are you seeing any recent changes in the funding environment at the national level? What are the impacts of any changes on CSOs?	Funding environment is improving or already enabling and likely to remain so	Funding environment deteriorating and/or at risk of significantly deteriorating	Funding environment significantly deteriorating
<b>b. Government funding</b>			
<b>Factual Questions</b>	<b>Green Flag</b>	<b>Yellow Flag</b>	<b>Red Flag</b>
1. Is government funding currently available for CSOs? If so, is it available for any type of CSO or are there special types of CSOs that are supported by the government?	Government funding generally available	Government funding somewhat available (e.g., from certain departments for certain types of CSOs)	Practically no government funding available
2. In what form and at what levels is government funding available? E.g. are grants, subsidies, institutional (core) support provided at the central level and/or at the local level? Is there a special funding mechanism (e.g.	A variety of government funding options at both central and local levels	Limited government funding options; good practice examples exist but not widespread; either central or local level lags behind	One or no form of government funding at any level

a fund) for CSO support? Are there examples of contracting with the government by CSOs?			
3. What are the laws, rules and policies currently governing government grants and subsidies of CSOs?	Few, clear enabling laws/rules/policies governing government funding, including those ensuring transparency in awarding grants or contracts to CSOs	Multiple, somewhat unclear laws/rules/policies governing government funding; general procurement rules applied to CSOs	Many and/or vague laws/policies governing government funding; too restrictive or no specific rules for awarding public funds to CSOs
<b>Perception Questions</b>	<b>Green Flag</b>	<b>Yellow Flag</b>	<b>Red Flag</b>
1. To what extent is the legal framework conducive to government funding of CSOs? What are specific legal and non-legal barriers to increased, more efficient or more transparent government support?	Legal framework is conducive to government funding; no significant legal or non-legal barriers to transparent government support	Legal framework somewhat conducive to government funding; some legal and/or non-legal barriers to transparent government support (e.g., a law that allows funding of CSOs but no clear implementation mechanisms; or: calls for proposals do not respond to CSO priorities)	Burdensome legal framework for government funding; prohibitive legal and non-legal barriers to transparent government support (e.g., unreasonably strict criteria for CSOs to be eligible for support; highly discretionary decision-making)
2. Is the dispersal of government funds seen as predictable, transparent, easily understandable and impartial?	Generally yes	Dispersal of government funds is seen as somewhat unpredictable, opaque, confusing and/or biased	Dispersal of government funds is seen as extremely unpredictable, opaque, confusing and/or biased
3. Has government support decreased or increased within the past years? What is expected in the following years?	Government support steady or increasing; expected to continue increasing	Government support not increased recently; not expected to increase	Government support decreasing; expected to continue decreasing (or practically non-existent)
<i>c. International funding</i>			
<b>Factual Questions</b>	<b>Green Flag</b>	<b>Yellow Flag</b>	<b>Red Flag</b>
1. Are there different standards/requirements for accessing foreign sources of funding versus domestic sources of funding?	No additional criteria/requirements for foreign funding	Some additional criteria/requirements for foreign funding (e.g., separate registration requirement)	Burdensome additional criteria/requirements for foreign funding (e.g., need to align activities to government plans)

2. What are legal barriers to accessing and using foreign resources by a CSO, if any? E.g. is there government notification and/or oversight required to acquire foreign funding? Are there additional reporting requirements when using foreign funding?	No legal barriers to foreign funding	Some legal barriers to foreign funding (e.g., notification requirement)	Burdensome legal barriers to foreign funding (e.g., permission and onerous reporting requirements)
3. Are there bilateral or multilateral agreements in place that affect foreign donors' ability to donate and establish partnerships with CSOs? If yes, what kind of agreements are they (statement of medium to long-term commitment to a relationship; funding framework, etc.)	Bilateral and/or multilateral agreements facilitate access to foreign funding	Few bilateral/multilateral agreements regarding foreign funding	No or restrictive bilateral or multilateral agreements regarding foreign funding
<b>Perception Questions</b>	<b>Green Flag</b>	<b>Yellow Flag</b>	<b>Red Flag</b>
1. What non-legal barriers to receiving foreign funds exist in practice?	No non-legal barriers to foreign funds	Some non-legal barriers to foreign funds (e.g. complex application and reporting processes)	Prohibitive non-legal barriers to foreign funds (e.g. complex application and reporting processes; dramatic decrease in donor funding)
2. Has the overall state of governance and rule of law in the country affected donor's contribution to CSOs? If so, how?	Overall governance and rule of law encourages donors	Overall governance and rule of law a risk for donors	Overall governance and rule of law prohibitive for donors
<i>Dimension #4: Expression</i>			
<b>Factual Questions</b>	<b>Green Flag</b>	<b>Yellow Flag</b>	<b>Red Flag</b>
1. What laws affect a CSO's ability to freely express their opinions? What rights are guaranteed under the existing legal framework, including the constitution, with	No/minimal restrictions on CSOs' expression, restrictions in conformity with international norms	Some restrictions on CSOs' expression	Stifling restrictions on CSOs' expression; clear violation of international norms

respect to expression, including access to the Internet?			
2. What laws and/or regulations regulate the content of expression? What restrictions are placed on this content (i.e., restrictions for national security, “fighting words”, commercial speech, obscenity)?	Few, clear laws place minimally regulate expression in conformity with international norms	Multiple and/or somewhat unclear laws regulate expression	Many and/or vague laws stifle expression
3. Are there time, place and manner restrictions placed on expression?	No/minimal time, place and manner restrictions	Some time, place and manner restrictions	Burdensome/stifling time place and manner restrictions
4. What legal barriers, if any, hinder a CSO’s ability to openly express its opinions, particularly on matters critical of government policies?	No/minimal legal barriers to CSOs’ expression	Some legal barriers to CSOs’ expression	Prohibitive/stifling barriers to CSOs’ expression
5. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – CSOs’ freedom of expression? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	Pending legislation/regulations that will significantly ease the expression of CSOs	Pending legislation/regulations that may restrict the expression of CSOs	Pending legislation/regulations that will severely restrict the expression of CSOs
<b>Perception Questions</b>	<b>Green Flag</b>	<b>Yellow Flag</b>	<b>Red Flag</b>
1. What non-legal barriers hinder a CSO’s ability to openly express its opinions?	No non-legal barriers to expression	Some non-legal barriers to expression (e.g. limited number of independent media outlets that will give space to CSO voices)	Prohibitive/stifling non-legal barriers to expression (e.g., fully government controlled news and internet media)
2. Is open criticism of government policies and practices tolerated? What, historically, has been the reaction of the government to such open criticism?	Public criticism is tolerated	Public criticism is condemned by the government and/or occasionally retaliated	Public criticism is prohibited by the government and if it happens, it is promptly retaliated

3. Are individuals and CSOs aware of their rights with respect to expression? Does the political culture openly support these rights? Or are they actively suppressed regardless of legal protections?	Individuals and CSOs are aware of their rights; political culture supports free expression	Many individuals and CSOs are aware of their rights; political culture frowns on free expression	Few individuals and CSOs are aware of their rights; political culture hinders free expression
<i>Dimension #5: Peaceful Assembly</i>			
<b>Factual Questions</b>	<b>Green Flag</b>	<b>Yellow Flag</b>	<b>Red Flag</b>
1. What laws address the rights to peaceful assembly, including domestic legislation/regulations and international treaties to which the country is a signatory?	Few, clear enabling laws governing assemblies; all relevant treaties have been signed and ratified	Multiple, somewhat unclear laws governing assembly; some relevant treaties have been signed and ratified	Many, vague laws governing assembly; many relevant treaties have not been signed or ratified
2. Are there limits placed on who can assemble? Are groups with certain agendas or orientations forbidden from assembling?	No/minimal limits on who can assemble; limitations in conformity with international norms	Some limitations on who can assemble; limitations may be unreasonable, vague or allow for government discretion	Prohibitive limitations on who can assemble (e.g. groups promoting certain issues or affiliations are not allowed to assemble); clear violation of international norms
3. Are individuals or CSOs planning a strike/protest required to seek permission or notify the government in advance of the strike/protest?	No permission or advance notice required, except reasonable advance notice to local authorities e.g., if the protest would block traffic or security is requested; however, spontaneous assemblies allowed	Advance notice always required and/or should be provided to multiple authorities; spontaneous assembly not allowed	Permission required
4. Are there limits on the time, place and manner that individuals or groups can assemble, strike, protest or otherwise publicly (and peacefully) express their views?	No/minimal limits on time, place and manner of assembly	Some limits on time, place and manner of assembly; limitations are unreasonable, vague or allow for government discretion	Prohibitive limits on time, place and manner of assembly
5. How are aggressive/violent demonstrators dealt with in the law and in practice?	Violence is avoided and contained; security response is proportionate	Violence is not well contained; security response is not strictly proportionate	Violence is escalated; security response is disproportionate

6. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – individuals and/or CSOs right to peacefully assemble? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	Pending legislation/regulations that will (significantly) ease the right to peaceful assembly	Pending legislation/regulations that may restrict assemblies	Pending legislation/regulations that will severely restrict assemblies
<b>Perception Questions</b>	<b>Green Flag</b>	<b>Yellow Flag</b>	<b>Red Flag</b>
1. Is there a history of government-led violence or aggression against peaceful demonstrators, activists and/or strikers?	No history of violence or aggression	Some history of violence or aggression	Frequent instances of violence or aggression
2. In practice, are groups who gather to openly criticize the government through protest, strike or other form of peaceful demonstration tolerated?	Criticism and protest are tolerated	Criticism and protest are condemned	Criticism and protest are met with reprisals
Optional Dimensions			
<i>Dimension #6: Government-CSO Relations</i>			
<b>Factual Questions</b>	<b>Green Flag</b>	<b>Yellow Flag</b>	<b>Red Flag</b>
1. To what extent are CSOs permitted to engage in the political (electoral) process? E.g., are they permitted to nominate candidates for public office? Support or oppose political parties/candidates? Fundraise for political parties/candidates? If so, under which conditions?	CSOs generally permitted to engage in political process; few, clear enabling laws governing CSOs and the political process, which establish reasonable limitations (e.g., CSO may not be eligible for tax benefits if engages in the political process; must disclose funding provided to a political party)	CSOs are generally allowed to engage in the political process but there are multiple and/or unclear laws governing CSOs and the political process that allow for government discretion	CSOs prohibited from engaging in the political process; or total lack of legislation / many, vague laws governing CSOs and the political process resulting in a de facto prohibition  <i>Political process = Participation for the conquest of power<sup>16</sup></i>

<sup>16</sup> This response signifies that in Burkina Faso very often wanting to participate in the political process is considered as undertaking the conquest of power.

<p>2. To what extent are CSOs allowed to participate in public policy activities? Are they allowed to advocate (campaign) and lobby for legislation? If so, under which conditions?</p>	<p>CSOs allowed to participate in public policy activities; advocacy and lobbying are permitted with no/minimal restrictions (e.g., CSO must disclose its lobbying efforts)</p>	<p>CSOs are partially allowed to participate in public policy activities; vague laws allow for government discretion; there are some unreasonable restrictions on advocacy and lobbying activities (e.g., must obtain government permission to organize an event)</p>	<p>CSOs, or a significant segment of CSOs, are forbidden from participating in public policy activities, including advocacy and lobbying</p>
<p>3. What are legal / institutionalized opportunities for CSOs to participate in the decision-making process? E.g., are there open hearings, consultations, multi-stakeholder working groups?</p>	<p>Multiple legal/institutional opportunities for CSOs to participate in decision-making processes on a regular basis</p>	<p>Limited legal/institutional opportunities for CSOs to participate in decision-making processes (e.g. only one department organizes such forums; only CSOs with a large membership are allowed to participate in such forums etc.)</p>	<p>No or insignificant legal/institutional opportunities for CSOs to participate in decision-making processes</p>
<p>4. To what extent are there compacts, liaison officers, committees, or other similar mechanisms to promote cooperation and communication between government and civil society?</p>	<p>At least one well-functioning mechanism available to promote cooperation and communication between government and civil society</p>	<p>At least one mechanism to promote cooperation and communication between government and civil society is being considered, or exists with some challenges in its implementation</p>	<p>No mechanisms available to promote cooperation and communication between government and civil society</p>
<p>5. Are there draft laws or regulations that, if adopted, would inhibit – or, alternatively, ease – government-CSO relations? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.</p>	<p>Pending legislation/regulations that will (significantly) ease the government-CSO relations</p>	<p>Pending legislation/regulations that may restrict government-CSO relations</p>	<p>Pending legislation/regulations that will severely restrict government-CSO relations</p>
<p>Perception Questions</p>	<p>Green Flag</p>	<p>Yellow Flag</p>	<p>Red Flag</p>

1. In general, what is the nature of the relationship between the Government and CSOs? Contentious? Harmonious? Somewhere in the middle?	Harmonious or “live and let live” relationship between government and CSOs	Somewhat contentious relationship between government and CSOs	Antagonistic relationship between government and CSOs
2. Is there regular communication between CSOs and the Government? How can the quality of the dialogue between the Government and CSOs be characterized?	There is regular, productive communication between CSOs and government  <i>With the necessity to improve the communication tools</i>	There is limited, often ineffective communication between CSOs and government	There is minimal, ineffective communication between CSOs and government
3. Are the opinions of CSOs taken into account when drafting legislation, or more generally, anywhere in the legislative process?	Relevant CSOs opinions are routinely taken into account	CSOs opinions are sometimes taken into account	CSOs opinions are rarely or never taken into account
4. Are there timely consultations with civil society organisations in order for them to impact government decisions?	Yes	Sometimes	Rarely or never
5. Is there full transparency and accountability for development priorities, strategies, plans and actions by government?	Yes, or there is a participatory process in place to develop such transparency and accountability	There is some transparency and accountability (e.g., certain departments publish data)	There is little or no transparency and accountability
6. Do CSOs have a mechanism to dispute or appeal certain government decisions at the central or local level? Is this mechanism a reliable, genuine and effective way for CSOs to voice their dissent to particular government decisions? In practice, has this mechanism been	Yes, several such mechanisms exist and at least one has proven successful	CSOs have limited mechanisms for appeal; these mechanisms are not reliable and CSOs are usually unsuccessful	CSOs have no mechanisms for appeal, or in practice such mechanisms have never produced any results

successfully utilized by CSOs to produce a fairer result?			
7. Does the Government view CSOs as partners and allies in their own work, or as potential threats to their agenda?	CSOs are viewed by government as partners	CSOs are sometimes viewed by government as partners and sometimes as a threat, or largely ignored	CSOs are generally viewed by government as a threat
8. Are CSOs capable of participating in a broad range of public policy initiatives and activities, or are they restricted by non-legal barriers to a narrow range of circumscribed activities?	No/minimal non-legal barriers to CSOs public policy participation (e.g., government denounces CSOs but does not prevent them from participating)	Some non-legal barriers to CSO public policy participation depending on the type of activity or policy issue involved (e.g., participation mechanisms only exist in a few “less sensitive” areas, such as humanitarian aid or child welfare; and/or CSOs are not well organized to participate)	Severe non-legal barriers to CSO public policy participation (e.g., raiding CSO premises, harassment or incarceration of CSO leaders and members; CSOs lacking basic capacity to participate)
9. Have there been any significant changes in relations between civil society and the government in your country in the last two years? If so, please describe these.	Relations between civil society and government have improved in the last two years	Relations between civil society and government have deteriorated somewhat in the last two years	Relations between civil society and government have deteriorated significantly in the last two years
10. Have any global events or processes in the past two years affected state-civil society relations at the national level? If so, how? (i.e. The Aid effectiveness debate, etc.)	Global events / processes affected state-civil society relations in a positive way (e.g. government involved CSOs in planning for development)	Global events/processes have not affected state-civil society relationship; or have had a controversial effect (e.g. a restrictive draft law that was successfully rebuked)	Global events or processes had an adverse effect on state-civil society relations (e.g., a restrictive law on foreign funding was adopted as part of an international counter-terrorism initiative)
11. What conditions do you feel need to be in place to allow for a good and effective relationship between state and civil society?	<i>Improve the legal environment for CSOs, provide appropriate financial assistance to CSOs, grant tax incentives to encourage the private funding for CSOs, and strengthen the</i>		

	<i>delegations of the public services to CSOs.</i>		
<i>Dimension #7: CSO Cooperation and Coalition</i>			
<b>Factual Questions</b>	<b>Green Flag</b>	<b>Yellow Flag</b>	<b>Red Flag</b>
1. Do(es) the law(s) governing CSO operations similarly regulate coalitions of CSOs working together? Does the law(s) allow or prohibit such groupings? Does it encourage or hinder without outright prohibiting such groups?	Few, clear enabling laws facilitate coalitions; or law is silent on coalitions without presenting obstacles to their formation	Law inhibits coalitions (e.g., participation opportunities are only open for individual CSOs, not coalitions);	Law forbids coalitions directly or indirectly (e.g., legal entities may not form an association; mandatory registration of groupings etc.); or enforces coalitions (e.g. prescribes a nation-wide CSO umbrella body with mandatory membership)
2. Are domestic CSOs legally able to partner with foreign CSOs, and vice versa? If not, what are the conditions for cooperation? What level of government oversight/notification is required, if any, for such alliances?	International partnerships are allowed or facilitated	Some restrictions on international partnerships (e.g., government notification required)	Burdensome restrictions on international partnerships (e.g., government permission or presence required)
3. Are coalitions, platforms or similar voluntary groups of CSOs, common? Are such coalitions often found working together for a common agenda?	Coalitions are widespread and mostly effective <i>Functionality</i>	Coalitions are rare and sometimes ineffective	Coalitions are rare and/or usually ineffective
4. Have CSOs adopted any means of voluntary self-regulation? <sup>17</sup> If so, please describe this shortly.	CSOs have adopted clear, enabling, and effective means of voluntary self-regulation; or those are now being developed through an inclusive, participatory process	CSO self-regulation is not voluntary (e.g., undertaken to fulfill government expectations) and/or effective (e.g. principles were adopted but are not complied with)	No voluntary CSO self-regulation

<sup>17</sup> Here self-regulation generally refers to the Istanbul Principles: <http://www.cso-effectiveness.org/istanbul-principles.067>. Please specify any other form of self-regulation that you may include.

<p>5. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – CSO cooperation or coalition-building? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.</p>	<p>Pending legislation/regulations that will significantly ease cooperation and coalition-building</p>	<p>Pending legislation/regulations that may restrict cooperation and coalition-building</p>	<p>Pending legislation/regulations that will severely restrict cooperation and coalition-building</p>
<p>Perception Questions</p>	<p>Green Flag</p>	<p>Yellow Flag</p>	<p>Red Flag</p>
<p>1. What is the nature of the relationship between and among CSOs? Are they able and willing to cooperatively work with one another? Are there certain sectors (e.g. environment, women, human rights etc.) where this is more typical than others?</p>	<p>CSOs are generally cooperative; some sectors show a good model that others aim to follow</p>	<p>There are some examples of cooperation, but it is generally a challenge; well-organized sectors are isolated from the rest of the organizations</p>	<p>CSO cooperation is rare; there are factors that severely restrict cooperation (e.g., security, government harassment); and/or there are deep divisions in the sector that prevent it from cooperation</p>