



Country Report 2013

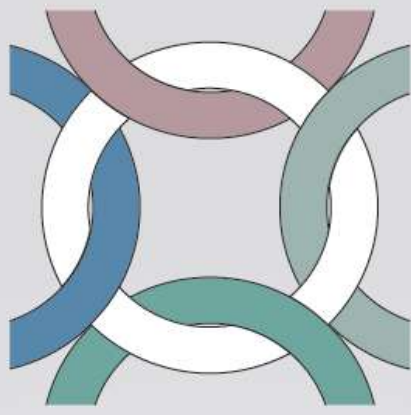
Monitoring Matrix on Enabling Environment for Civil Society Development in BiH



This project is funded by the European Union through the EU Instrument for Pre-accession Assistance (IPA) Civil Society Facility (CSF)

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BALKAN CIVIL SOCIETY DEVELOPMENT NETWORK



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Project 2 - Economic management policy case on

Balkan Civil Society Acquis Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs

Monitoring Matrix on Enabling Environment for Civil Society Development

-BOSNIA AND HERZEGOVINA COUNTRY REPORT-



Project funded by the European Union

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for Democracy

A PROJECT OF THE GERMAN MARSHALL FUND

Publisher
Aida Daguda

Financially supported by
EU Delegation
Balkan Trust for Democracy
USAID

Project:
Balkan Civil Society Aquies – Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs

Lead partner:
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Civil Society Promotion Center

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Proofreading
Juliet Walker

Circulation
100

First edition
Sarajevo, March 2014

The research was carried out by CSPC. Research Leader: Šejla Karamehić.

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CSPC, *Monitoring Matrix on Enabling Environment for Civil Society Development: Bosnia and Herzegovina Country Report 2013*, Sarajevo: CSPC, March 2014

This publication has been produced with the assistance of the European Union and Balkan Trust for Democracy. The content of this publication are the sole responsibility of the authors and can in no way be taken to reflect the views of the European Union or Balkan Trust for Democracy.

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List of Abbreviations

BCSDN	Balkan Civil Society Development Network
BD	Brčko District
BiH	Bosnia and Herzegovina
CSPC	Civil Society Promotion Centre
CSO	civil society organization
CSDev	civil society development
DEI	Directorate for European Integration
EC	European Commission
EU	European Union
ECNL	European Center for Not-for-Profit Law
FBiH	Federation of Bosnia and Herzegovina
IBHI	International Bureau for Humanitarian Issues
IPA	Instrument for Pre-accession Assistance
LOD	Reinforcement of Local Democracy
MHRR	Ministry for Human Rights and Refugees
MoJ	Ministry of Justice
NGO	non-governmental organization
OSCE	Organization for Security and Co-operation in Europe
RS	Republika Srpska
SAA	Stabilization and Association Agreement
TA	Technical Assistance
TACSO	Technical Assistance to Civil Society Organizations
TI	Transparency International
USAID	United States Agency for International Development

I. Executive Summary

1. Civil Society and its Development in Bosnia and Herzegovina

The enabling environment for civil society development in Bosnia and Herzegovina is shaped by the country's complex constitutional and legal framework and administrative structure. In terms of **basic legal guarantees of freedoms**, the legal framework is current and in accordance with international standards. However, these standards are either not applied or not fully applied in some areas. While the legislative framework for activities of associations and foundations (as defined by state and entity laws on associations and foundations and by the law of Brčko District) creates a generally harmonized environment for their establishment and operation, the practical differences of these laws, together with specifics of related laws, result in different treatment of CSOs according to the administrative level on which they are registered.

These differences are mostly visible in relation to laws and procedures regulating the **financial viability and sustainability** of CSOs. In terms of taxation, entity tax laws contain different legislative solutions for the same subject in certain areas, and are not harmonized with laws on associations and foundations. In general, tax exemptions for CSOs and incentives for charitable donations are insufficient, and therefore insignificant in practice; the social responsibility of businesses is not encouraged. CSO allocations from the government sector are considerable, but are directed towards funding a large number of CSOs rather than focusing on their programs. Transparency and fair mechanisms for allocation are lacking, as are defined and clear procedures for the monitoring and evaluation of funded programs. Due to a reduced inflow of foreign funding, CSOs are increasingly reliant on government support. Transparency and efficiency in the use of this support is crucial to the development and encouragement of civil society by the public administration.

When analyzing the **relationship between the state and CSOs**, it can be concluded that there is no real cooperation or understanding between two sectors. The 2007 signing of the Cooperation Agreement between the BiH Council of Ministers and the Non-Governmental Sector in BiH should have improved the situation, but it has not been utilized, and adequate and necessary legal and institutional mechanisms for proper implementation of inter-sector partnership and civil dialogue do not exist at state or entity level. The envisaged Strategy for Creation of an Enabling Environment for the Development of a Sustainable Civil Society has not been developed. The Rules on Consultations on Legislative Drafting in BiH and other standards on the involvement of CSOs in policy- and decision-making processes are clearly defined, but are rather sporadically implemented. In terms of service provision, CSOs are not yet recognized as valuable partners to the state, and are not fully supported through funding incentives or certification – actions which would permit an increase in the quality and quantity of the services they provide.

Concerning both the legislative framework and its practice, a more supportive and enabling environment needs to be developed in order to enhance the capacities of civil society organizations, and empower them to continuously articulate, promote, and act according to the needs and interests of citizens.

2. Key Findings

No	Top 6 findings from the report.	Reference	
1	The Cooperation Agreement between the BiH Council of Ministers and the NGO Sector in BiH, signed in 2007, has established a general institutional framework for cooperation and dialogue between the state and CSOs, but its implementation failed to occur. There is no functional institutional mechanism for cooperation between the state and civil society.	Area	3.
		Sub-Area	3.1.
2	There is lack of relevant and accurate information on the number of registered CSOs in the country (among other aspects), which leads to a lack of transparency and allows space for misuse and undermining of the civil society sector's contribution and relevance.	Area	1
		Sub-Area	1.1.
3	There is a lack of strategic documentation on the national level that would address and support civil society development, with clearly stated goals and measures for implementation, clear allocation of responsibilities, and funding available.	Area	3.
		Sub-Area	3.1.
4	There is no unified mechanism for allocation of public funds to CSOs – current mechanisms depend on the level of authority and the institution allocating funds. Procedures can vary significantly in terms of clarity and CSO participation in all phases of the funding cycle. State funding is still insufficiently transparent.	Area	2.
		Sub-Area	2.2.
5	Tax exemptions to CSOs and incentives for charitable donations to the non-profit sector are still insufficient. Tax revenues of associations and foundations are regulated by entity laws, which are not harmonized.	Area	2.
		Sub-Area	2.1.
6	The Rules of Consultation formally provide CSOs with timely access to draft documents and participation in the preparation of given legal documents, but this is substantially different in practice. There is no broad and systematic use of the Rules of Consultation.	Area	3.
		Sub-Area	3.2.

3. Key Policy Recommendations

No	Top 6 recommendations for reform	Reference	
1	Establishment of a functional institutional mechanism (Office for Cooperation with the Non-governmental Sector) within the Council of Ministers for its cooperation with civil society, in accordance with the Cooperation Agreement.	Area	3
		Sub-Area	3.1.
2	Establish a unique register to provide information on CSOs in BiH and enable knowledge of the exact number, structure and all other relevant details of CSOs.	Area	1
		Sub-Area	1.1.
3	In cooperation with CSOs, production of the Strategy for Creation of an Enabling Environment for the Development of a Sustainable Civil Society, along with a state-level Action Plan for its implementation, monitoring and evaluation.	Area	3
		Sub-Area	3.1
4	Establish mechanisms for the transparent funding of CSO programs and projects from the budget, that would incorporate rules on the required stages of the award cycle into administrative by-laws (award requirements, monitoring, reporting forms, evaluations, audit reports).	Area	2
		Sub-Area	2.2.
5	The set of CSOs eligible for tax exemptions should be harmonized and defined, and entity laws on income tax and profit tax for legal persons should be revised and harmonized with current laws on associations and foundations.	Area	2
		Sub-Area	2.1.
6	Change and harmonize existing Rules of Consultation and adopt and implement them on all levels of government where such rules do not already exist.	Area	3
		Sub-Area	3.2.

4. About the project and the Matrix

This Monitoring Report is part of the activities of the Balkan Civil Society Acquis – Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs project, funded by the EU and the Balkan Trust for Democracy (BTD). It is the first of its kind to be published on an annual basis, at least for the 48-month duration of the project. Working methods were based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev), which was developed by the Balkan Civil Society Development Network (BCSDN) and the European Center for Non-profit Law (ECNL). It is part of a series of national reports covering seven countries¹ in the Western Balkans, and Turkey. A regional Monitoring Report is also available, summarizing findings and recommendations for all countries, and a web platform provides access to monitoring data per country and sub-area.

The Monitoring Matrix presents the main principles and standards that have been identified as crucial for the legal environment to be considered supportive and enabling for the operations of CSOs. It is organized around three areas, each divided into sub-areas:

(1) Basic Legal Guarantees of Freedoms; (2) Framework for CSOs' Financial Viability and Sustainability; (3) Government-CSO Relationships. The principles, standards and indicators in the Matrix have been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They reference internationally guaranteed freedoms and rights and best regulatory practices at European Union level, and in European countries. The Matrix aims to define the optimum situation for civil society to function and develop effectively, and at the same time to set a realistic framework to be followed and implemented by public authorities. Keeping in mind that the main challenge lies in implementation, the indicators are defined to monitor the situation on the level of the legal framework and its practical application.

¹ Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro and Serbia.

II. Introduction

1. About the Monitoring Report

The Monitoring Report provides an overview of the enabling environment for civil society development in Bosnia and Herzegovina, and refers to both the legislative framework and its related practice, with an emphasis on key findings and shortcomings and recommendations for improvement. This report is based on research conducted using both participative and expert approaches in the acquisition of data and information, led by the Civil Society Promotion Center (CSPC), as a member of BCSDN and the implementing partner of the Balkan Civil Society Acquis – Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs (coordinated by BCSDN) for BiH. The research was conducted in accordance with methodology guidance from BCSDN and ECNL, and aimed to cover all indicators stipulated in the Monitoring Matrix on Enabling Environment for Civil Society Development. Its purpose is to serve as the basis for establishing an advocacy platform for the CSO community in BiH, with the intention of its further development and expansion in the future.

2. The Monitoring Matrix on Enabling Environment for Civil Society Development

The overall objective of the project is to strengthen the foundations for monitoring and advocacy on issues related to the enabling environment and sustainability of civil society at regional and national levels, and to strengthen structures for CSO integration and participation in EU policy and the accession process, on European and national levels.

The Monitoring Report is part of the activities of the Balkan Civil Society Acquis – Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs project, funded by the EU and the Balkan Trust for Democracy (BTD). This Monitoring Report is the first of its kind to be published on an annual basis, at least for the 48-month duration of the project. The monitoring process is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev). It is part of a series of national reports, covering all eight countries in the Western Balkans as well as Turkey². A regional Monitoring Report is also available, and summarizes findings and recommendations for all countries. A web platform offering

access to monitoring data per country and sub-area will be available from March 2014.

The Monitoring Matrix presents the main principles and standards that have been identified as crucial to exist for the legal environment to be supportive and enabling for the operation of CSOs. It recognizes the complexity of the concept of the “enabling environment”, which contains various fields and is dependent on several factors and phases of development of society and the civil society sector.

The Matrix is organized around three areas, each divided into sub-areas:

1. Basic Legal Guarantees of Freedoms;
2. Framework for CSOs’ Financial Viability and Sustainability;
3. Government – CSO Relationship.

This Matrix does not aim to embrace all enabling environment issues, rather it highlights those that experts find most important for the countries in which they operate. Therefore, the standards and indicators within it have been formulated with the current state of development of and diversity in Turkey and the countries of the Western Balkans in mind. They have been drawn from the experiences of the CSOs in these countries in their legal environments, as well as in the

²Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

practices and challenges of their work. The principles, standards and indicators used in the Report were developed under the consideration of internationally guaranteed rights and freedoms, and best regulatory practices at the European Union level, and in European countries. Areas are defined by key principles, which are further elaborated by specific standards. In order to enable local CSOs, donors or other interested parties to review and monitor the legal environment and its application in practice, these standards are further explained through indicators. The full Matrix is available in section VI: Findings and Recommendations.

The development of the Monitoring Matrix on Enabling Environment for CSDev was a collective effort by CSO experts and practitioners from the BCSDN network of members and partners, with expert and strategic support from ECNL. The 11-member expert team spanned a variety of specific knowledge and experience in CSOs and the non-profit sector (both legal and practical), and included experts from 10 Balkan countries. The work on the Matrix included meetings and online work by experts, which was then scrutinized via the stakeholder focus group and public consultations. Development of the Matrix was supported by USAID, Pact. Inc, and ICNL within the Legal Enabling Environment Program (LEEP)/Legal Innovation Grant and Balkan Trust for Democracy (BTD).

3. Civil Society and Civil Society Development (CSDev) in Bosnia and Herzegovina

Civil society is defined in the 2013 Civicus Index as “the arena, outside of the family, the state, and the market, which is created by individual and collective actions, organizations and institutions to advance shared interests.” In BiH, the concept of “civil society” is not widely understood, and when perceived is commonly equated with non-governmental organizations/CSOs.

There are no precise data in BiH on the number and structure of CSOs. This is due to the absence of a unique registry, and the overlapping of registers at different administrative levels. The last methodologically relevant analysis³ showed that there were 12,189 CSOs in BiH. However, this number cannot be considered accurate, as it is likely that duplication occurred between the different levels of registration, and also because there are doubts regarding the number of CSOs that were actually active. According to additional research by HTSPE Ltd and Kronauer Consulting, there were 4,629 active CSOs in 2009.

It is important to emphasize that these estimates include all “citizens’ associations”, which incorporate sports, cultural, hobby, expert and many other subcategories of associations. In fact, sports organizations are the largest single group, making up almost 19% of all registered associations in BiH.⁴ This is particularly relevant considering that the largest share of state funding is allocated to this group.⁵ Due to a lack of adequate legislation on sport, professional sports organizations often fall under regulations of the laws on associations and foundations. Their subsequent domination of funds is often perceived as a limitation to the potential of other CSOs that are pursuing collective interests in different fields.

Only 28.2% of all associations serve public/collective interests, while the share of associations established for the sole purpose of serving the interests of their members is 71.8%. CSO activities are diversified in areas such as: protection of human rights and marginalized groups; democracy and rule of law; gender equality; environmental protection; youth; art and culture; education; and protection of disabled persons. According to IBHI (2013), associations primarily

³ Žeravčić, G., and Bišćević, E., “Analysis of the Civil Sector Situation in BiH: Contributions to the Development of the Strategy on Establishment of an Enabling Environment for Civil Society Development in BiH”, HTSPE Ltd. UK and Kronauer Consulting, Sarajevo, 2009.

⁴ Ibid.

⁵ Heads-or-Tails: Government Sector Allocations for the Non-Governmental Sector in BiH for 2012, FSI in BiH and CSPC, Sarajevo, February 2013, p.12.

operate at the local/cantonal level and, in most cases, are registered accordingly. The smallest number of CSOs is registered at the entity level (6.4%), while 19.2% are registered at BiH level (in the Ministry of Justice), and 47.8% at cantonal level. Most active associations are registered in small towns with populations of up to 100,000 (51.1%), whereas fewest associations are registered in rural areas, which have a population of less than 1,000 (7.7%). Out of the overall number of active associations in BiH, 15.9% operate in Sarajevo, the capital of BiH.⁶ Most associations in BiH were registered after the 1991 democratic changes, with only 9.4% registered prior to this. The role of the civil society sector has since shifted from addressing humanitarian needs during and after the war, to complementing government services and supporting the development of a socially cohesive and democratic society today.

According to a TACSO and CSPC research report on CSO Networks in BiH,⁷ more than 50 such networks are active in BiH. These are mostly advocacy networks (47%), but also include sectoral networks (41%), and service provision networks (12%). Some of the most active and strongest CSO networks are: Sporazum plus (Agreement Plus); Mreza pravde (Justice Network); Zenska mreza (Women's Network); NVO vijece (NGO Council); Volontiram (I Volunteer); Unija za odrzivi povratak i integracije (Sustainable Returns and Integrations); Mreza za izgradnju mira (Peace Network); and the Youth Communication Center (OKC) in Banja Luka.

There are multiple factors impeding civil society development in Bosnia and Herzegovina, the most significant of which is the ongoing deeply-rooted political crisis. This has ensured a prevalence of nationalist politics, which is concerned only with ensuring the interests of the three main national/ethnic groups, thus keeping the nation at a standstill in the European integration process. In this way, “both civil society and citizens are marginalized from day to day politics”⁸ with reduced possibilities to engage in policy dialog, and contribute to the social and economic development of the country.

Another challenge that CSOs face is to be recognized by citizens as a factor of change and positive influence in the country; a perception which is mostly linked to CSO financing. Dependence on funds from international donors and the “donor-driven” approach in the work of the majority of CSOs, (along with competitiveness and lack of collaboration among these organizations), has created a gap between civil society and the citizens whose interest it promotes. “CSOs are often seen as an extension of international organizations rather than an axis of civil society.”⁹ The negative attitudes of politicians, expressed in and followed by the polarized media, are increasing this gap. Additionally, political influence within the CSO sector is an “open secret”, as the 2013 qualitative analysis by IBHI shows.¹⁰ The primary supplier of CSO funding since the beginning of this century has been local budgets and while this is positively oriented towards addressing the needs of citizens at a local level, the phenomenon of “governmental non-governmental organizations” occurred in the margins of that process.

Contributing to the negative image of CSOs are their own shortcomings – mostly a lack of transparency, financial and otherwise – which constantly undermine the strength of the arguments of those (few) CSOs that advocate increased government transparency and accountability. The absence of data on the number of active CSOs and their operations – along with the absence of precise regulations and financial controls – helps to create an undefined and vague environment for the functioning of CSOs, and to their negative public image.

⁶IBHI, “Why NGO Potential is Unrealized”, Sarajevo: IBHI, 2012, p. 3.

⁷ “BiH: Assessment Report on CSO Networks/Platforms/Initiatives/Coalitions”, TACSO with CSPC, September 2012.

⁸EC, “Communication from the Commission to the European Parliament and the Council: Enlargement Strategy and Main Challenges 2013-2014”, Brussels: 2013, p.8.

⁹Papić, Ž. et al, “Myth or Reality: the Role of Civil Society in Strengthening Social Inclusion and Decreasing Poverty”, Sarajevo, IBHI and FSU BiH, 2011, p.11.

¹⁰IBHI, “Why NGO Potential is Unrealized”, Sarajevo, IBHI, 2012, p.6.

4. Specific features and challenges in applying the Matrix in Bosnia and Herzegovina

The application of the Monitoring Matrix as a new and original tool for monitoring the state of the enabling environment for CSDev was a challenging activity, due to: the specific constitutional structure of BiH and its consequently fragmented legislative framework; a general lack of information and official statistics; and limited resources.

In the first year of monitoring, the focus was on state-level legislation, taking into account specific jurisdictions in different areas, and legislation for every sub-area or standard. For example, tax legislation is determined by entity laws, while freedom on public assembly is regulated both by entity law in RS and cantonal laws in FBiH. Therefore, in the review and analysis of relevant legislation and its implementation, focus was placed on an overview, in terms of given indicators or framework laws.

Thanks to the consideration of donors, the problem of limited resources was overcome by a synergy of two initiatives implemented by CSPC, both of which aimed to strengthen the enabling environment for CSDev and CSO sustainability. The survey and wider consultations were conducted with additional support from the USAID-funded project Sustainable Development of Civil Society in BiH, which was implemented by the Center of Civil Initiatives and CSPC.

The Monitoring Report was produced in a uniform format for every country implementing the regional project, Balkan Civil Society Acquis – Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs. In line with this, and in order to provide the CSO community in BiH with detailed findings concerning specific sub-areas, CSPC will publish the five analyses and one survey that served as the basis for this Report.

5. Acknowledgements

The Monitoring Report on Enabling Environment for CSDev in BiH was produced with the joint efforts of Civil Society Promotion Center (CSPC) and expert CSOs and individuals, in particular: Ante Jurić Marijanović from the Youth Communication Center (OKC Banja Luka); Borka Rudić, journalist; Slaviša Prorok from CSPC; Snježana Ninković-Ivandić from the Association for Democratic Initiatives; Šejla Karamehić from CSPC; and Foundation for Social Inclusion in BiH.

We would like to thank the Balkan Civil Society Development Network Secretariat and the European Centre for Not-for-profit Law (ECNL), for their development of the Matrix as a tool, as well as for developing guidelines for application and defining a format for reporting. This will enable regional comparability of the reports, while taking into consideration country specifics.

We would also like to thank our donors, the EU and Balkan Trust for Democracy, for their financial support of the regional project, Balkan Civil Society Acquis – Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs. We would in particular like to thank USAID in BiH for providing additional support to our research. Their assistance has contributed greatly to the quality of the report produced.

Finally, CSPC would like to express its gratitude to all the CSOs and representatives of public institutions, media, academia, the business sector, international organizations, and intellectuals who are listed in Annex 1, and who provided us with their valuable opinions and thoughts on civil society, and took the time to participate in our survey (through interviews, focus groups or questionnaires). Because of their relevance to civil society work in BiH, this input was crucial to the production of a comprehensive and effective report.

III. Methodology

1. Overview of the methodological approach

The aim of the Monitoring report is to provide an overview of the environment for enabling development of CSOs in BiH, regarding both the legislative framework and its related practice. The main monitoring tool – the Monitoring Matrix on Enabling Environment for Civil Society Development (Annex II), has been developed based on regional expertise and experience, and aims to address common issues relevant to the entire Western Balkans and Turkey, as well as specific issues in each of the countries covered.

Taking into consideration that the Matrix is being applied for the first time, the Monitoring Toolkit has been developed by BCSDN and ECNL. CSPC, as the implementing partner in BiH, has determined and applied a set of methodological tools in order to cover all 151 indicators stated in the Monitoring Matrix. CSPC conducted research using both participative and expert approaches to acquire data and information for monitoring. During 2013, extensive **desk research** was carried out on constitutions, laws, recognized international documents, strategies, and reports on work of the relevant institutions, as well as on media reports, analysis and publications.

Information was further collected through a **survey** conducted by the CSPC, in conjunction with the following engaged partner CSOs and experts: the Fund for Social Inclusion in BiH for sub-areas 2.2 and 3.3; the Youth Communication Center (OKC Banja Luka) for sub-area 2.3; the media expert from the Association of BH Journalists for sub-area 1.2; and expert on government relations with CSOs from the Association for Democratic Initiatives for sub-area 3.2. This partnership has been jointly supported by the USAID funded project “Sustainable Development of Civil Society in BiH”, and the BCSDN regional project “Balkan Civil Society Acquis - Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs”, funded by the EU and the Balkan Trust for Democracy. The survey focused on assessing the practice of legislation implementation as it applied to different indicators in all sub-areas. It was mainly conducted in the period October - November 2013, using questionnaires, interviews and focus groups (for sub-area 1.2) for data collection.

In total, five questionnaires were designed for the areas 1.1, 2.2, 2.3, 3.2 and 3.3, completed by CSOs themselves (and state representatives in the case of sub-area 3.2) or by researchers in face-to-face interviews. Semi-structured, sampled and in-depth interviews were conducted in all sub-areas, in order to obtain or confirm information. During this process, various stakeholders were interviewed, including: representatives from different levels of government and business; experts from the fields of media and law; and CSO representatives. Interviews were mostly conducted in person, or by conference call. In addition to the questionnaires and interviews, two focus groups (in Sarajevo and Banja Luka) were organized for addressing the indicators of sub-area 1.2, related to freedom of expression and information.

As part of **wider consultations**, CSPC organized two informative and consultative workshops on the preliminary results of this research, on 14 and 15 January 2014¹¹, in which the main findings were presented and discussed, along with recommendations for prioritization of future advocacy activities. These workshops were attended by representatives of 20 CSOs from throughout BiH, including those implementing regional projects within the European Union ‘Framework

¹¹ Workshops were supported by the project “Sustainable Development of Civil Society in BiH”, funded by USAID, and by BCSDN’s regional project “Balkan Civil Society Acquis - Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs”, funded by the EU and the Balkan Trust for Democracy.

Partnership Agreements: Support to Regional Thematic Networks”, as well as representatives from TASC0 BiH and the CBGI project.

Following the workshops, CSPC published a tabular overview of its findings and recommendations (with an open call for submission of comments) on its own website and on that of the Resource Center. A call for submission of comments on these findings and recommendations was also sent to relevant state and entity ministries and institutions, as well as associations of local self-government units in both entities.

Therefore, the findings and recommendations given in this report reflect the opinions of both experts and the wider CSO community, and were gained through research and in the process of consultations.

2. Participation of the CSO community

Participation of CSOs has been of vital importance in producing the Monitoring Report. Numerous CSOs contributed to the Report by: completing questionnaires; participating in interviews, focus groups or daily consultations; submitting comments; or discussing recommendations.

It should be noted that when the survey was conducted, attention was paid to the distribution of questionnaires and selection of CSOs contacted, to ensure that they were varied in terms of geographical position, activities, expertise and size. While participation of the CSOs was secured by the efforts of CSPC and its partners, it can be concluded that only a small section of the CSO community was interested in contributing to the research and the creation of a joint policy agenda. For example, the questionnaire addressing registration procedure and administrative control was distributed to a wider range of CSOs through the following networks: Sporazum plus (Agreement Plus), Mreza pravde (Justice Network), BH Front 2003, NVO Vijece (NGO Council), Mreza za izgradnju mira (Peace Network), and OKC Banja Luka. While it is estimated that a request was sent to approximately 1500 CSOs, in this specific case only 48 CSOs showed interest by completing the questionnaire. In the case of the survey conducted for area 3.2, questionnaires were distributed to 120 CSOs, of which 42 responded. Of the 26 government institutions that received questionnaires, only 10 replied.

Table 1. The overall number of questionnaires completed through interviews or by responders

Questionnaires per area	Sub-area 1.1.	Sub-area 2.2.	Sub-area 2.3.	Sub-area 3.2.	Sub-area 3.3.
No. of CSOs	48	16	47	42	16

In addition to the questionnaires, 29 interviews were held with representatives from the government and businesses, media experts, legal experts and CSO representatives, to assist in the assessment of all areas. In order to fully assess the presence of freedom of speech, and the relationship between CSOs and the media as per indicators given in sub-area 1.2, two focus groups were organized in Banja Luka and Sarajevo in November 2013. There were a total of 28 participants, including: CSO activists; journalists; representatives of various informal groups; and public figures.

3. Lessons learned

The Matrix proved to be an excellent and comprehensive tool for monitoring the state of the enabling environment for CSO development, as it considered different indicators within every standard (sub-area). Its methodological relevance was noted by surveyed CSOs, and the experts conducting the survey. In its first year of application, the Matrix has generally been applied to the assessment of defined areas, standards and indicators at state level, but has included some usage in lower levels of government. In future applications of the Matrix, with the specific administrative structure of BiH in mind, some indicators will be further reviewed in order to meet the specific constitutional arrangements of BiH (its political-administrative structure). This will particularly apply to competencies and responsibilities of lower levels of the state government, regarding the promotion and development of civil society.

The inclusion of participants and experts in the acquisition of data and information was considered a successful approach, as it ensured both quality and relevance. Greater participation of CSOs and government institutions is vital to the production of an effective report, in terms of exact findings and salient recommendations, as well as awareness-raising regarding potential improvements to the enabling environment for CSO development.

In terms of resources, it can be concluded that the production of such a comprehensive report can be made only through a synergy of cooperative initiatives funded by different donors. The success of this synergy has also contributed to a wider use of the Monitoring Matrix in other initiatives.

Lessons learned from the first year of monitoring will be used to revise and compose a further improved methodology for future monitoring.

IV. Findings and Recommendations

Area 1: Basic Legal Guarantees of Freedoms

The Constitution of BiH (Annex IV of the Dayton Agreement), provides the general legal framework for the protection of human rights, and directly applies the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, with supremacy over all other laws in BiH. Article 11 of the ECHR stipulates that “Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests”. The right to freedom of peaceful assembly and to freedom of association are further guaranteed and regulated in: the constitutions of the entities; the Brčko District Statute; laws on associations and foundations; laws on public assembly; laws on political organizations; laws relevant to the organization and functioning of political, trade, youth, religious, minority and business associations; and international documents adopted within the BiH legal system.

Sub-area 1.1: Freedom of Association

The legislative framework for activities of non-governmental organizations in BiH is defined by the state and entity laws on associations and foundations¹² and by the Law on Associations and Foundations in Brčko District. These laws define CSOs as citizens’ associations and foundations, meaning that any person or legal entity can form one for a purpose in accordance with the Constitution or legislative framework. Objectives and activities of associations or foundations may not include the engagement or funding of political parties or pre-election campaign candidates, nor of fundraising on their behalves. The passing of the relevant laws in 2001 and 2002 particularly reflected the harmonization of the legal framework and the environment in which CSOs operate in BiH. There are, however, still some visible and important differences between sectoral and other laws on each administrative level, resulting in the creation of different environments for enabling their establishment.

An association, as a non-profit membership organization, may be established by minimum of three physical or legal persons to further a common or public interest. A foundation, as a non-profit organization, may be established by one or more physical or legal entities, to manage specific property for the public benefit or for charitable purposes. The Executive Board of a foundation must have at least three members. For the establishment of a foundation at state level or in FBiH, the initial capital for registration is 2,000 BAM. In RS, an initial capital is not predetermined by law; rather a foundation must hold certain financial assets or ownership of property. In addition to associations and foundations, humanitarian organizations in FBiH also function pursuant to Articles of the Law on Humanitarian Agencies and Humanitarian Organizations.¹³ In RS and at state level there are no laws specifically defining the status of humanitarian organizations.¹⁴ Registered CSOs have the opportunity to gain the status of a Public Benefit organization, which serves a purpose of public interest, and which is eligible for tax exemptions and incentives. However, the list of permitted activities is defined differently at entity

¹² Law on Association of Citizens and Foundations (Official Gazette of BiH, 32/01), Law on Associations and Foundations (Official Gazette of RS, No. 52/01), Law on Association of Citizens and Foundations in the FBiH (Official Gazette of FBiH, 43/02), Law on Association of Citizens and Foundations of BD, BiH (Official Gazette of BD, BiH, No.12/02).

¹³ The Law on Association of Citizens and Foundations in FBiH (2001) has put the Law on Humanitarian Agencies and Organizations out of force (Official Gazette of FBiH, 35/98), except for Articles 2, 5, 11, 12, 22 (2), 26, 27, 29 (2), 30 (1), 34, and 35. It is stipulated that humanitarian organizations shall be established to pursue humanitarian actions in the capacity of legal entity, established as non-governmental organizations pursuing their activities based on the principles of humanity, impartiality, independence and voluntariness.

¹⁴ Pursuant to the RS Law on Income Tax, humanitarian organizations shall be exempted from income taxation, although there is no law specifically defining the status of humanitarian organization.

and state levels. As stated at the workshop of 15 January 2014,¹⁵ this matter should be addressed more clearly, to harmonize respective entity laws with each other, as well as with tax regulations.¹⁶ The process of obtaining the status of Public Benefit varies between state and entity levels, and to date, a very low number of CSOs have been awarded it.

Associations may establish unions or other forms of alliance, and freely associate and cooperate with international organizations to promote the same rights and interests. According to CSPC's 2012 research¹⁷, there are more than 50 active CSO networks in BiH.

Registration of CSOs is voluntary, and CSOs registered in one entity can freely function in the other. On the day of registration, the association or foundation acquires the status of legal entity. There is no unique register of civil society organizations in BiH. Associations and foundations are entered into the relevant registers at state, entity or cantonal level, depending on the scope of their activities as provided by the statute.¹⁸ The registries are public, but are not accessible online. The lack of a single registry or database is a serious shortcoming in the overall legislative framework, allowing space for the misuse and constant undermining of the civil society sector's contribution and relevance. The total number of CSOs in BiH is vague, and the number of active ones is subject to speculation. There are no combined data on: registration; classification of activities; implemented projects; donors; annual and financial reports; or the obligations of BiH to combat money laundering and terrorism. The Ministry of Justice of BiH has been addressing this issue for several years¹⁹, and indicates a possible solution could be found through the implementation of a Memorandum of Understanding (MoU) to establish Joint Registry for Associations and Foundations in BiH.²⁰

Survey results²¹ show that 56% of CSOs describe the registration process as simple, and completed it within the prescribed 30 days. However, CSOs still face some limitations during the registration process, such as the provision of additional requirements, selection of a name,²² and different interpretations of the law by civil servants. While these difficulties can occur at all levels, the registration process at state level has been flagged as being the most troublesome. State-level trade unions and umbrella organizations continue to be impeded when attempting to gain recognition from the seemingly obscure and arbitrary workings of BiH registration authority, the Ministry of Justice (TACSO, 2011). The previously-mentioned CSPC survey shows a case in which, after eighteen months of procedures and amendments to the application, the informal association canceled its registration process at state level.²³ There is no option for online registration (which could lead to reduced costs and the simplification of procedures) at any level.

¹⁵ As part of wider consultations, preliminary results of the Monitoring Report were discussed at two workshops held in Sarajevo, on 14 and 15 January 2014. For more information, please see Section III.

¹⁶ For more information, please see sub-area 2.1. of Section IV.

¹⁷ "BiH: Assessment Report on CSO Networks/Platforms/Initiatives/Coalitions", TACSO with CSPC, September 2012 reviewed at: http://www.tacso.org/top_links/Print.aspx?id=8218

¹⁸ Registers are administered by authorized ministries, specifically the BiH Ministry of Justice, the FBiH Ministry of Justice, the RS Ministry of Administration and Local Self-Administration, and cantonal ministries of justice.

¹⁹ MoJ BiH produced a pre-draft framework law on the joint registry of CSOs in BiH (2011 and 2013). In 2011, the state parliament didn't pass this proposal of the law.

²⁰ As foreseen at: <http://www.mpr.gov.ba/aktuelnosti/propisi/propisi/default.aspx?id=3842&langTag=bs-BA>.

²¹ For the purpose of addressing specific standards and indicators in the Matrix, CSPC conducted a survey in October-November 2013. The questionnaire on registration processes and administrative control was distributed through the following networks: Mreza Sporazum plus; Mreza pravde; BH Front 2003; NVO Vijece; Mreza za izgradnju mira i OKC Banja Luka. In total, 48 CSOs completed the questionnaire, out of which 11 were registered at state level, 6 at FBiH level, 14 at RS level, 16 at cantonal level and one was unregistered.

²² Associations must have a name which constitutes a noun in the B/C/S language and can not be derived from several words. As emphasized in the 2012 USAID CSO Sustainability Index for Central and Eastern Europe and Eurasia, registration authorities have made it common practice to deny CSOs the right to use the words "center", "institute" or "agency", even though this is not directly prohibited by law.

²³ After submitting an application three times, the informal association Sazetak from Dobo, chose not to pursue its registration further. Objections to the application made by civil servants performing the registration process were directed towards the selection of its name, listed activities, and the fact it was pursuing registration at state not entity level.

Currently, registration fees are unequal and considerable; 60% of surveyed CSOs found costs for registration disproportionately high.²⁴

An association or foundation may end its function voluntarily, or by force of law. The legal framework provides guarantees against state interference in the internal matters of associations and foundations. In the CSPC survey, most CSOs reported that the government did not interfere in their internal affairs. However, there were a few isolated cases of direct state interference in the internal matters of associations. To date, there is no record of a CSO being terminated by force of law. Control over the legality of association or foundation activities is administered by the competent administrative body, and involves monitoring the situation around these activities. Although in the majority of cases CSOs do not face controlling measures from competent bodies, individual examples exist in which CSOs have been exposed to different pressures, which are generally politically motivated²⁵ and/or expressed through repeated inspections (financial, labor, trade, sanitary).²⁶ Sanctions that CSOs or individuals incur in these cases are most often based on legal provisions, which are rarely, if ever, enforced.²⁷ The objective of the selective application of positive regulations is to discourage CSO activities from criticizing the actions of ruling structures, or advocating the realization of particular rights. Only in rare cases have CSOs initiated administrative disputes against the decisions or solutions of authorized bodies, although they constitute an important corrective procedure in this regard.

Associations and foundations in BiH support themselves from their own activities (conducted in accordance with the statute) or with funds provided by domestic or international third persons.²⁸ CSOs may secure funds from: membership fees; the budget or public funds; sponsorships or grants in money or in kind; interest; and dividends and other investment revenues. In RS,²⁹ they may also be obtained from real estate revenues, and asset sales or transfers, excluding assets that are or were used for conducting for-profit activities. Registered CSOs are obliged to comply with entity laws and regulations on accounting, as prescribed by the International Accounting Standards, and are required to send annual financial reports in standardized forms to the entity level Agencies for Finance and Informatics Services. These forms vary between entities, regarding which aspects of the specific nature of CSOs are taken into consideration. Most CSOs are categorized as small legal entities, and thus are not subject to the statutory audit of financial statements.

Main recommendations for action:

- Establish a unique CSO registry to provide information on CSOs in BiH, and enable access to the exact number, structure and relevant details of CSOs.
- Pass legislation which would regulate the status of humanitarian organizations, at both state and entity levels.
- Unify and shorten registration procedures and lower related expenses of associations and foundations at all levels of government for all CSOs in BiH.

²⁴ For example, for registration or change of information 200 BAM (approx 100 EUR) is required at state level, and 100 BAM in Sarajevo Canton. The results of the survey conducted show that registration expenses (at different levels) ranged from 50 BAM to 1000 BAM.

²⁵ Especially rigid cases of police pressure were enforced against activists for the civil initiative "I'll vote for Srebrenica", to which attention was drawn by the Council of Europe and the Office of the Human Rights Ombudsmen in Sarajevo.

²⁶ The survey showed that the majority of CSOs did not experience any form of inspection by competent authorities, however, there were some cases in which CSOs were exposed to repeated visits of all forms of inspection (financial, labor, trade, sanitary), connected with their criticism of specific government institutions/bodies.

²⁷ For example, a procedure was initiated against two activists of the informal association "Action of Citizens", who, two years after the elections, illicitly removed certain pre-election posters. The activists were reprimanded by the Municipality Court in Sarajevo and were ordered to pay expenses in the amount of 120 BAM. More information is available at: <http://www.akcijagradjana.org/akcije#sthash.5l3Kny6V.dpuf>

²⁸ This matter has been addressed in Area 2 of Section IV of this Report.

²⁹ In FBiH property tax is under the control of cantonal jurisdiction, resulting in divergent legislative solutions.

Sub-area 1.2: Related freedoms

The deep social and economic crisis in BiH has inevitably led to a wave of public protests: organized and spontaneous assemblies of citizens. **Freedom of peaceful assembly** is guaranteed by constitutions, positive regulations and international documents. It may be restricted only by law, specifically the RS Law on Public Assembly (2008), the cantonal Laws on Public Assembly in FBiH, and the Law on Public Assembly of BD (2012). A public assembly of citizens is defined as any organized assembly of citizens taking place at an appropriate place, whose number and identity is not determined in advance and which does not endanger: the rights of others; public morality; security of people and property; the health of persons involved or implicated; or obstruction of public traffic. The most common type of public assembly is that of peaceful assembly and public protest, although other types are also covered in the term “freedom of assembly”.

While the laws generally state the principles governing freedom of assembly correctly, they tend to overregulate conditions for exercising the constitutionally guaranteed right of assembly. In the Joint Opinion on the Act on Public Assembly of the Sarajevo Canton by the Venice Commission and OSCE/ODIHR (2010), it is stated that “The Act should also regulate in less detail the conditions for exercising the constitutionally guaranteed right of assembly, especially where its exercise would pose no threat to public order and where necessity does not in fact demand state intervention.”³⁰ Even though this statement was addressed to Sarajevo Canton legislation, its recommendations can also be applied to the aforementioned state and entity laws. Pursuant to the RS Law on Public Assembly, a space appropriate for public assemblies is an accessible public space, adequate for the gathering of people. It is defined as such in the Law, as well as in the official documents of local self-governance and municipalities.³¹ The provision stipulating that peaceful assemblies cannot be held “in the vicinity of specially secured facilities, to a distance of at least 50 meters” gives rise to the possibility of misuse. According to decisions by local self-government units in RS, associations are obliged to pay a fee for using a public space, even though public space should not be used for economic gain. Among other reasons stipulated by the RS Law on Public Assembly, a peaceful assembly may be prohibited if it is not duly reported to the authorities within the stipulated timeframe. The organizer may file a complaint against a decision prohibiting a peaceful assembly.³²

Citizens may also express their dissatisfaction with political events through spontaneous protests, as in the example of the “Personal Identification Number for Babies” protests (JMBG protesta za bebe), where several hundred protesters gathered in front of the BiH Parliamentary Assembly in Sarajevo in June and July 2013 to request the urgent passing of the Law on Personal Identification Numbers.³³

³⁰ Venice Commission and OSCE/ODIHR, Joint Opinion on the Act on Public Assembly of the Sarajevo Canton (BiH), **CDLAD(2010)036**, Venice, June 2010, p.3.

³¹ Except for spaces determined in the official acts of the city and municipality, peaceful assemblies may not be held in the vicinity of: hospitals; kindergartens and primary schools; national parks and protected national parks; or cultural monuments. They are also prohibited, on main, regional and local roads if they endanger traffic safety, or within 50 meters of specially protected facilities.

³² The authorized body is obliged to forward the complaint and attached documentation to the Ministry of Internal Affairs. The decision on the complaint must be issued and delivered to the organizer within 24 hours of the receipt of the complaint. Immediately upon the receipt of the decision prohibiting public assembly, the organizer shall inform the public accordingly, and if possible remove publicly propounded notifications about the peaceful assembly. It is permitted to appeal this decision before the competent court.

³³ On 5 June 2013, several hundred protesters gathered in front of state parliament and institution facilities to request the urgent passing of the Law on Personal Identification Numbers. Protesters blocked the access to these facilities, preventing all state officials and civil servants from entering the premises in which they worked. The protest was triggered by the news that three-month-old Belmina Ibršević was deprived of the possibility to undergo medical treatment abroad, due to the lack of personal identification number necessary for obtaining a travel document.

There are no official statistics or publicly accessible information in BiH regarding the number of protests and assemblies held, nor is there information on police harassment, apprehension and interrogation of civil society activists. Based on information from the media, several such cases have been registered in the past two years, most often among protesters. Participants of the JMBG protests were subject to “special investigative actions”, and some activists and protest leaders were interrogated at the police station. The same thing happened to participants of the protest against the destruction of green spaces in Banja Luka, organized in summer 2012 and lasting several days, and to the organizers of student demonstrations, also in Banja Luka, in June 2013.³⁴

In November 2013, after over a year, a request was made to file a minor offense against nine persons involved in “The Park is ours” (Park je naš) initiative. During protests against the destruction of green space in Banja Luka, which lasted for several days in June 2012, these persons were alleged to have “crossed the road on a red light”. Further, by walking on the road they had “obstructed normal traffic functions”. On that occasion, police officers did not inform those from whom they requested identity cards that they had committed an offense, but instead stated that they were performing a routine identification check.

In terms of ensuring the promotion and protection of peaceful protests and practicing freedom of assembly, it is important not only to have an adequate legal framework, but also continuous efforts for its effective implementation. As stated in the Report of the United Nations High Commissioner for Human Rights (2013), a dialogue between protest organizers, administrative authorities and the police, as well as human rights training programs for police forces (including on the use of force during protests), can contribute to the promotion and protection of those human rights linked to peaceful protests.³⁵

Main recommendations for action:

- Carry out analysis of and amendments to existing laws on public assembly, taking into account democratic standards and principles on regulation, as well as recommendations from the Venice Commission, and actualizing the objectives of the right to peaceful assembly and protest.
- Abolish fees for the use of public space for non-economic CSO activities in RS.
- Develop mechanisms for collecting information on the policing of protest activities, and intellectuals and human rights defenders.

The right to **freedom of expression**, and of collection and distribution of information, is guaranteed by the Constitution, ECHR (Article 10), laws, and international documents recognized by BiH, and as such it must be respected by all components of the BiH public and social sectors. Bosnia and Herzegovina was the first Western Balkans country to decriminalize slander, resulting in the elimination of possible criminal sanctions against individuals for publicly expressed opinions, and encouragement of the professional activities of journalists and CSOs. However, the large number of court cases³⁶ related to this right (along with a lack of efficient judicial practice) clearly indicates a problem in the implementation of national laws protecting the freedom to collect, process and distribute information. In practice, there is greater legal and institutional protection of public officials than of citizens and CSO activists. CSO activists and journalists are

³⁴ For more information, see: <http://www.6yka.com/home/tag/picin%20parki>http://www.slobodna-bosna.ba/vijest/9545/zbog_izjava_da_su_automobili_pred_parlamentom_ukradeni_tuzbe_za_klevetu_protiv_bevasde_i_pan_dureviceve.html. and <http://www.novosti.rs/vesti/planeta.300.html:445322-Banjaluca-Policija-u-Studenjaku-bez-dozvole>.

³⁵ UN General Assembly, “Report of the United Nations High Commissioner for Human Rights: Effective measures and best practices to ensure the promotion and protection of human rights in the context of peaceful protests”, January 2013. <http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.28.pdf>

³⁶ In the period 2003-2013, over 700 complaints for slander were filed with the courts of BiH, of which approximately 500 were against journalists and the media. The rest were complaints against politicians, union activists and CSOs. The court verdicts for some cases have been shown to give more protection to public servants and public figures than to citizens.

exposed to various forms of open and/or concealed pressure and obstruction to their work, due to their critical observations on public authority, institutions and individuals in significant functions. A striking example of *institutional and political* pressure on CSOs is the BiH Parliament's decision of April 2013, to ban representatives of the Center of Civil Initiatives from attending Parliamentary sessions, because of their critical monitoring and reporting on the work of the assembly.³⁷

While the legislative framework prohibits hate speech,³⁸ it does not categorically or comprehensively define it, or the means of protection against it. Existing criminal laws do not encompass the positive obligations of Article 10 of the ECHR, and are not in compliance with international standards. There is no definition of hate crime as a criminal offence,³⁹ and therefore denial of genocide, war crimes or the Holocaust, among other offences, is not punished. Consequently, in many cases, representatives of CSO organizations are victims of hate speech, as well as verbal and other types of attacks.⁴⁰ In addition, civil society organizations that deal with issues of human rights and protection of returnees,⁴¹ the LGBT population, women, and supporters groups for sports teams, are particularly exposed to hostility, verbal assaults, insults and discrimination, lawsuits and summons for police questioning.

Štefica Galić, a CSO representative and journalist, was beaten and verbally abused in her hometown of Ljubuški (predominantly populated by Bosnian Croats) after a screening of "Neđo from Ljubuški", a film about her late husband, who saved many Bosniak families during the war. After two years of effort to seek legal CSO and professional journalism protection, Štefica Galić moved to another town to protect the safety of herself and her family (November 2013). The Complaint Commission of the Press Council dealt with this case, which was one of fifteen complaints about the writings of print and online media

The existing legal framework is not restrictive, and it guarantees the **freedom of access to information** to everybody, including the freedom of CSO employees and activists to receive, collect and distribute information. According to state and entity laws on freedom of access to information, disclosure is the rule, and non-disclosure is its exception. However, entity laws are not in compliance with state law regarding sanctions. The impossibility of determining accountability of public officials, and the lack of adequate sanctions for withholding information, can be evaluated as one form of "interference in the degree of realization of the right to freedom of gathering information",⁴² which highlights the necessity of harmonizing entity and state laws. With respect to intervention/interference from public authorities⁴³, current practice shows inconsistencies between laws at different authority levels, as well as a tendency to amend laws in order to deprive particular social groups and individuals of the right to freedom of expression and information.⁴⁴

³⁷ <http://balkans.aljazeera.net/vijesti/kolegij-predstavnickog-doma-odstranio-cci>

³⁸ The Law on Prohibition of Discrimination (2009) prohibits any advocacy of national, racial or religious hatred (Article 4, Paragraph 6). It remains unclear how this ban can be implemented in practice.

³⁹ The authorities in FBiH and RS did not express a readiness to accept amendments to criminal laws for the definition of hate crimes, as proposed by the Coalition for Combatting Hate Speech.

⁴⁰ In the case publicly known as "Queer Festival", there was no reaction from any institution regarding violence against the visitors of a 2008 festival, and no steps were taken towards criminal prosecution of the attackers. An appeal filed with the Constitutional Court of BiH in 2011 is still pending.

⁴¹ As in the case of *Bakira Hasečić, president of the association "Women victims of war", who had hate speech directed towards her*. The Coalition for Combatting Hate Speech and Hate Crimes reaction can be viewed here: <http://www.bosnjaci.net/prilog.php?pid=50462>

⁴² A remark from a participant of the Banja Luka focus group (November 2 2013).

⁴³ For example, the Court of BiH's Rulebook on Access to Information, which has made all court judgments anonymous, deprives the right to the public of consistent monitoring of the Court's work. This is particularly true for those cases of war crimes and crimes against humanity which are of essential importance for the reconciliation process in BiH, and for the peace of mind of war victims and their families. The Rulebook is consistent with the Law on Protection of Personal Information, which is not harmonized with Law on Freedom of Access to Information.

⁴⁴ Especially worrying were the attempts of the BiH Ministry of Justice (in early 2013) to amend the Law on Freedom of Access to Information (to narrow and limit access to information) in order to improve the application of the Law on Protection

Pluralism is present in the ownership and interpretation of media in BiH, through approximately 250 media outlets and 2.18 million internet users. This influences the strengthening of pluralism of information and opinion, and the diversification of citizens' information sources. There is not, however, distinctive or sustained presentation and promotion of CSOs' results, nor is there appropriate public evaluation of their actions, through the media and other public communication channels.⁴⁵ "Public media have completely lost their social responsibilities and they have no genuine commitment to the mission of serving the public interest."⁴⁶

Participants of focus groups held in Sarajevo and Banja Luka (November 2013) concluded that it is practically impossible to achieve equal access to the media⁴⁷ for a significant number of organizations and associations of vulnerable and minority groups due to: (a) political and ethnic/national perceptions of the role of CSOs and media in BiH society; (b) journalists and editors who don't understand the essence or importance of CSO activities and don't want or dare to report on their work; (c) a large number of CSOs and their activists, making it difficult to follow key CSOs in a qualitative and continuous way; (d) a lack of understanding by many CSOs of the nature of the media; (e) the competitiveness which exists between the media and CSOs concerning the production of media content; and (f), CSOs' lack of a clear strategy for choosing the channels of communication (including media), which will best transmit information on its activities to citizens of the local communities or regions in which CSOs operate. Nevertheless, there are examples of good practice and results of joint actions by media and CSO activists in the interests of the wider public. These are typically based on networks of personal connections between professionals in public institutions, the media and the civil society sector.⁴⁸ Following this example, the creation of a platform for joint advocacy actions and a facilitated flow of information has been proposed by focus groups participants.

The principles by which communication channels may be subject to special surveillance by police and security-intelligence agencies in BiH are regulated by law. Thanks to traditional media, online portals and Facebook, the "monitoring, eavesdropping and summoning for informative talks" of civil society activists, citizens and journalists in Sarajevo and Banja Luka⁴⁹ were revealed to the wider public, at which point it remained unclear whether or not these measures were taken in accordance with existing laws.⁵⁰ Alongside the legal framework (which is formally based on international standards), there needs to be a greater presence of "civilian control" over intelligence-security agencies and/or police, in order to prevent unnecessary invasion of privacy. This should extend to the activities of media and CSO activists, in order to keep their right to freedom of expression intact.

of Personal Information. Due to the harsh reactions of CSOs and the media, these amendments were temporarily suspended, but the case is still active.

⁴⁵ In a survey conducted by the Association of BiH Journalists and the Friedrich Ebert Foundation, approximately 38% of interviewed citizens shared the opinion that the internet "democratized communication and provided for pluralism of opinions". However, 32% do not feel better-informed, despite an increase in the number of internet portals and the amount of publicly accessible media content.

⁴⁶ A remark from a participant of the Banja Luka focus group (November 2 2013).

⁴⁷ According to the rules of the Communications Regulatory Agency and the Press Council in BiH, as well as to internal legal acts and media editorial principles, the media should uphold the principles of equal access to media space for CSO activists.

⁴⁸ For example, the joint efforts of Transparency International and the media in BiH have contributed to citizens being included in the revealing and reporting corrupt activities.

⁴⁹ In Sarajevo, during 2012 and 2013, under police action "Patriot" FTV journalists were wiretapped and distributed to interested parties in the case and under action "Lutka" warrant for wiretapping was asked for newsroom of Oslobođenje and Dani magazine (www.bhnovinari.ba).

⁵⁰ Agency for Investigation and Protection (SIPA), BiH Intelligence – Security Agency (OSA) and BiH Prosecution Office did not give a credible public explanation about their actions regarding journalists' wiretapping based upon request by FMHL. Association of BH journalists and FMHL asked for a separate session of Joint Commission of state Parliament for surveillance over the work of BiH Intelligence-Security Agency related to these cases.

Main recommendations for action:

- Establish a CSO cross-sectoral lobby group for the protection and public defense of the right to freedom of expression.
- Amend criminal laws to ensure protection of the right to freedom of expression, and to define precisely the crimes of "hate speech" and "hate crime".
- Adopt amendments to entity FOAI (Freedom of Access to Information) laws to harmonize them with BiH Law in terms of: time limits; methods of communication with those who request information; and sanctions for the public body and the responsible person in the event of non-compliance. The harmonization of relevant laws with the Law on Freedom of Access to Information is also recommended.

Area 2: Framework for CSO Financial Viability and Sustainability

Sub-area 2.1: Tax/fiscal treatment of CSOs and their donors

Regarding associations' and foundations' tax revenues, the legislative framework is based on entity laws that, while addressing the same subject, contain different legislative solutions in certain areas. It is worth noting that the type of registration of a given association affects its eligibility to apply for funding from different levels of government (state, entity, cantonal and municipal).

If they perform the non-profit activities for which they were established, associations and foundations are exempt from profit and income taxes. In FBiH, associations and foundations are generally exempt from the provisions of the Law on Profit Tax for Legal Persons, with regard to revenue received in the course of performing their public service or common activities, as prescribed by their statutes. In RS, the Profit Tax Law stipulates that public institutions and humanitarian organizations do not pay tax on profits from revenue received from the budget, public funds, or sponsorships (cash or in kind). Consequently, if an RS organization reports profits from grants/donations as a gain, these profits are not taxable. In contrast, donations to public institutions, as well as humanitarian, cultural and educational organizations are recognized as expenditure of up to 3% of the total revenue for the given tax year, while a donation that exceeds this amount may be carried over for the next three years, reducing the allowance for future donations.

Entity laws provide tax benefits in the form of tax exemptions for donations from physical persons dependent on income from economic activities, and from legal persons (taxpayers), for purposes beneficial to the public, in cash, or in kind. Gifts and donations in the form of goods and/or services provided to CSOs by companies are taxed only if the provider is a registered VAT payer.⁵¹ CSOs are not required to pay VAT on goods or services received in this manner, nor do they pay VAT on their further management.⁵² Donations from government institutions to CSOs are also non-taxable. The law does not explicitly state the time limit for utilization of such grants, nor does it stipulate the percentage of the share of such grants that may be applied for covering administrative costs.

Membership fees are not taxed in FBiH, because they are not seen as compensation for conducting a business activity, but rather as member contributions. In contrast, revenues from membership fees are taxable in RS, with the exception of those for humanitarian CSOs.

⁵¹ Gifting goods or services without compensation or with reduced compensation is considered as a taxable business operation, on which the provider (VAT payer) is required to calculate VAT (17%), on the basis of the market value of goods gifted, or services provided without compensation or with reduced compensation.

⁵² Apart for exceptional cases, when CSOs should also register for VAT. Even in this case, such a requirement would still exist if the CSO's taxable turnover, conducted as a business activity and in competition with the private sector, would exceed 50,000 BAM annually.

In relation to the activities of associations and foundations, the tax system in FBiH places emphasis on the nature of the activity (for general public benefit), and grants tax benefits for contribution to such activities. This approach puts public institutions and CSOs at the same level regarding performance of activities for general public benefit.⁵³ However, in RS there are certain departures from this principle. Namely, an association in RS may obtain the status of an association of public interest if its activities transcend the interests of its members, and are intended for public interest in the manner specifically listed in the law.⁵⁴ The Government of Republika Srpska regulates the status of an association of public interest by applying the proposals of the RS Ministry of Public Administration and Local Self-Government.

Associations and foundations in BiH have a self-financing option: i.e. they may conduct business activities. In this area, BiH and entity laws on associations and foundations clearly distinguish between “related” and “unrelated” business activities.⁵⁵ Performing related business activities is permitted in both entities, as well as on the state level, without the need to establish a separate legal entity. Associations and foundations may conduct related business activities on the condition that these activities contribute to achieving their pre-established goals, and that they are not motivated by profit. Pursuant to the provisions of the Profit Tax Law in FBiH, associations and foundations do not pay tax on profits created by the performance of related business activities (excess revenues above expenditures⁵⁶). In RS, related business activities are not permitted to be commercial in nature. If an association or a foundation records profits, they will be taxed pursuant to the RS Profit Tax Law.⁵⁷

It is evident that associations and foundations are taxed differently in FBiH and RS, regarding both their non-profit and for-profit activities. For this reason, a broader fiscal reform and harmonization of entity legislations are necessary so that CSOs have equal tax treatment.

Main recommendations for action:

- The set of CSOs eligible for tax exemptions should be harmonized and defined, and entity laws on income tax and profit tax for legal persons should be revised and harmonized with current laws on associations and foundations.
- Harmonization of the treatment of tax deductions for donations to CSOs from physical persons who gain income from independent economic activities, and physical persons who gain income from non-independent economic activities (Law on Income Tax of RS, FBiH, BD).
- Legal determination on whether tax deductions for donations from legal persons (taxpayers) are related to institutional grants (donations) for CSOs (which act for general

⁵³ In FBiH, the concept of organizations acting for public benefit is not governed by tax or status regulations, including the issue of users of services of CSOs acting for public benefit. Consequently, CSOs acting in the domains of public interest for which tax exemptions are stipulated are not subject to any special legal regime.

⁵⁴ This applies to the following domains: health care; science, social protection; environmental protection; civil society; war veterans; human rights; minority rights; assistance to the poor and vulnerable; assistance to the disabled; children and the elderly; tolerance; culture; amateur sports; religious freedoms; assistance to victims of natural disasters; consumer associations; and other domains of public interest.

⁵⁵ A related activity is defined as an activity directly linked with achievement of goals defined in the articles of association. All other business activities not directly related to the goals of the articles of association are considered as unrelated business activities.

⁵⁶ When CSOs perform a related business activity, the terms “revenues and expenditures” are used, or, “excess revenues over expenditures”, and not the term “profits”, because this term relates to commercial companies and unrelated business activities.

⁵⁷ Only ‘humanitarian’ organizations are exempt from paying profit tax in this entity, if they obtain the status of humanitarian organization upon the point of registration or re-registration. In order to secure the status of humanitarian organization, in its articles of association the organization must state exclusively humanitarian goals (without expansion to such goals that transcend the framework of humanitarian activities), and it must specify the business activities the organization intends to perform in order to achieve the goals stated in its articles of association. Upon issuance of a court decision granting the organization the status of humanitarian organization, the next step is to register the activity in the company register in the Regional Court. Thereby the organization acquires profit tax exemption status.

public benefit purposes as defined by the Law), and to determine whether such donations must be used in the calendar year in which they are received, as well as the limit up to which a donation can be used as an administrative expense.

Sub-Area 2.2: State support

The total of 100,006,470.48 BAM allocated for the non-governmental sector in 2012 was divided as follows:

- 675,000.00 BAM by BiH at state level
- 57,602,954.51 BAM by FBiH
- 30,538,566.15 BAM by RS
- 11,189,949.15 BAM on BD level.

In 2012, the government of BiH allocated more than 50 million EUR (100,006,470.48 BAM) to the non-governmental sector.⁵⁸ Even though it is evident that the trend of government allocations for the non-governmental sector is declining⁵⁹, the government allocates a considerably higher amount of funds for the non-governmental sector than do international donors. It is also important to note, that in accordance with entity laws on lotteries, 50% of revenue generated from fees paid by lottery organizers is set aside for

funding/co-funding CSOs projects and programs. In FBiH, it is a budgetary revenue paid by the BiH Lottery as a public company, while in RS, the RS Lottery and organizers of other games of chance contribute to funds for these purposes. The funds raised in this manner are distributed to competent entity ministries through the entity Ministry of Finance (through a special account) in FBiH, and the Directorate for Gambling of RS, and are further distributed through open calls. It is important to note that the new FBiH Law on Lottery and Games of Chance is procedurally identical (in relation to CSO funding) to that of RS; in other words, fees should be collected from organizers of all games of chance, not just from the BiH Lottery, which is a public company. This would increase existing allocations by approximately 2,000,000 BAM per year.

Organizations that receive funding from different levels of government may be grouped as follows: sports clubs/organizations (38.9%);⁶⁰ associations for the protection of veterans and the disabled (15.2%); CSOs for social services/social care (12.2%); and other types of CSOs (34.4%).⁶¹ For nearly all categories, the highest share of allocation occurs at a municipal level which has improved its methodology for allocation increasingly.⁶²

Allocations from the government to the non-governmental sector are considerable, but a key shortcoming lies in the distribution of funds by sector, and the domains of work and activities of CSOs. Most calls for funding proposals lack a clear field and type of focus activity, resulting in numerous applications from diverse organizations, making it hard to establish and apply unified project evaluation criteria. This leads to the awarding of small sums to a large number of organizations, usually insufficient for adequate implementation of projects and program activities.

⁵⁸ The data obtained through research implemented by the Foundation for Social Inclusion in BiH in cooperation with the CSPC in 2012, are published in the publication 'Heads-or-Tails: Government Sector Allocations for the Non-Governmental Sector in BiH for 2012'. Of 309 governmental institutions, 303 participated in the survey, which made it possible to obtain a clear picture and accurate data on: government support for CSO activities by levels of government; CSO sectors and activities; funding mechanisms; and the transparency of the entire process.

⁵⁹ Namely, the government allocations for CSOs were 107,219,316.05 BAM, 118,033,391.43 BAM and 114,078,193.73 BAM for 2007, 2008 and 2010, respectively.

⁶⁰ BiH ministries allocate 25% of their funding for the non-governmental sector to sports organizations and 75% to other types of CSOs/NGOs (excluding associations for veterans and the disabled, and those focusing on social services/care. Within RS and FBiH institutions, the lowest share of total funding is allocated to CSOs/NGOs for the protection of veterans, and for the disabled and social services/care respectively. The greatest share goes to sports organizations. Both FBiH and RS institutions allocate around 30% of their funding to other types of CSOs/NGOs, while in BD the allocation is 76.3%.

⁶¹ Heads-or-Tails: Government Sector Allocations for the Non-Governmental Sector in BiH for 2012, FSI in BiH and CSPC, Sarajevo, February 2013, p.12.

⁶² The share of allocations on the municipal level by category of CSOs is similar in FBiH and RS. The difference is somewhat greater for allocations for CSOs focused on protection of veterans and the disabled. FBiH municipalities allocate 2 percentage points more for the above-mentioned CSOs than do RS municipalities. In terms of allocation of funds on municipal level, it must be mentioned that there is significant improvement in distribution of funds to local CSOs due to efforts of the the EU IPA Reinforcement of Local Democracy (LOD) project, which introduced single methodology for allocation of funds to CSO in all BiH.

On the other hand, public calls for funding proposals that include the areas and activities to be supported seldom reflect the needs of civil society. This means that there is not a clear understanding or assessment of needs to serve as the basis for development of these calls.

In 2012, a total of 47.6% of institutions participated in the co-funding of CSO projects on the basis of pooled funds, in partnership with other BiH government institutions or foreign partners. The practice of pooling funds is most common at the municipal level (62.9% of total allocated funds), followed by state institutions (50%), then cantonal institutions (25%) and finally, entity-level institutions, at 22.6%. Even though positive examples exist,⁶³ the practice of pooling EU and other donors' grants is not adequately recognized by the government sector, particularly in the case of EU grants, which require beneficiaries to secure co-financing of 15% of the total project budget.⁶⁴

Government institutions' support funds for non-governmental organizations are most often awarded through public calls for funding proposals (half of all funding in 2012 was awarded this way), inclusion in regular budgets or through public procurements. All three manners of funding are used at all levels of government.⁶⁵ The ministries that allocate funds for such purposes publish the requirements for their allocation through public announcements for CSOs.⁶⁶ The legal framework enables timely, informative, transparent and fair allocation procedures⁶⁷.

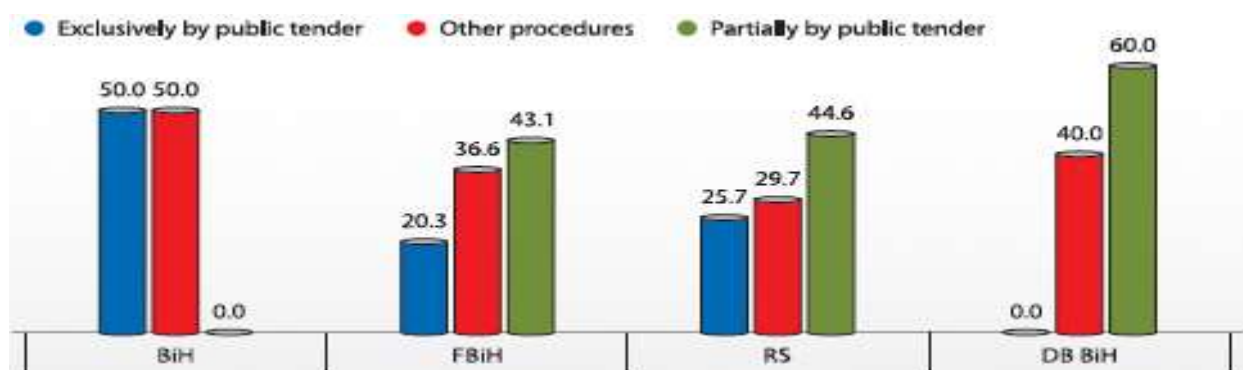


Table 2. Methods of fund allocation at different levels of government⁶⁸

In practice, CSO experiences indicate that public calls for funding proposals and their award criteria are, depending on the institution, more or less precise, but can be either clear or complicated. Tender documentation and procedures are often adopted from international donors,

⁶³ One such example is the cooperation and partnership of the FSI in BiH, and pooling of funds with institutions on all levels of government in BiH. A total of 58 CSO projects were supported through pooling of funds, with a total of 3,231,439.75 BAM, of which 2,043,199.94 BAM (63.23%) were from FSI in BiH, while the domestic budgets accounted for 1,188,239.81 BAM (36.77%). As result, 77 government institutions supported CSO projects, and there were a total of 56,447 beneficiaries.

⁶⁴ A quantitative analysis case described the situation of a project proposal which was approved by the European Commission in Brussels, but due to the impossibility of securing co-funding from the government sector, the project could not be implemented. Another case cited the situation of a Western Balkans cross-border cooperation, where other project participants obtained support from their governments, while the participants from BiH did not, resulting in their subsequent withdrawal from the project.

⁶⁵ At entity level, funds are most frequently (in 53.3% of cases) awarded through public calls for funding proposals; on the municipal level, the total amount is most often awarded through other procedures (50.4%); on the cantonal level the total amount is awarded by application of other procedures besides public calls for funding proposals in the same percentage (36.7%), or partially through public calls for funding proposals.

⁶⁶ The basis for participation in such competitions is a decree of the Minister of the responsible line ministry, pursuant to the BiH Law on Ministries and Other Administrative Bodies and the BiH Law on Administration. The laws with same titles exist also at entity level, but they cover the administrative institutions of the entities. In municipalities these are conducted pursuant to the Articles of Incorporation and the Mayor's decrees.

⁶⁷ Pursuant to the state and entity laws on Freedom of Access to Information, the BiH Law on Public Procurement, and the state and entity laws on Conflict of Interest in Government Institutions.

⁶⁸ "Heads-or-Tails: Government Sector Allocations for the Non-Governmental Sector in BiH for 2012", FSI in BiH and CSPC, Sarajevo, February 2013, p.17.

or contain a mixture of procedures and documentation from multiple donors. This can result in mismatched procedures for particular calls for funding proposals. The numerous certificates that CSOs must submit when responding to calls for funding proposals issued by government institutions are seen as a considerable problem, as they constitute a cost that CSOs frequently cannot meet. With regard to transparency, such invitations are transparent in the sense that they are published, that information is available to potential applicants, and that names of organizations awarded funding are frequently published. However, the process of project evaluation and selection itself is not known, and it is not possible to obtain information about the basis for approval or rejection of some projects. This prevents CSOs from improving their future project proposals and funding applications.

Accountability for the monitoring and evaluation of awarded public funds is regulated by administrative procedures of the civil service, but this does not extend to the impact of funded programs. The major reason for this is a shortage of trained staff (in 36.9% of cases), while other reasons include inadequate resources, insignificant/low levels of awarded funds, and the lack of rulebooks or appropriate regulations regarding the conduct of such analyses.⁶⁹ Of all relevant institutions, 48% conducted an analysis of the outcomes of activities of CSOs that were awarded funding, 34.5% solely implemented a financial analysis, and 17.5% conducted neither an analysis of outcomes of activities, nor of utilization of resources. The system of accountability, monitoring and evaluation of public financing is consequently to a large extent based on the submission of financial and narrative reports of CSOs to responsible government institutions, i.e. on the control and monitoring of how financial assistance is spent. It is also not possible to refer to a standardized reporting system, because the method and type of reporting depends on the responsible institution. Government institutions do not make field visits, which could be seen as a key instrument of monitoring and evaluating project activities, and the efficiency of CSO spending. Evaluation of achieved project results and project impacts is also absent, and such information is almost completely inaccessible to the public.

Among the institutions that allocated funds for NGO work in 2012, 77.5% demanded that CSOs submit financial and narrative reports, and 7.3% of institutions awarded funds without a reporting requirement. A total of 13.9% of institutions require only financial reports, and 3.9% request solely written reports.

Legal rules also allow government institutions to grant CSOs non-financial support.⁷⁰ A basic form of this support is through permitting use of premises for the organization of various events (presentations, conferences and competitions) without compensation, although in some cases CSOs were asked to pay VAT for the use of certain premises. Regarding longer-term use of premises for daily CSO operations,⁷¹ it is notable that when this type of support is extended, the treatment of different civil society organizations varies. Preference is generally given to organizations of significance for the ruling circles, and those whose target groups constitute a considerable part of the electorate, such as organizations of veterans and disabled veterans, or organizations with loyalty or affiliation to a certain political party. There is a widespread view that certain organizations enjoy greater sympathy and protection than others, even regarding access to governmental institutions, talks and discussions about this type of support. Non-financial assistance in the form of information, training and education, although of great importance, is extended only on very rare occasions.

⁶⁹ Ibid p. 30.

⁷⁰ Namely, all three laws on associations and foundations, in the articles that treat assets of associations and foundations, stipulate, among other things, that non-financial support may consist of income and gifts from physical and legal persons, rent revenues, passive revenues (interest and dividends), and of other revenues pursuant to the law. The form of grants in-kind is prominent, while various levels of government often provide premises for CSO operations.

⁷¹ Allocation of such properties is subject to decisions on allocation of premises for commercial rental, use without compensation or on the basis of previously established criteria with lower rents.

In view of the significance of the work and activities of CSOs and the civil sector in general, (and considering the reduction of foreign donations and the subsequent increasing reliance of CSOs on governmental support), it is crucial to ensure transparent and efficient utilization of government-donated funds.

Main recommendations for action:

- Establish mechanisms for the transparent funding of CSO programs and projects from the budget, that would incorporate rules on the required stages of the award cycle into administrative by-laws (award requirements, monitoring, reporting forms, evaluations, audit reports).
- Introduce a public and electronically accessible register of CSOs in BiH, which would combine all data about these CSOs, and give clear information on: date and place of registration; registration level; implemented projects; donors; and annual and financial reports.
- Harmonize the laws on conflict of interest, with increase of the sanctions and supervision of the parliamentary assemblies on its implementation.

Sub-area 2.3: Human Resources

Throughout BiH, CSOs are subject to the same legally regulated treatment as other employers. Labor laws of RS, FBiH and BD do not contain specific provisions in respect to CSOs. In addition, the laws on associations and foundations do not contain any specific provisions related to the employment of individuals in CSOs, specific procedures for employment, nor specific rights for CSO workers.⁷² Entity Employment Services do not keep records on numbers of CSO employees. This information can be obtained from the entity Tax Administration Offices, but is not free of charge. According to information obtained from the RS Tax Administration Office,⁷³ 380 persons were employed within 214 membership-based organizations. There are no employment incentives related to CSOs specifically. The relevant ministries do provide for employment incentives, although conditions for application depend on specific calls. Based on a survey conducted⁷⁴, it was concluded that CSOs did not appear in the majority of them.

Volunteering is regulated by the RS Law on Volunteering (2008) and by the FBiH Law on Volunteering (2012),⁷⁵ which define basic terms related to volunteering, principles of volunteering, contracts, rights and obligations of volunteers and organizers of volunteer work, and overseeing applications. However, the application of these laws is still not at a satisfactory level. Practice shows that the laws on volunteering are still largely unknown to CSOs, who do not see their significance due to insufficient implementation on the ground. CSOs are almost united in their assessment that the situation is poor regarding transparency in giving encouragement to volunteers. The majority of CSOs questioned were confused by administrative procedures related to volunteering.⁷⁶ The position of 'volunteer-intern' is defined in the Labor Laws of both entities and in BD legislation, but refers to volunteering as *de facto* unpaid work, rather than socially useful employment. The misuse of the notion of volunteering in this context has caused huge damage to volunteering engagements throughout BiH, due to incorrect interpretations by

⁷² Associations of employers and unions are regulated by special provisions.

⁷³ This information was obtained in February 2014, via e-mail; the request was submitted in November 2013.

⁷⁴ The survey was conducted in October 2013 by the Youth Communication Center from Banja Luka, and included 47 CSOs.

⁷⁵ The Brčko District does not have a law specifically applicable to the area of volunteering.

⁷⁶ Only 45% of CSOs familiar with the procedures claim that they are not complicated.

the media, institutions, and the public.

A number of international and European documents legally and/or politically oblige BiH to respect certain standards in the field of education. The RS Law on Adult Education (2009) defines non-formal adult education as: “an organized process of learning and education, aimed at training, specialization and complementation of knowledge, skills and abilities, according to components of the formal education program (modules), and special programs for acquiring knowledge, skills and capabilities.” Non-formal education can be organized within educational institutions and specialized organizations which meet the requirements of the program they perform. In FBiH, only the Law on Adult Education of Una-Sana Canton is in force; the adoption procedure of the laws on adult education has been launched in Sarajevo Canton and Zenica-Doboj Canton. Adult education in BiH was mentioned in some strategies,⁷⁷ but there is no Strategy for Adult Education at any level. In order to enable a new opportunity for the workforce to gain skills and qualifications in accordance with the needs of the labor market and additional opportunities for CSOs in terms of the organization of non-formal education; adoption of these laws and of the Strategy, would be of great importance.

In accordance with major human rights instruments, democracy and human rights issues were introduced to primary and secondary schools in BiH in 1996, and continue to be in place to this day, in the form of extracurricular activities or units within other subjects. In the last ten years, civic education has become a part of the curriculum in most primary and secondary schools⁷⁸ due to the adoption of the Framework Law on Primary and Secondary Education in BiH (2003), and the Common Core of Curricula for Primary Schools (2003).⁷⁹ Although the implementation of the latter is not equally applied to all parts of the country, the test results of pupils' knowledge confirm that democracy and human rights contribute to the understanding of notions, principles, institutions and practices in the field of democracy, human rights and citizenship.⁸⁰

Main recommendations for action:

- Request the introduction of CSOs as a special category by competent institutes for statistics, which would regularly collect data on employee numbers and salary rates in CSOs.
- Improve the implementation of existing laws on volunteering, by CSOs and relevant institutions and pass a Law on Volunteering in BD.
- Introduce effective legal solutions for recognizing non-formal education in those parts of BiH currently lacking such provisions, and promotion of existing solutions. (Adopt the Strategy for Adult Education and relevant laws in all cantons).

⁷⁷ The Strategy for the Development of Vocational Education (2007) and Strategic Directions for Education Development in BiH with an Implementation Plan 2008-2015 (2008).

⁷⁸ Civitas BiH had a special role in this process, and in cooperation with local and international partners worked on development and implementation of quality educational programs, for pre-school facilities, primary and secondary schools and universities throughout BiH. According to the section of the curriculum developed by CIVITAS BiH, all pupils use the same materials: Fundamentals of Democracy, Democracy and Human Rights and Project Citizen, in the three official languages.

⁷⁹ The Common Core determines school subject framework for primary schools, its content, and methods of learning for active citizens.

⁸⁰ Spajjić-Vrkaš, V., Džidić, R., “Education for Democracy and Human Rights in BiH”, CIVITAS BiH, Sarajevo: 2013

Area 3: Government-CSO Relationship

Sub-area 3.1: Framework and practices for cooperation

The signing of the Cooperation Agreement between the BiH Council of Ministers and the non-governmental Sector in BiH in 2007⁸¹ established a general institutional framework for cooperation and dialogue between the state and civil society organizations in BiH. However, while the Agreement constitutes a key cooperation mechanism between the Council of Ministers and CSOs, creation of the institutional mechanisms it envisaged failed to occur, as it was not implemented in full.

The Agreement outlines: the establishment of the Office for Cooperation with the non-governmental sector, as a specialized and advisory body of the BiH Council of Ministers; creation of the Civil Society Council in BiH, composed of government and civil society representatives; creation of the Civil Society Board on behalf of CSO representatives, and adoption of the Strategy for Creation of Enabling Environment for Civil Society Development. However, these obligations were either not met, or have been met partially or in an unsatisfactory way. Due to a lack of political will, in place of the Office for Cooperation with the non-governmental sector, in 2008 a Civil Society Sector was established within the BiH Ministry of Justice. Its institutional position and powers have tied it to the work of the state Ministry of Justice, and as such it was unable perform functions as a joint specialized body of the Council of Ministers. Furthermore, the resources and powers of the Sector were inadequate for implementation of the activities assigned to it⁸² and for the facilitation of dialogue between CSOs and the Government. In December 2013, as part of organizational changes, the Sector for Civil Society was transformed into the Sector for Legal Aid⁸³ of the BiH MoJ.

In 2011, the Civil Society Sector initiated the preparation of the Strategy and Action Plan for Creation of Enabling Environment for Civil Society Development, and a working group was established. This working group commenced meetings,⁸⁴ but the work on the Strategy has since come to a halt.⁸⁵

Various legislative frameworks on state, entity and BD levels further affect relationships between CSOs and the government. On entity level, relations with CSOs are entrusted to the FBiH Ministry of Justice and the Ministry of Public Administration and Local Self-Government in RS, respectively.

Although the Agreement has not been fully implemented at state level, it is important to note that local governments embraced this mechanism for the development and maintenance of cooperation with civil society organizations. To date, 100 municipalities in BiH have signed the Agreement between the Municipal Council, Mayor and Non-Governmental Organizations, which

⁸¹ The Agreement emerged as a result of the continuous activities and efforts of the CSO Coalition "Work and Succeed Together", coordinated by CSPC. See more at: <http://sporazum.ba/index.php?opcija=sadrzaji&kat=2&id=8&pid=10>

⁸² Although the Sector for Civil Society was conferred broad competences, the documents that should have resulted from exercising such competences were not prepared nor made available to the general public. According to the MoJ official website, the Sector had, among others, the competence to: prepare any developmental and strategic documents for the CSOs in BiH; facilitate and promote participation of CSOs in consultations of the legislative drafting process; monitor cooperation of CSOs with the lower levels of government in BiH; and monitor and prepare an annual overview of the implementation of the Cooperation Agreement between the BiH Council of Ministers and the Non-Governmental Sector in BiH. See more at: <http://www.mpr.gov.ba/ministarstvo/organizacija/default.aspx?id=436&langTag=bs-BA>.

⁸³ The Sector for Legal Aid still has a Section for Legal Aid to CSOs. For more information on the competencies of the Sector for Legal Aid, please see the Mid-term Strategic Plan of the BiH MoJ, 2012-2014, revised in January 2014.

⁸⁴ The Working Group consists of ten members, five of whom represent government institutions on state, entity and BD levels, while the remaining five are representatives of BiH civil society (representatives of the Justice Network, Agreement Plus Network, NGO Council, Peace-Building Network and the "I Volunteer" Network).

⁸⁵ The Working Group held no meetings in 2013.

also serves as a basis for transparent distribution of funds to local CSOs.⁸⁶ Moreover, agreements between the Sarajevo Canton Government, Bosnian Podrinje Canton Government and the non-governmental sector in these cantons were also signed, as a way to promote participation of citizens and CSOs in the process of development of public policies within the competences of the cantons.

It can be concluded that, although recognized as a good mechanism for cooperation of the authorities with civil society, the Cooperation Agreement between the BiH Council of Ministers and the Non-Governmental Sector in BiH has not brought the intended results. For this reason, it is necessary to conduct an analysis of its current operation, which would define a new approach to the planning and application of this process. Implementation of this Agreement requires the development of new models of conduct, new capacities and competences.

Main recommendations for action:

- Establishment of a functional institutional mechanism (Office for Cooperation with the Non-governmental Sector) within the Council of Ministers for its cooperation with civil society, in accordance with the Cooperation Agreement.
- In cooperation with CSOs, prepare the Strategy for Creation of Enabling Environment for Civil Society Development, with a state-level Action Plan for its implementation, monitoring and evaluation. Allowances should be made for the peculiarities of the constitutional-legal system of BiH. In the preparation of the Strategy, it is necessary to specify clearly the working methodology, and the participants in the strategic planning process.
- Establishment of the Council for Civil Society Development of the BiH Council of Ministers, as well as of mechanisms at lower levels of government, that would be similar or identical to those at state level.

Sub-area 3.2: Involvement in policy- and decision-making processes

“Forms and mechanisms of the organization of citizens' participation in decision-making processes are primarily a task of the government, which may include them through 1) providing information about its activities; 2) consultations on specific matters of importance to the community; 3) active participation in these processes through submission of concrete proposals and contributions to the discussion and selection of priorities; and 4) delegation of powers to citizens to choose and make decisions about certain important issues.”⁸⁷ Unfortunately, this form of cooperation is not yet sufficiently recognized or applied in BiH.

A special mechanism that permits citizens' consultations on legislative initiatives on the BiH level was introduced through the Uniform Rules for Legislative Drafting in the Institutions of BiH (2005),⁸⁸ which require ministry staff to consult, in the process of drafting a regulation. This involves not just institutions and administrative units, but also: private persons representing civil society organizations; professional and academic communities; public bodies; and international organizations. On the basis of these regulations, the Rules of Consultation in Legislative Drafting

⁸⁶ For more on methodology introduced by the Reinforcement of Local Democracy (LOD) project, see: <http://www.alvrs.com/v1/index.php/sr/biblioteka/item/6-izdvojeno/247-2012-04-nacrt-lod-metodologije-za-raspodjelu-opstinskih-sredstava-organizacijama-civilnog-društva-sa-prilozima>

⁸⁷ Kačapor, Z., Osmanagić-Agović, S., “I Participate, Therefore – I Contribute! Participation of Citizens and Civil Society Organizations in Decision-Making on the Entity, Cantonal and Municipal Levels of Government in BiH”, ACIPS, Sarajevo, 2010.

⁸⁸ The Uniform Rules for Legislative Drafting in the Institutions of BiH are available at: http://www.mpr.gov.ba/organizacija_nadleznosti/pravosudje/Prirucnik%20za%20izradu%20pravnih%20propisa.pdf.

in the Institutions of BiH⁸⁹ are significant, as they establish in a systematic fashion the obligations of state-level institutions with regard to public consultation in the legislative drafting process. The Rules of Consultation formally provide CSOs with timely access to draft documents, and with participation in the preparation of a given legal document in its drafting stage, through comments submitted in the consultation process. However, the situation is substantially different in practice. The requirements envisaged for minimal consultation⁹⁰ are observed by four ministries, while only three⁹¹ have appointed public consultation coordinators, and compiled lists of CSOs and individuals who receive information related to the public consultation process.⁹² The ministries have no clear methodology for collection and processing of comments, and coordinators rarely inform CSOs of whether their comments were accepted, abridged or rejected. The persistent absence of feedback demotivates CSOs from active participation in future public consultation processes. Most civil servants do not recognize the Rules as binding;⁹³ therefore, educating civil servants is crucial for implementation of the Rules. Noting unsatisfactory implementation of the Rules of Consultations, the BiH Ministry of Justice initiated a process for their enhancement, comprising solutions including: amendments to problematic articles; introduction of disciplinary measures for failure to implement the Rules; and a regular annual evaluation of their implementation.⁹⁴ On all but two occasions, CSOs have not insisted on consistent implementation of the Rules.⁹⁵

At the level of the Federation and cantons there are no Rules of Consultation, but some cantons, as well as the Brčko District, conduct consultations. The Guidelines for Actions of RS Administrative Bodies on Public Participation and Consultation in Legislative Drafting, adopted by the RS Government, similarly establish: when, under what conditions, and by whom a public consultation process is conducted; how comments are collected and processed; and the requirement to draft explanations regarding the acceptance or rejection of comments. The role of coordinators falls outside these guidelines, as one is appointed for each law. The Guidelines are mandatory, and must be followed by all drafters of legislation.⁹⁶

As far as other standards on CSO participation in decision-making processes are concerned, it is also important to consider: public debates; legislative initiatives; public hearings; local communities; and the Open Days of municipal mayors' offices.

Regarding advocacy for amendments to existing legal documents, a legislative initiative⁹⁷ constitutes one of the most important mechanisms for participation of citizens in the decision-

⁸⁹ The Rules of Consultation in Legislative Drafting in the Institutions of BiH are available at: http://www.ads.gov.ba/v2/index.php?option=com_content&view=article&id=98%3Apravila-za-konsultacije-u-izradi-pravnih-propisa&catid=40%3Aother-documents&Itemid=92&lang=bs.

⁹⁰ Ministries are required to upload a preliminary draft of the legislation on their website, and provide an option for submission of comments. They should then invite these comments by informing CSOs on the Consultation List of the given institution, with provision of information on accessing copies of the draft legislation. The timeframe for submitting comments is 21 days.

⁹¹ This data was acquired by the analysis of questionnaires from state ministries in October 2013.

⁹² Of these, two ministries failed to conduct transparent listing of CSOs in databases, and there are no official criteria for selection of these organizations.

⁹³ It is indicative that in seven years, the BiH Council of Ministers has not once rejected the inclusion of a regulation in the agenda of a Council session on the basis of failure to conduct public consultations.

⁹⁴ The conclusions presented at the roundtable 'How to Improve Implementation of the Rules of Consultation in Legislative Drafting in BiH', held on 28 October 2013, organized by the BiH Ministry of Justice.

⁹⁵ With regard to the Law on Associations in BiH and Law on Foundations in BiH, from September 2012, as well as the Law on Freedom of Access to Information from July 2013.

⁹⁶ According to a discussion with a representative of the Republic Legislative Secretariat of the RS Government, all drafters of legislation follow the Guidelines, and laws are subjected to a public consultation process.

⁹⁷ The process of originating a legislative initiative consists in the preparation of a letter and an explanation of the need for passage of the given law, and then submitting these to the Protocol Office of the assembly. It is used in situations when the above-mentioned bodies and individuals find a shortcoming in the regulation of a given sector, which makes it necessary to adopt such legislation.

making process. Citizens cannot directly propose a state-level law⁹⁸, although a legislative initiative on the level of entity and cantonal assemblies and city and municipal councils may originate with citizens, companies and other legal persons. The process of origination of an initiative is not complicated in itself, but in practice there are very few examples of individual CSOs or citizens implementing it. In the meantime, (in an attempt to inform government representatives about the role of CSOs in the early developmental stages of legal regulations and documents), the work of numerous projects has developed and distributed guidelines and instructions, pertaining to legislative procedure on all administrative levels in BiH.⁹⁹ Although there is no direct mechanism for CSOs to initiate passage of a state-level law, the 2009 Anti-Discrimination Law constitutes one successful case of their participation in the decision-making process. Representatives in parliaments and assemblies still know very little about the role and capacities of CSOs. As a result, they view the latter's initiatives with distrust, and few of them develop working relationships with CSOs during the process of legislation development.¹⁰⁰

The mechanism of public debate is generally not used (with a couple of exceptions in the RS National Assembly), despite the fact that it permits the exchange of views between decision makers and the public in the earliest stages of adopting a given law.¹⁰¹ Public debates contribute to the transparency of all work by government representatives, but the Rules of Procedure of the BiH Parliamentary Assembly and of the entities require that they be conducted only for those laws that are of special interest to citizens. Announcements of public debates are most frequently published on websites, and invitations are sometimes sent directly to those whom the organizer believes can offer substantive comments. In practice, very few CSOs are involved in public debates at state level, while on the entity level representatives of professional associations, employers' associations, trade unions and veterans' associations are particularly active.¹⁰² In Brčko District, as well as in the cantons and municipalities, public debates are implemented for all laws, but the numbers of citizens and CSOs who participate in them are much higher on the municipal than on other levels. Municipalities frequently apply the Local Community mechanism to inform citizens about potential legislative amendments. Unfortunately, although they constitute a crucial instrument for the participation of citizens in local decision-making processes, local communities are still insufficiently involved in the creation of policies and regulations.¹⁰³

Regarding provision of information to CSOs, institutions frequently fail to observe established deadlines, and information submitted is often incomplete.¹⁰⁴ According to research conducted by Transparency International in 2012, only 43% of institutions responded to an inquiry within the

⁹⁸ On the basis of the Rules of Procedure on Operations of Both Houses of the BiH Parliamentary Assembly, the right to originate a legislative initiative is afforded to: a member of parliament; a house committee; a joint committee; the other House; the BiH Presidency; and the Council of Ministers. Citizens may not directly propose legislation.

⁹⁹ Transparency International, "Procedures of Adoption and Amendment of Legislation and Regulations – a Manual", Banja Luka, May 2005.

¹⁰⁰ Examples include the cooperation of the The Coalition for Combating Hate Speech and Hate Crimes and the Club of Women MPs of the FBiH Parliament in submitting amendments for the FBiH Criminal Code, September 2013.

¹⁰¹ Citizens and CSOs do not use this mechanism because they are not informed of its availability or of ways to present their views in the earliest stages of the development of legal documents.

¹⁰² The FBiH Parliament developed a program that allows CSOs to register for attendance of public debates, but this database has not yet been used.

¹⁰³ One of the reasons lies in their organizational structure and the manner of election of local community bodies. For a Local Community to objectively represent citizens' interests, it must be afforded greater competences (by becoming a legal person), which can be done by amending certain articles of entity and local self-government laws. This would ensure transparency of the activities of local communities, increase awareness of citizens in decision-making processes and contribute considerably to the development of democracy. At the same time, the confidence of citizens in the work of local communities and their motivation for participation in the decision-making processes would be reinforced.

¹⁰⁴ The 2000 Law on Freedom of Access to Information stipulates that "information controlled by a public body is for the public good and access to it promotes greater transparency and accountability of the body and permits democratic processes in a society. Every public body is required to assist a physical or legal person in the process of seeking information, and is required to appoint a public information officer, who processes requests for access to information". Furthermore, the public body should advise any person requesting information about how it can be obtained, including a template of the information request, information about categories of exceptions, data on legal solutions, deadlines, etc.

legally prescribed time period. In 80% of cases, requested information was not submitted in the form of an administrative notice. One problem with the implementation of existing regulations is that, in the event of a breach of regulations, administrative procedures against government institutions should be initiated by the Administrative Inspection; another government body.¹⁰⁵ Most institutions lack developed strategies for communication with citizens, and documents uploaded onto websites are neither timely, well presented, or functional.

Participation of CSO representatives in working groups for legislative drafting is not covered by any regulation, but recently there have been multiple cases of CSOs being directly involved in working groups for the development of given regulations/documents.¹⁰⁶ CSO representatives involved in the area of legislative drafting had opportunities to present their views through providing comments to proposed draft regulations, rather than participating in their creation. The evident increase (since before 2011) in the number of CSOs involved in working groups is characterized by the non-transparent manner in which CSO representatives were previously selected. Announcements were not published, nor did institutions use existing CSO databases, and it is unclear whether CSO representatives or individuals employed within CSOs were selected to work in these groups.

Modern democracy is based on the principle of allowing citizens to participate in decision-making processes, so the establishment of adequate institutional mechanisms for transparent and inclusive participation in the creation of public policies is of extreme importance.

Main recommendations for action:

- Change and harmonize existing Rules of Consultation, and adopt and implement them on all levels of government where such rules do not already exist.
- Ensure a broader and more systematic application of the Rules of Consultation in Legislative Drafting. This should take place not only in the process of development of legislative and regulative drafts, but also in the public policy development process, as a basic analytical instrument to ensure transparency while designing public policies and legislation.
- Adopt decisions to establish units for cooperation with CSOs within all ministries and institutions in BiH, and to monitor and assist their work and involve them in decision-making in a timely manner.

Sub-area 3.3: Collaboration in service provision

Civil society organizations provide various services, mainly to marginalized groups, youth, and rural communities.¹⁰⁷ Most CSOs conduct research and analytical activities, and distribute their publications through their own websites, or through the websites of public institutions and information centers.¹⁰⁸ CSOs fill an important role, particularly regarding the provision of basic social services, including soup kitchens, home care, and informal education. The government

¹⁰⁵ It is difficult to expect a government body to initiate an administrative procedure against, for instance, the Council of Ministers. This was demonstrated by the silence of the administration in the case initiated by BiH Transparency International against that very institution. This argument is confirmed by the fact that in the annual reports of four institutions of the Human Rights Ombudsman for 2010 and 2011, there are no data that any BiH-level body was fined. Additionally, the most recent amendments to the 2011 Law on Freedom of Access to Information on the BiH level directly deprive every citizen of BiH the right to knowledge about the right of recourse, with the exception of the amended Articles 12 and 14, which stipulate the use of recourse in the event a request cannot be met or is rejected.

¹⁰⁶ One example of good practice of involving CSOs in working groups for legislative drafting is the participation of the CSO "Association for Your Rights BiH" in the working group that drafted the fourth version of the draft Law on Free Legal Aid.

¹⁰⁷ Most issues addressed by CSOs are effectively a reflection of the current trends and requirements of the European Union, and do not necessarily reflect the real needs and priorities of the local population.

¹⁰⁸ The 2012 USAID CSO Sustainability Index for Central and Eastern Europe and Eurasia, available at: http://www.usaid.gov/sites/default/files/documents/1863/2012CSOSI_0.pdf

sector has been slow to recognize the value of CSOs as service providers and offer its full support, whether through funding incentives or certification, which would permit CSOs to increase the quality and quantity of the services they provide.

Qualitative analysis¹⁰⁹ completed for the purpose of this report shows that a number of CSOs are involved in providing services, most of which are social services. The legal framework for service provision in the field of social protection is determined by BD law, as well as entity¹¹⁰ and cantonal laws in FBiH. Article 4 of the FBiH Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children, allows humanitarian organizations, CSOs, religious communities and organizations established by individuals or legal entities, to perform activities pertaining to these areas, alongside existing social institutions. Contrary to the laws in RS, those in FBiH do not offer incentive mechanisms for pluralization of service providers.¹¹¹ Article 8 of the RS Law on Social Protection (2012) stipulates the right to social protection provided by: a social welfare institution; a CSO; a religious community; or any other person who meets the requirements provided in the Law. In RS, obligations of social protection are allocated to the entity government and local self-governments (municipalities). To obtain the status of "institution", certain legal conditions must be fulfilled. Once this has taken place, the new institution is entered into the Register of Institutions for Social Protection. Conditions for providing these social services and procedures are prescribed by bylaws (rules for regulations, decisions and instructions). It is important to emphasize that in line with the principle of equal opportunity, and in order to reduce social exclusion, entity laws on professional rehabilitation, training and employment of persons with disabilities have been passed.¹¹²

Contracts for service provision are awarded in accordance with the BiH Law on Public Procurement, or administrative procedures prescribed by bylaws. The Public Procurement Law has largely been adapted to EU standards, and provides the basic principles of fair competition, transparency and equal treatment. Its prescribed legal solutions ensure the protection of bidders and providers, but despite the procedural transparency provided for by the law, the government generally funds CSO service provision through regular budget allocations, or public calls for funding proposals.¹¹³ In terms of values of public procurement according to selected types of procedure, Balkan Tender Watch (2013) reveals that negotiated procedures (with and without invitations to bid) prevail.¹¹⁴ Open procedures receive a share of around 37%, and are also ranked lowest in other countries surveyed, specifically Montenegro, Serbia and Macedonia.¹¹⁵ Regarding the value structure of public procurement according to the subject of its contracts, in 2012 the value of the total share of service contracts was 16.24%.¹¹⁶ Additionally, when we discuss CSO contracts for the provision of specific services, we must remember that these are mostly short- or medium-term contracts.¹¹⁷ In order to award long-term contracts regarding social

¹⁰⁹ This is based on interviews conducted throughout BiH with civil society representatives, and a semi-structured questionnaire which was created for the purpose of this report, and attached as Annex II.

¹¹⁰ The Law on Social Protection, Protection of Civilian Victims of War, and Protection of Families with Children (Official Gazette FBiH 36/99,54/04,39/06, 14/09), The RS Law on Social Protection (RS Official Gazette 37/12), The RS Law on the Protection of Children (RS Official Gazette 4/02, 17/08, 1/09).

¹¹¹ SeCOs, Comparative Analysis on Role of CSOs in Social Provision in WB countries, Belgrade: November 2013, available at: http://www.slideshare.net/saskazek/baseline-study-csf-eng?from_search=1

¹¹² The Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities (Official Gazette FBiH 2/10), The Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities (Official Gazette RS 59/09-revised text).

¹¹³ "Heads-or-Tails: Government Sector Allocations for the Non-Governmental Sector in BiH for 2012", FSI in BiH and CSPC, Sarajevo, February 2013.

¹¹⁴ Balkan Tender Watch, "Public Procurement in BiH, Montenegro, Macedonia and Serbia - Comparative Analysis of the Legal and Institutional Framework", 2013, available at: <http://balkantenderwatch.eu/btw/uploaded/Comparative/Comparative%20analysis%20of%20legal%20and%20institutional%20framework.pdf>

¹¹⁵ *ibid*, p. 14.

¹¹⁶ *Ibid*, p.11.

¹¹⁷ Among other reasons, contracts are conditioned by the annual adoption of the budget, and procurement procedure must be completed with additional time for the planning and realization of contracts.

services (no less than three years), it would be necessary to implement mapping of the needs of social services¹¹⁸ and reallocate funding by priority.

Amounts awarded are generally insufficient for CSOs to cover the basic costs of the services they are contracted to provide, and their proportional operational costs.¹¹⁹ It is frequently the case that CSOs fund the provision of certain services with donations from foreign sponsors, while the government merely gives approval for CSOs to work in the given field. Nevertheless, some contracts intended for the development of areas such as education, health care, cultural and sports infrastructure, environmental programs are implemented through special joint investment contracts or, in RS, on the basis of the Law on Public-Private Partnerships (2009). Another option is to create funds that could provide public funding for social services, as in the case of the RS Child Care Fund.

Procedures for service provision contracts, and those for obtaining licenses or work permits, are rather complicated and time-consuming.¹²⁰ When selecting potential service providers, greater attention is paid to meeting formal conditions than to the quality of services.¹²¹ The cost of the service is important as resources are limited, and are determined by public funds and institutions. The experiences of some organizations indicate that these procedures are less demanding when applied to a familiar program or service (or one that the government has previously provided in cooperation with the civil sector), but are more complicated when applied to new or innovative programs. Since CSOs lack the status of “organization of public benefit” and are not certified to provide certain services, they must work in cooperation with a competent institution, and, in line with valid regulations, meet special conditions pertaining to the various sectors in which they wish to be involved. In BiH, service provision by CSOs has a complementary character; if government institutions lack the capacity or resources to implement certain activities or provide particular services, they then employ CSOs or the private sector, which receive funding to implement the activities or services in question. In contrast to European countries, there are no cases in BiH where provision of a service in one sector, for example in social or health care, is completely entrusted to CSOs.¹²²

The legislative framework enables the control and evaluation of services provided by CSOs, but this is generally restricted to periodical reporting to competent institutions.¹²³ Research shows that mechanisms for control are not used efficiently or frequently enough. In particular, government institutions either neglect or inadequately monitor the evaluation of services provided. CSOs are very rarely employed to conduct assessments of needs and specific services required, and are most often employed solely as service providers. Access to information on

¹¹⁸ Mapping of social services was conducted by the Republic of Croatia, as was development of Social Services Quality Standards in the field of social protection (Ministry of Health and Social Care, 2010).

¹¹⁹ These amounts are also frequently insufficient because government institutions often fail to pay attention to the quality of project proposals and the needs of service recipients, i.e. final beneficiaries, but seek to distribute funding to as large number of CSOs as possible.

¹²⁰ A frequently cited example is the opening of a safe house, which is a complex and long-term process. Another example concerns the education sector, where one CSO implements a program of gender equality in elementary and secondary schools, requiring the approval of the Cantonal Ministry of Education and the Institute of Pedagogy.

¹²¹ As far as organizations in the health care sector are concerned, cost of services is a major component owing to limited funds, and is set within the parameters established by public funds or institutions (e.g. contracts with private pharmacies, physicians' offices or nursing homes). In the education sector service standards exist, but difficulties in the work of public educational institutions are pervasive. In the social services sector, there have been efforts to meet society's vast needs for such services, but less attention is paid to quality. The situation is most dire in the protection of workers' rights, i.e. the trade union sector.

¹²² For example an CSO revealed that it has signed entity-level contracts (in FBiH and RS) which serve as the basis for legal regulation for it to perform the service of transferring patients for organ transplantation. To this end, it signed a contract with the Government of France, for which it received approvals from competent entity ministries, as well as confirmation that such transplants will not be performed in BiH.

¹²³ For instance, in the case of CSOs that run safe houses, narrative, financial and audit reports must be submitted to the competent ministry. In the case of therapeutic communities, such communities are subject to all the same controls as other legal persons.

provision of services and service quality is available mainly on the websites of relevant institutions or CSOs.

Civil society organizations play an important role in the domain of service provision, primarily due to the broad range of areas in which they are active. They have a direct insight to the needs of target groups they are assisting, and the capacity, experience and flexibility to provide the services they need. In view of global and European good practice, certain changes are necessary to improve the current situation, and allow the civil sector in BiH a broader and longer-term involvement in service provision.

Main recommendations for action:

- Create possibilities for CSOs to take over provision of some services that have previously been in exclusive competence of government institutions or the private sector.
- Conduct a cost-benefit analysis of service provision, or one type of services in a specific sector, to obtain data on the costs and effectiveness of service provision by the government, as opposed to by CSOs. This could then serve as a basis for decisions to entrust certain services that CSOs provide to the civil sector, and funding could be reallocated to other needs.
- Increase monitoring and evaluation of state authorities with regard to service provision by CSOs.

V. Findings and Recommendations (Tabular)

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1.: Freedom of association

Principle: Freedom of association is guaranteed and exercised freely by everybody

STANDARDS	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>1. All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a legal framework according to which any person can establish associations, foundations and other types of non-profit, non-governmental entities (e.g., non-profit company) for any purpose. 2) The legal framework allows both individual and legal persons to exercise this right without discrimination (age, nationality, legal capacity, gender etc). 3) Registration is not mandatory, and in cases when organizations decide to register, the registration rules are clearly prescribed and allow for easy, timely and inexpensive registration and appeal process. 4) The law allows for networking among organizations in the countries and abroad without prior notification. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Freedom of association is guaranteed by the constitutional and legal framework and recognized international documents. • The Laws on Associations and Foundations (on state, entity, and Brčko District levels) stipulate that any person or legal entity can form an association or foundation, for any purpose in accordance with the Constitution and legislative framework. An association may be established by a minimum of three physical or legal entities. A foundation may be established by one or more physical or legal entities. The Executive Board of the foundation must have at least three members. To establish a foundation in BiH and FBiH, an initial capital of 2000 BAM is required (approx. 1000 EUR). • There is no adequate legislation on humanitarian organizations. • Registration is voluntary, and clearly governed by state, entity, cantonal and BD laws and regulations. There is no single registry for CSOs in BiH; CSOs are registered at 	<p>Legislation:</p> <ul style="list-style-type: none"> • Formation of a unique CSO registry, to provide information on CSOs in BiH, and which would enable access to the exact number and structure of CSOs. • Unification of registration procedures and related expenses at all levels of government for all CSOs in BiH. • Passing of legislation which would regulate the status of humanitarian organizations, at both state and entity levels. • Abolition of the mandatory initial capital for establishing a foundation at state and entity (FBiH) levels.

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		<p>an administrative level, according to the scope of their activities as provided by the relevant statutes. Fees for registration differ between administrative levels.</p> <ul style="list-style-type: none"> • Associations may establish networks or other forms of collaboration, and freely affiliate and cooperate with international organizations with a view of promoting the same rights and interests. 	
	<p>Practice:</p> <ol style="list-style-type: none"> 1) Every individual or legal entity in practice can form associations, foundations or other non-profit, non-governmental organizations offline or online. 2) Individuals and legal entities are not sanctioned for not-registering their organizations. 3) Registration is truly accessible within the legally prescribed deadlines; authorities decide on cases in non-subjective and apolitical manner. 4) Individuals and CSOs can form and participate in networks and coalitions, within and outside their home countries. 	<p>Practice:</p> <ul style="list-style-type: none"> • In some cases the registration procedure for associations/umbrella associations was extremely prolonged, and citizens continued with their activities as informal associations. The option of online registration does not exist at any level. • Registration of CSOs is voluntary. Upon registration, the association or foundation acquires the status of legal entity. • In most cases, CSOs find registration simple, and the process is completed within the prescribed 30 days. A significant number of CSOs still face different restrictions during the registration process (additional requirements, name changes, different interpretations of the law). The majority of CSOs find registration expensive, Additional costs for registering can vary significantly. • There are more than 50 CSO networks and coalitions in BiH. 	<p>Practice:</p> <ul style="list-style-type: none"> • Conducting of analysis of the registration process in all relevant ministries, with emphasis on its problems. • Lowering of registration costs. • Establishment of the option of online registration at all administrative levels in BiH.

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<p>2. CSOs operate freely without unwarranted state interference in their internal governance and activities</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework provides guarantees against state interference in internal matters of associations, foundations and other types of non-profit entities. 2) The state provides protection from interference by third parties. 3) Financial reporting (including money laundering regulations) and accounting rules take into account the specific nature of the CSOs and are proportionate to the size of the organization and its type/scope of activities. 4) Sanctions for breaching legal requirements should be based on applicable legislation and follow the principle of proportionality. 5) The restrictions and the rules for dissolution and termination meet the standards of international law and are based on objective criteria which restrict arbitrary decision making. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The legal framework provides guarantees against state interference in the internal matters of associations and foundations. • Control over the legality of association and foundation activities is administered by the competent administrative body, and involves monitoring the situation as it relates to association or foundation activities. • Registered CSO are obliged to comply with entity laws and regulations on accounting, as prescribed by International Accounting Standards, and are required to send yearly financial reports in standardized forms to the entity level Agencies for Finance and Informatics Services. These forms vary between entities, as to which aspects of the specific nature of CSOs are taken into consideration. Most CSOs are categorized as small legal entities, and thus are not subject to the statutory audit of financial statements. • No explicit legal provision exists to ensure protection from interference by third parties when exercising freedom of association. • The association or foundation can be terminated voluntary, or by force of law. 	<p>Legislation:</p>
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	<p>Practice:</p> <ol style="list-style-type: none"> 1) There are no cases of state interference in internal matters of associations, foundations and other types of non-profit entities. 2) There are no practices of invasive oversight which impose burdensome reporting requirements. 3) Sanctions are applied in rare/extreme cases, they are proportional and are subject to a judicial review. 	<p>Practice:</p> <ul style="list-style-type: none"> • Most CSOs reported that the government did not interfere in their internal affairs, although there were isolated cases of direct state interference in the internal matters of associations. There is no record of a CSO being terminated by force of law. • There are some examples of intrusion by competent bodies, usually politically motivated and mainly expressed through repeated inspections (financial, labor, trade, sanitary). Sanctions that CSOs or individuals incur in this manner are most often based on legal provisions, which are rarely, if ever, enforced. Most CSOs did not experience any form of inspection by competent authorities. • In most cases, CSOs do not initiate administrative disputes against the decisions or sanctions of authorized bodies. 	<p>Practice:</p> <ul style="list-style-type: none"> • Provision of education for registered and informal CSOs regarding the protection of their rights.
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<p>3. CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Legislation allows CSOs to engage in economic activities. 2) CSOs are allowed to receive foreign funding. 3) CSO are allowed to receive funding from individuals, corporations and other sources. 	<p>Legislation:</p> <ul style="list-style-type: none"> • CSOs in BiH have the option to acquire income through economic activities. In FBiH, unlike in RS, this income is not subject to taxation. • For performance of non-similar economic activities CSOs operate as a component of the profit sector. The profit can be used exclusively for statutory determined objectives. • CSOs can be financed by individuals, corporations and other sources, which may be based outside BiH. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Unification of legislation between the entities of RS and FBiH, as the issue of direct taxation (relating to income, profit and property) is specified by the Constitution of BiH as a competence of the entities.
	<p>Practice:</p> <ol style="list-style-type: none"> 1) Legislation on CSOs engaging in economic activities is implemented and is not burdensome for CSOs. 2) There are no restrictions (e.g. administrative or financial burden, pre-approvals, or channeling such funds via specific bodies) on CSOs to receive foreign funding. 3) Receipt of funding from individuals, corporations and other sources is easy, effective and without any unnecessary cost or administrative burden. 	<p>Practice:</p> <ul style="list-style-type: none"> • The funding of CSOs is conducted in accordance with state, entity and cantonal legislation. • There are no restrictions on CSOs regarding funding they may receive from outside BiH. 	<p>Practice:</p>

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.2.: Related Freedom

Principle: Freedoms of assembly and expression are guaranteed to everybody

STANDARDS /BENCHMARKS	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>1. CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework is based on international standards and provides the right for freedom of assembly for all without any discrimination. 2) The laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies. 3) The exercise of the right is not subject to prior authorization by the authorities, but at the most to a prior notification 	<p>Legislation:</p> <ul style="list-style-type: none"> • Freedom of peaceful assembly is guaranteed by the constitutions, ECHR, positive regulations and international documents. This freedom may only be restricted by the law. • Peaceful organized assemblies are regulated by cantonal laws on public assembly in the FBiH, and by the RS Law on Public Assembly. These laws recognize peaceful and organized assemblies, but contain a broad range of restrictions regarding the public spaces citizens can use to exercise their rights in this regard. • Peaceful assembly may be prohibited pursuant to these laws. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Carrying out of analysis and amendments of existing laws on public assembly, taking into account the recommendations of the Venice Commission, and democratic standards and principles regulating and actualizing the objectives of the right to peaceful assembly and protests. • Abolition of municipal fees for the use of public spaces for the non-economic activities of CSOs in RS.
	<p>Practice:</p> <ol style="list-style-type: none"> 1) There are no cases of encroachment of the freedom of assembly, and any group of people can assemble at desired place and time, in line with the legal provisions. 2) Restrictions are justified with explanation of the reason for each restriction, which is promptly communicated in writing to the organizer to guarantee the possibility of appeal. 3) Simultaneous, spontaneous and counter-assemblies can take place, and the state facilitates and protects groups to exercise their 	<p>Practice:</p> <ul style="list-style-type: none"> • There are frequent organized protests throughout BiH, as well as an increasing number of simultaneous and spontaneous citizen-led assemblies/protests. • In most cases, there is a clear process for obtaining authorization for organizing an assembly. Restrictions are based on laws, and the organizer may file a complaint if he or she is denied permission for a peaceful 	<p>Practice:</p> <ul style="list-style-type: none"> • Development of mechanisms for collecting information related to cases of disturbance, apprehensions and police interrogations of civil society activists, as well as intellectuals and human rights defenders. • Promotion of cooperation between CSOs and the police through good practice, and strengthen the mechanisms of civilian monitoring of

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	<p>right against people who aim to prevent or disrupt the assembly.</p> <p>4) There are cases of freedom of assembly practiced by CSOs (individually or through their organizations) without prior authorization; when notification is required it is submitted in a short period of time and does not limit the possibility to organize the assembly.</p> <p>5) No excessive use of force is exercised by law enforcement bodies, including pre-emptive detentions of organizers and participants.</p> <p>6) Media should have as much access to the assembly as possible</p>	<p>assembly.</p> <ul style="list-style-type: none"> • According to information obtained from the media, in the last two years there have been several cases of interrogations and harassment of citizens and civil society activists by the police, related to their participation in peaceful assemblies. • Generally, no excessive use of force is exercised by law enforcement agencies. • Assemblies are reported on by the media. 	<p>the police.</p> <ul style="list-style-type: none"> • Education of police and security agencies about human rights and fundamental freedoms.
<p>2. CSO representatives, individually or through their organizations enjoy freedom of expression</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework provides freedom of expression for all. 2) Restrictions, such as limitation of hate speech, imposed by legislation are clearly prescribed and in line with international law and standards. 3) Libel is a misdemeanor rather than part of the penal code. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The right to freedom of expression, and the collection and dissemination of information is guaranteed by the BiH Constitution and relevant laws. • Existing criminal laws do not encompass the positive obligations of Article 10 of the ECHR, which stipulate that the state must guarantee freedom of expression by creating a safe environment in which this can take place. • The legislative framework in BiH has no clear and comprehensive definition of "hate speech", or of protection against it. Existing regulations do not comply with international laws and standards. Denial of Holocaust, genocide and war crimes is not punished. • The authorities in FBiH and RS did not express a readiness to accept amendments to criminal laws for the definition of hate crimes, as proposed by the Coalition for Combatting Hate Speech. • BiH was the first country in the region to decriminalize libel (the Law on Defamation), removing the possibility of criminal conviction for any person publicly expressing 	<p>Legislation:</p> <ul style="list-style-type: none"> • Adoption of amendments to criminal laws to ensure protection of the right to freedom of expression, and precise definition of the crimes "hate speech" and "hate crime". • Harmonization of the Law on Defamation between entities, state and BD, to stipulate precisely the responsibility for libel concerning: the author; the bearer of the defamatory statement; and/or the media outlet that published the content. • Development of methodologies and constant monitoring by CSOs on expression of the right to freedom of speech in current legislation. • Development of joint educational programs for judges, CSOs and the media by applying the practices of the ECHR in Strasbourg, specifically Article 10. • Development of strategies for CSO and media involvement in the free legal aid program.

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		<p>an opinion.</p> <ul style="list-style-type: none"> • In terms of public criticism, state and government authorities do not have a higher level of protection within the legal framework than citizens, CSOs, activists or journalists. 	
	<p>Practice:</p> <ol style="list-style-type: none"> 1) CSO representatives, especially those from human rights and watch dog organizations enjoy the right to freedom of expression on matters they support and they are critical of. 2) There are no cases of encroachment of the right to freedom of expression for all. 3) There are no cases where individuals, including CSO representatives would be persecuted for critical speech, in public or private. 4) There is no sanction for critical speech, in public or private, under the penal code. There are cases of freedom of assembly practiced by CSOs (individually or through their organizations) without prior authorization; when notification is required it is submitted in a short period of time and does not limit the possibility to organize the assembly. 7) No excessive use of force is exercised by law enforcement bodies, including pre-emptive detentions of organizers and participants. 8) Media should have as much access to the assembly as possible 	<p>Practice:</p> <ul style="list-style-type: none"> • In most cases, the courts follow the standards and judgments of the European Court as they relate to the protection of freedom of expression. There are examples of unequal treatment by courts when applying the Law on Defamation. This is the result of the political and administrative organization of the country, which has two parallel judicial systems in its entities • In practice, there is greater legal and institutional protection of public officials than of citizens and CSO activists. CSO activists and journalists are exposed to many forms of open and/or concealed pressure and obstruction to their work, because of their critical observations on public authorities. • National minorities are not guaranteed the right to use their native languages in public communication, nor to obtain information. • CSOs representatives are victims of hate speech in a significant number of cases. They are subjected to verbal and other attacks, because of their willingness to speak critically in public. 	<p>Practice:</p> <ul style="list-style-type: none"> • Establishment of a CSO cross-sectoral lobby group, for the protection and public defense of the right to freedom of expression. • Improvement of the protection of CSO activists and journalists as human rights defenders.

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<p>3. Civil society representatives, individually and through their organizations, have the rights to safely receive and impart information through any media</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework provides the possibility to communicate via and access any source of information, including the Internet and ICT; if there are legal restrictions, these are exceptional, limited and based on international human rights law. 2) The legal framework prohibits unjustified monitoring of communication channels, including Internet and ICT, or collecting users' information by the authorities. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Freedom of expression and obtaining of information, as well as access to all channels of communication, are guaranteed by the national judicial system and the Law on Communications. • Proposed amendments to the Law on Free Access to Information (LFAI) reduce the right to access of public information by reversing the right to access information: the Rule Prohibiting Access to Information defines only a short list of information freely available. • It is evident that the usage of a significant number of laws is contrary to the provisions of the LFAI. The Rulebook of the Court of BiH stipulates that only anonymous court verdicts should be published. • According to the rules of the Communications Regulatory Agency and the Press Council in BiH, as well as to internal legal acts and media editorial principles, the media should uphold the principles of equal access to media space for CSO activists. • There are no restrictions on legislative and technical grounds to access the internet and its various social networks. • There are clear legal principles by which channels of communication (internet, phone service and the media) can be subject to special surveillance by the police and security/intelligence agencies in BiH. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Adoption of amendments of to the entity laws on Freedom of Access to Information to harmonize them with the State Law in terms of: time limits, of forms of communication with requesters of information and of sanctions for the public body and the responsible person in the event of non-compliance. • Harmonization of relevant laws with the Law on free access to information. • Harmonization of other relevant laws with the Law on Free Access to Information. • Commencement of the campaign regarding changes to the Rulebook of the Court of BiH, and HJCP Decision on Abolition of the Anonymity of Court Condemnations Provisions. • Adoption of the Law on Transparency of Ownership in the Media and Media Pluralism. • Amendments to the Law on Public RTV Stations that would provide information in minority languages. • Creation of CSO and media platforms for joint advocacy actions and facilitated flow of information. • Development of a civil dialogue between security agencies, parliamentarians, academics, CSOs, and local and foreign experts in the fields of security policy and intelligence.
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	<p>Practice:</p> <ol style="list-style-type: none"> 1) There are no cases in practice where restrictions are imposed on accessing any source of information, including the Internet or ICT. 2) The Internet is widely accessible and affordable 3) There is no practice or cases of unjustified monitoring by the authorities of communication channels, including Internet or ICT, or of collecting users' information. 4) There are no cases of police harassment of members of social network groups. 	<p>Practice:</p> <ul style="list-style-type: none"> • Application of the Law on Free Access to Information does not have satisfactory public popularity, or promote the perception of information as a "public good". • Pluralism of media exists in BiH; there are approximately 250 traditional media outlets, hundreds of web portals, and approximately 2.18 million (57% of the total population) internet users. • Media, social networks, the official web platforms of public authorities and a number of CSOs are not fully protected from political and other influences, especially at the local level. • Media and other public communication channels do not have profiled and continuous presentations and promotion of CSO results, nor do they have adequate public evaluation of their actions. • There is a "closure" of media and other communication channels towards minority and vulnerable groups, including CSOs representing their interests. • The Internet is widely accessible, available on favorable terms to the whole country, and is regulated in a unique way, meaning that data of public interest are not sufficiently available. • In the last two years, cases of social network monitoring, interrogation of CSO activists, tapping of phone lines, and monitoring of the activities and correspondence of online social groups were recorded. • Supervision of security agencies is performed within the Parliament by the Joint Security and Intelligence Committee on Supervision of the work of Intelligence and 	<p>Practice:</p> <ul style="list-style-type: none"> • Establishment of a publicly accessible registry of RTV stations, as well as print and online media, detailing their ownership structures and the names of responsible editors. • Creation of special codes of conduct for information on vulnerable and minority groups. • Adoption of codes of ethics that would ensure the protection of journalists and editors from the influence of media owners. • Affordability analysis of the internet and other channels of communication for the rural population, poorer sectors of the population, and vulnerable and minority groups. • Instigation of a study on the quality, diversity and availability of information of public importance for citizens, through official websites, internet platforms and social groups. • Establishment of cooperation with CSOs and the Parliament in order to democratize and make public and more efficient the work of the commission for supervising security agencies, police and public authorities. • Development of a methodology for the monitoring and public reporting of cases of illegal treatment by security agencies towards CSOs, media and citizens. Organization of independent investigations into cases of communications monitoring via internet, phones and the media, and possible violations of the right to freedom of expression and movement for CSOs and the media.
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		<p>Security Agency of BiH.</p> <ul style="list-style-type: none"> CSO activists and journalists expressed distrust towards public authorities and security agencies, because of their surveillance of social networks and incidences of phone tapping, reported by the media as well as the legality of such actions. 	<ul style="list-style-type: none"> Development of a special program to protect CSO activists and journalists from groundless interference by police and law enforcement agencies during the course of their work.
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Area 2: Framework for CSOs' Financial Viability and Sustainability

Sub-area 2.1: Tax/fiscal treatment for CSOs and their donors

Principle: CSOs and donors enjoy favorable tax treatment

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS
<p>1. Tax benefits are available on various income sources of CSOs</p>	<p>Legislation:</p> <ol style="list-style-type: none"> The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs. The law provides tax benefits for economic activities of CSOs. The law provides tax benefits for passive investments of CSOs. The law allows the establishment of and provides tax benefits for endowments. 	<p>Legislation:</p> <ul style="list-style-type: none"> In FBiH, associations and foundations are exempted by law from the payment of profit and income tax, while in RS this exemption applies only to public institutions and humanitarian organizations. Monetary donations are not directly taxable, either for the donor or receiver (CSO). Gifts and donations made in the form of goods and/or services, and given to CSOs by economic entities, are subject to taxation of donors and donations only if the donor is registered in the VAT system. Monetary donations from physical entities, as 	<p>Legislation:</p> <ul style="list-style-type: none"> Harmonize the tax treatment of NGOs in both BiH entities (FBiH and RS). Entity laws should provide for a wider definition of the CSO circle concerning tax exemption, as in RS only humanitarian CSOs are not subject to taxation. Gifts from physical and legal entities (taxpayers) are currently restricted by a narrow categorization of CSOs to which funds may be

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		<p>well as monetary donations and gifts of goods and services given to NGOs by different institutions are not subject to taxation.</p> <ul style="list-style-type: none"> • Unlike in RS, income from membership fees is not subject to taxation in FBiH. • CSOs are fully equal with the profit sector. • Laws on associations and foundations on state and entity level (BiH and FBiH), provide for a minimum means test to establish a foundation, to the amount of 2,000 BAM (approx EUR 1,000). RS law does not deem a means test necessary for the establishment of a foundation. 	<p>donated, and based on which tax may be exempted.</p> <ul style="list-style-type: none"> • Modification of the law so as not to bind foundations to have an initial, basic property. Reduction and harmonization of the fee for registration and re-registration.
	<p>Practice:</p> <ol style="list-style-type: none"> 1) There is no direct or indirect (hidden) tax on grants reported. 2) Tax benefits for economic activities of CSOs are effective and support the operation of CSOs. 3) Passive investments are utilized by CSOs and no sanctions are applied in doing so. 4) Endowments are established without major procedural difficulties and operate freely, without administrative burden nor high financial cost.. 	<p>Practice:</p> <ul style="list-style-type: none"> • Pursuant to the FBiH Law on Corporate Income Tax, CSOs do not pay tax on income realized through similar economic activities, while in RS similar economic activities cannot be commercial in nature. Only humanitarian institutions are exempted. • In general, CSOs are fully equal with the profit sector regarding performance of economic activities. 	<p>Practice:</p> <ul style="list-style-type: none"> • Initiation of an extensive debate regarding the differences in the nature of economically similar activities in the non-profit sector, and the nature of the profit sector. • Maintaining of statistics about a number of employees in the non-profitable sector, and the contribution of the non-profitable sector to the total BDP. • Specification of particular tax reliefs – which will facilitate the activities of the NGO sector without disturbing market competition – and an efficient checking system by authorized bodies.

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<p>2. Incentives are provided for individual and corporate giving.</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The law provides tax deductions for individual and corporate donations to CSOs. 2) There are clear requirements/conditions for receiving deductible donations and these include a wide range of publicly beneficial activities. 3) State policies regarding corporate social responsibility consider the needs of CSOs and include them in their programs. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Entity laws on corporate income tax provide for monetary donations or donations in kind, to the amount of 3% of total income. • The Law on Corporate Income Tax of Physical Entities provides for tax exemption on donations of up to 0.5% in the FBiH and 2% in RS. • The Law on Property Tax in the Sarajevo Canton provides exemption for traffic of immovable properties and their ownership only to foundations, religious foundations and pious endowments, while other CSOs are not tax exempt for property ownership or traffic of immovables. • The Law does not explicitly specify the timeframe in which a donation must be used, nor does it provide a percentage of the donation that may be used to cover administrative expenses. • Pursuant to the Law on Corporate Income Tax of Legal Entities, and the Law on Corporate Income Tax of Physical Entities, in both RS and FBiH activities such as strengthening of democracy, rule of law, fighting corruption, sustainable development, protection of nature etc. are not recognized as activities of general interest. Thus, donations for these purposes do not count as tax-admissible expenditure. • There is no state policy of any type to support the social responsibility of business; all accomplishments in this area are exclusively attributed to the non-profitable and profitable sectors. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Harmonization of the treatment of tax deductions for donations to CSOs from physical persons who gain income from independent economic activities, and physical persons who gain income from non-independent economic activities (Law on Income Tax of RS, FBiH, BD). • Amendment of entity laws on profit and income tax as follows: <ul style="list-style-type: none"> ○ Provide a more extensive list of areas (activities) of general interest; ○ Make specific criteria for activities with general purposes; ○ Regulate the issue of institutional grants; ○ Regulate the issue of donation transfers; ○ Regulate the issue of admissible administrative expenses; • In RS, coordinate the activity list with the Law on Corporate Income Tax and the Law on Associations and Foundations, to expand the narrow definition of the current solution; <ul style="list-style-type: none"> ○ Ensure that tax exemptions are provided for humanitarian,
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			<p>cultural and educational organizations rather than their activities, as the relevant regulations do not currently afford CSOs specific statutory legal treatment, despite the fact that associations, foundations and public institutions conduct these activities.</p> <ul style="list-style-type: none"> ○ Regulate the issue of institutional grants for CSOs, and their admissible administrative expenses;
	<p>Practice:</p> <ol style="list-style-type: none"> 1) There is a functional procedure in place to claim tax deductions for individual and corporate donations. 2) CSOs are partners to the state in promoting CSR. 3) CSOs working in the main areas of public interest, including human rights and watchdog organizations, effectively enjoy tax deductible donations. 	<p>Practice:</p> <ul style="list-style-type: none"> • Provided companies are within the distribution donation margin of up to 3% of total annual income, and within the categorization specified in the Law donation expenditure is not subject to taxation. VAT is paid on donations in the form of goods/products. • If an economic body wishes to donate funds to a CSO acting in the general good, it is almost certain that this body will be a circle of organizations designed to fall into a certain category of the Law in which donation expenses can be calculated into the tax base; specifically, the donation would be recognized as expenditure. 	<p>Practice:</p> <ul style="list-style-type: none"> • Preparation of a strategy for socially responsible business (corporate responsibility).

Area 2: Framework for CSOs' Financial Viability and Sustainability

Sub-area 2.2.: State support

Principle: State support to CSOs is provided in a transparent way and spent in an accountable manner

STANDARDS /BENCHMARKS	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
1. Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants	Legislation: <ol style="list-style-type: none"> 1) There is a law or national policy (document) that regulates state support for institutional development for CSOs, project support and co-financing of EU funded projects. 2) There is a national level mechanism for distribution of public funds to CSOs. 3) Public funds for CSOs are clearly planned within the state budget. 4) There are clear procedures for CSO participation in all phases of the public funding cycle. 	Legislation: <ul style="list-style-type: none"> • Strategies exist in several areas, including commitment of state policy towards the institutional development and support of CSOs, and co-funding of projects that contribute to this development. • There is no unified mechanism for allocation of public funds to CSOs. Mechanisms/manners of fund allocation depend on the level of authority, and on the institution allocating funds, and are based on the publishing of public calls for funding and regular budget allocations to CSOs. • Public funds for CSO are planned within the budget at different authority levels. • Procedures vary with the level of authority, and the institution allocating the funds and publishing public calls for funding. Some of those institutions have clear and developed procedures while some do not. 	Legislation: <ul style="list-style-type: none"> • Establishment of a unified and functional mechanism for the allocation of funds to CSOs in BiH on state or entity levels. • Establishment of a unique system of gathering and publishing all relevant project data, EU-supported projects, and publicly allocated funds (by requesting them from a state body or by establishing a unique web page). • Introduction of the practice of drafting framework plans related to necessary budget funds when passing strategies or laws with long term applications. • Enablement of greater participation of CSOs, not only in fund allocations but also in planning budgetary funds for this purpose. • Establishment of clear procedures for participation of CSOs in the public funding cycle at all authority levels.
	Practice: <ol style="list-style-type: none"> 1) Available public funding responds to the needs of the CSO sector. 2) There are government bodies with a clear mandate for distribution and/or monitoring of the distribution of state funding. 3) Funding is predictable, not cut drastically from 	Practice: <ul style="list-style-type: none"> • Available funds reflect the needs of CSOs by their size and amounts (e.g. for 2012 the amount of 100,006 470.48 BAM was allocated to NGOs), but they are not adequate for CSO needs in their areas of activity, priority issues and problems of civil 	Practice: <ul style="list-style-type: none"> • Enhancement of fund allocation to CSOs based on their respective areas of activity, and priority issues of civil society and society in general. The difference should be distinguished when allocating to

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	<p>one year to another; and the amount in the budget for CSOs is easy to identify.</p> <p>4) CSO participation in the public funding cycle is transparent and meaningful.</p>	<p>society and society in general. The majority of funds for NGOs (38%) are allocated to sports organizations.</p> <ul style="list-style-type: none"> • In accordance with entity laws on lottery and games of chance, 50% of revenue generated from fees paid by lottery organizers is set aside for funding/co-funding CSOs projects and programs. • There are no state bodies with a clear mandate for allocation and/or monitoring of state funds. • Monitoring of fund allocation and spending is the responsibility of the institutions allocating the funds, and is dependent on these institutions as well as on the reports of CSOs using the funds. • Funding is mainly predictable. • Reduced allocations to the civil sector and NGOs have been visible in the last five years. Funds allocated to CSOs were: 107 219 316.05 BAM in 2007; 118 033 390.43 BAM in 2008; 114 078 193.73 BAM in 2010; and 100 006 470.48 BAM in 2012. • The sums allocated for NGOs can be identified in the budget. • Participation of CSOs in the public funding cycle is transparent, in the way that calls for allocation of funds are mainly public and available to all CSOs, and that names of CSOs receiving financial support are by and large public. • However, there is no access to the process of project proposal selection, and specific reasons and explanations as to why certain projects have been selected or rejected. For this reason, the process of project proposal selection, and decision-making 	<p>sports organizations and other CSOs.</p> <ul style="list-style-type: none"> • Allocation of funds should be based on the assessment of needs in different areas and sectors. • Assessment of needs should be made prior to budget planning, publishing of calls for public funding and allocation of funds. • Definition of a framework for monitoring and evaluation of fund allocation at all levels of government. • Establishment of an organ/body at state or entity level, responsible for the allocation and monitoring of state funds • The competent body should receive narrative and financial reports from the CSO regarding spending, within pre-determined deadlines. Depending on the amount of the allocation, it will also receive independent audit reports. • Maintaining of continuous funding to CSOs/NGOs • An increase to the level of allocation in accordance with increase of (administrative/operative) expenditures incurred by CSOs/NGOs. • An increase to the level of availability of information regarding public calls for allocation of funds to be more accessible to as many CSOs and potential applicants as possible. • Provision of access and feedback regarding actual reasons for granting or rejecting particular project proposals to interested CSOs.
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		<p>regarding allocation of funds to CSOs is not open to participation.</p>	<ul style="list-style-type: none"> • Include CSO representatives from competent areas in the process of selecting project proposals for the allocation of state funds.
<p>2. Public funding is distributed in a prescribed and transparent manner</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The procedure for distribution of public funds is transparent and legally binding. 2) The criteria for selection are clear and published in advance. 3) There are clear procedures addressing issues of conflict of interest in decision-making. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The public funds allocation procedure is transparent to the extent that a specific part of funding is allocated through public calls at all authority levels. • The criteria published in public calls are to a large extent clear, and are published on time. • The laws on conflicts of interest in institutions (BiH, FBiH, RS) regulate issues of conflict of interest in decision-making. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Harmonize the laws on conflict of interest, with increase of the sanctions and supervision of the parliamentary assemblies on its implementation. • Regarding public calls procedures, define provisions related to conflict of interest and monitoring procedures. • In procedures for emergency allocations, make criteria for allocations, conditions and manner of applying accessible and transparent. • Advancement of accuracy of criteria for funds allocation. • Extension of application deadlines, specifically the period between the call publication and the proposal submission deadline. • Make all procedures, criteria and deadlines publicly available and available online. • Amendment of bylaws to introduce clear procedures related to preventing conflict of interest when passing decisions on allocation of public funds at all authority levels in all institutions, and ensuring no conflict of interest on behalf of the

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			Selection Committee.
	<p>Practice:</p> <ol style="list-style-type: none"> 1) Information relating to the procedures for funding and information on funded projects is publicly available. 2) State bodies follow the procedure and apply it in a harmonized way. 3) The application requirements are not too burdensome for CSOs. 4) Decisions on tenders are considered fair and conflict of interest situations are declared in advance. 	<p>Practice:</p> <ul style="list-style-type: none"> • Information related to funding procedures is made public and limited to information published in the public call. There have been situations where documents the applicant must provide in the application for allocation of funds are not accurately explained, and civil servants are not able to provide a precise additional explanation. • Information related to the results of public calls is generally available to the public. • Information related to implementation of the project on the ground, project results and influences is generally inaccessible. • There is no coordinated manner of procedure monitoring; it varies by institution and level of authority. • Conditions are generally not difficult, although this depends on the capacities of individual CSOs. • It is considered that a large number of decisions related to public calls are not based on transparent and fair treatment, but rather on personal relations and acquaintances. • Situations related to conflict of interest are not announced prior to the procedure. 	<p>Practice:</p> <ul style="list-style-type: none"> • Enablement of access to every phase of the project implementation, including realized results, changes and improvements to the local community or targeted project group, and the solving of certain issues focused on by the project. • Introduction of a practice to regularly publish a list of organizations and projects allocated public funds on a web page or similar. • Introduction and application of a coordinated system for monitoring the CSO project funding procedure, and for notifying all state institutions allocating funds to CSOs about these projects. • Invest efforts in strengthening CSO capacities for applying to public calls for allocation of funds through training sessions and the “CSO Info Day”. • Instruction of the competent civil servants to provide clear and accurate additional information, guidelines and explanations to potential applicants • Introduction of a section for frequently asked questions on the web page of the institution publishing public calls, through which CSOs can ask questions and request additional explanations regarding the public call. • Strengthening and promotion of

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			<p>transparency of decision-making regarding the allocation of public funds.</p> <ul style="list-style-type: none"> • Inclusion of CSO representatives in the process of public fund allocation. • Allowing of CSOs to have insight into the reasons and criteria based on which some project proposals are granted and some rejected.
<p>3. There is a clear system of accountability, monitoring and evaluation of public funding</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The procedure for distribution of public funds prescribes clear measures for accountability, monitoring and evaluation. 2) There are prescribed sanctions for CSOs that misuse funds which are proportional to the violation of procedure. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Procedures for allocation of public funds do not generally provide clear measures for accountability, monitoring and evaluation. • The most clearly provided measures are those related to monitoring, and comprise the submission of financial and/or narrative CSO reports to institutions allocating the relevant funds 	<p>Legislation:</p> <ul style="list-style-type: none"> • Establish clear, comprehensive and unique measures for accountability, monitoring and evaluation of public fund allocations. • Introduce mandatory narrative and financial CSO reports, which will be submitted to competent institutions both halfway through and at the end of project implementation. • Introduce field visits of expert teams from the competent state institutions to CSOs, with an aim to monitoring the implementation of the project on the ground. • Establish criteria for evaluation of the effects of the project, and coordination of realized and planned results. • Introduce clear sanctions for abuse of state funds.

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	<p>Practice:</p> <ol style="list-style-type: none"> 1) Monitoring is carried out continuously and in accordance with predetermined and objective indicators. 2) Regular evaluation of effects/impact of public funds is carried out by state bodies and is publicly available. 	<p>Practice:</p> <ul style="list-style-type: none"> • It is not known if monitoring is performed constantly and in accordance with previously defined objective and measurable indicators. • Monitoring is mainly performed through submission of CSO narratives and/or financial reports to the institutions allocating the funds. • It is not known if state bodies perform evaluation of public fund effects/influences • Information on effects/influences is not made public. 	<p>Practice:</p> <ul style="list-style-type: none"> • Establishment of clear, objective and measurable indicators related to project implementation and realized results. • Provision of additional education of civil servants and all other parties involved in monitoring and evaluation. • Establishment of a system and criteria for regular evaluation of the effects and influences of the funds allocated to CSOs by state institutions. • Evaluation should be based on concrete, visible and measurable changes and improvements to the local community and wider society. • Make information related to public fund influences/effects accessible to the public.
<p>4. Non-financial support is available from the state</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Legislation allows state authorities to allocate non-financial support, such as state property, renting space without financial compensation (time-bound), free training, consultations and other resources, to CSOs. 2) The non-financial support is provided under clearly prescribed processes, based on objective criteria and does not privilege any group. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The law allows state authorities to grant CSOs non-financial support, such as state assets, the renting of space without financial compensation (to a certain limit), free training, consultation and other resources. • There is favorable and preferential treatment of certain groups (e.g. veterans' organizations, organizations of civilian victims of war) that make up a significant part of the voting body). 	<p>Legislation:</p> <ul style="list-style-type: none"> • Through campaigns and requests, exertion of as much influence as possible on state allocation of non-financial support, specifically: free rental of premises; support services; and cooperation with CSOs during program development drafting. • Establishment of a system and clear procedures based on which non-financial support will be allocated to CSOs in accordance with the objective needs of CSOs and their final users.

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	<p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs use non-financial state support. 2) CSOs are treated in an equal or more supportive manner as compared to other actors when providing state non-financial resources. 3) There are no cases of state authorities granting non-financial support only to CSOs which do not criticize its work; or of cases of depriving critical CSOs of support; or otherwise discriminating based on loyalty, political affiliation or other unlawful terms. 	<p>Practice:</p> <ul style="list-style-type: none"> • Generally, CSOs use non-financial state support at a local level. • Non-financial state support mainly comprises use of workspaces or premises for the organization of particular events. • CSOs do not have equal treatment neither among themselves, nor with public institutions, while receiving non-financial support. • In the majority of cases, allocation of financial support is based on personal connections and acquaintances. • For that very reason, a large number of CSOs receive non-financial support based on political affiliation and loyalty. 	<p>Practice:</p> <ul style="list-style-type: none"> • Increasing of non-financial support for CSOs through training sessions, instructions, and study trips, especially the drafting of project proposals and applications to European Commission programs, primarily those requiring state and civil sector partnership. • Introduction of clear procedures and criteria for the allocation of non-financial support, based on which CSOs will receive equal treatment in this regard. • Introduction of controlling mechanisms to prevent allocation of non-financial support based on political and party membership and/or loyalty. • Ensuring that the allocation of non-financial support is based on CSOs' needs, specifically the needs of the targeted population, and final users of CSO services.
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Area 2

Sub-area 2.3: Human resources

State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS
1. CSOs are treated in an equal manner to other employers.	Legislation: 1) CSOs are treated in an equal manner to other employers by law and policies.	Legislation: <ul style="list-style-type: none"> CSOs are treated the same way as other employers according to laws and bylaws. 	Legislation:
	Practice: 1) If there are state incentive programs for employment, CSOs are treated like all other sectors. 2) There are regular statistics on the number of employees in the non-profit sector.	Practice: <ul style="list-style-type: none"> The majority of CSOs consider that they don't have equal treatment to that of other employers generally, and only one-third of them consider they have equal treatment in receiving incentives. Based on analysis of current incentives, it was concluded that CSOs did not appear in the majority of them. There is a lack of regular statistics maintenance (by entity employment institutes) regarding the number of non-profit sector employees. The research did not provide available data on the total number of CSO employees. 	Practice: <ul style="list-style-type: none"> Increase participation of CSOs in incentive programs, as well as the use of CSOs and their networks as resources for the promotion of various types of employment incentives. Request the introduction of CSOs as a special category in those institutes for statistics which regularly collect data on the number of CSO employees and their salaries.

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<p>2. There are enabling volunteering policies and laws</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Legislation stimulates volunteering and incorporates best regulatory practices, while at the same time allowing for spontaneous volunteering practices. 2) There are incentives and state supported programs for the development and promotion of volunteering. 3) There are clearly defined contractual relationships and protections covering organized volunteering. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The RS Law on Volunteering was passed in 2008, and the FBiH Law on Volunteering in 2011. There are no legal provisions for volunteering in BD. • Laws regulate: basic terms related to volunteering; principles of volunteering; contracts; rights and obligations of volunteers and organizers of volunteer work; and overseeing applications. However, laws on volunteering are still largely unknown to CSOs, who do not see their significance due to insufficient implementation on the ground. • The term “volunteer-intern” exists in different labor laws, and enables the creation of unpaid internships. • Encouragement is mainly provided at a local level, although RS has entity mechanisms for giving incentives for volunteering. • There are clearly defined contractual relationships in RS and FBiH, but not in BD. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Improvement of the implementation of existing laws on volunteering by institutions and CSOs. • Passing of the Law on Volunteering in BD. • Coordination of encouragement of volunteering with existing legislation, and promotion of good volunteering practice by awarding the best volunteers and volunteering organizers at local, cantonal and entity levels. • Establishment of simple local and regional mechanisms for use by CSOs when defining contractual relationships with, and protection of, their volunteers.
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	<p>Practice:</p> <ol style="list-style-type: none"> 1) Incentives and programs are transparent and easily available to CSOs and the policy/strategic document/ law is fully implemented, monitored and evaluated periodically in a participatory manner. 2) Administrative procedures for organizers of volunteer activities or volunteers are not complicated and are without any unnecessary costs. 3) Volunteering can take place in any form; there are no cases of complaints of restrictions on volunteering. 	<p>Practice:</p> <ul style="list-style-type: none"> • CSOs are almost unanimous in their assessment that the situation is poor regarding transparency in encouragement of volunteers. • Many of the CSOs questioned were confused by administrative procedures related to volunteering. Only 45% of CSOs familiar with the procedures claim that they are not complicated. • CSOs questioned were confused by the topic of restrictions in volunteering. Many of them were not familiar with any complaints filed in that regard.
		<p>Practice:</p> <ul style="list-style-type: none"> • Increasing of activities related to the promotion of encouragement, and provision of more effective and clear criteria in selecting participants. • Provision of continuous education of all volunteering organizers (not only CSOs) regarding the use of current legally defined contractual relations for the promotion of volunteering activities. • Provision of more extensive education to volunteering organizers, and promotion of various possibilities in volunteering engagements. Increasing of activities related to the promotion of encouragement, and provision of more effective and clear criteria in selecting participants. • Provision of continuous education of all volunteering organizers (not only CSOs) regarding the use of current legally defined contractual relations for the promotion of volunteering activities.

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<p>3. The educational system promotes civic engagement</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Non-formal education is promoted through policy/strategy/laws. 2) Civil society-related subjects are included in the official curriculum at all levels of the educational system 	<p>Legislation:</p> <ul style="list-style-type: none"> • Non-formal education is not sufficiently promoted through existing laws, policies and strategies. There is no state Strategy on Adult Education. The Law on Education of Adults exists only in RS, and in Una-Sana Canton. • Subjects on democracy and human rights have been introduced to the official curricula of primary and secondary schools. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Introduction of effective legal solutions for recognizing non-formal education in those parts of BiH currently lacking such provisions, and promotion of existing solutions. Adoption of the Strategy for Adult Education, and passing of laws on adult education in all cantons. • Formal combination of the efforts of CSOs engaged in introducing different aspects of non-formal education, to more effectively lobby formal education institutions.
		<p>Practice:</p> <ol style="list-style-type: none"> 1) The educational system includes possibilities for civic engagement in CSOs. 2) Provision of non-formal education by CSOs is recognized 	<p>Practice:</p> <ul style="list-style-type: none"> • Some organizations successfully use the current educational system for the promotion and enforcement of their respective activities, but others are dissatisfied with the CSOs sporadic and unsystematic approach. • Half of the CSOs questioned consider that the educational system provides possibilities for civic engagement in CSOs, while the other half does not. • The majority of organizations are not satisfied with the current status of non-formal education, or the standards it rests on.

Area 3: Government – CSO Relationship

Sub-area 3.1.: Framework and practices for cooperation

There is a strategic approach to furthering state-CSO cooperation and CSO development

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS
<p>The State recognizes, through policies and strategies, the importance of the development of and cooperation with the sector</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There are strategic documents dealing with the state-CSO relationship and civil society development. 2) The strategic document includes goals and measures as well as funding available and clear allocation of responsibilities (action plans incl. indicators). 3) The strategic document embraces measures that have been developed in consultation with and/or recommended by CSOs. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Agreement on Cooperation between the BiH Council of Ministers and the Non-governmental sector in BiH (2007) represents the key mechanism of cooperation between CSOs and the Council of Ministers in BiH, through clearly stated principles and goals. • The Strategy and Action Plan for the Creation of an Enabling Environment for the Development of a Sustainable Civil Society was initiated by the BiH Ministry of Justice, but was stopped. 	<p>Legislation:</p> <ul style="list-style-type: none"> • In cooperation with CSOs, production of the Strategy for Creation of an Enabling Environment for the Development of a Sustainable Civil Society, along with a state-level Action Plan for its implementation, monitoring and evaluation. • Clear specification of participants and working methodology is necessary in the Strategy's strategic planning process.
	<p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs from different areas of interest regularly participate in all phases of the strategic document development, implementation and evaluation. 2) There are examples demonstrating that cooperation between state and CSOs and civil society development is improved and implemented according to or beyond the measures envisaged in the strategic document. 3) The implementation of the strategic 	<p>Practice:</p> <ul style="list-style-type: none"> • The Agreement on Cooperation between the BiH Council of Ministers and the Non-governmental sector in BiH is not being realized. There is currently no clearly defined mechanism or methodology for monitoring and evaluation. • The Council of Ministers passed the Decision on the Establishment of the Working Group for the Strategy for Creation of an Enabling Environment for the Development of a Sustainable Civil Society, along with an Action Plan for its implementation. Civil 	<p>Practice:</p> <ul style="list-style-type: none"> • Monitoring implementation of the Agreement on Cooperation between the BiH Council of Ministers and the NGO sector in BiH, through a clearly defined mechanism and methodology for monitoring and evaluation. • Continuation of the domestic civil society campaign to establish the Council for Civil Society

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	<p>document is monitored, evaluated and revised periodically.</p> <p>4) State policies for cooperation between state and CSOs and civil society development are based on reliable data collected by the national statistics taking into consideration the diversity of the sector.</p>	<p>society representatives, proposed by the BiH Ministry of Justice, were not elected in a transparent manner.</p> <ul style="list-style-type: none"> • Cooperation between CSOs and governance has been particularly improved at local level; the Agreement between the Municipal Council, Mayor and Non-Governmental Organizations was signed in 100 municipalities in BiH. Additionally, agreements were signed between the governments of Sarajevo Canton and Bosnian Podrinje Canton, and the non-governmental sectors within their jurisdictions. 	<p>Development, and the Office for Cooperation with CSOs as an advisory and expert body of the BiH Council of Ministers.</p> <ul style="list-style-type: none"> • Ensuring conditions are conducive to the continuation of activities of the national Strategy.
<p>2. The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a national level institution or mechanism with a mandate to facilitate cooperation with civil society organizations (e.g., Unit/Office for cooperation; contact points in ministries; council). 2) There are binding provisions on the involvement of CSOs in the decisions taken by the competent institution or mechanism(s). 	<p>Legislation:</p> <ul style="list-style-type: none"> • At state level, the Sector for Legal Aid (Sector for Civil Society until late-2013) operates within the BiH Ministry of Justice, and is responsible for activities aimed at creating a favorable environment for civil society development in BiH. • The Regulations on Consultations in Legislative Drafting ensure the participation of citizens and CSOs in the consultation process, and participation in the formulation and implementation of public policy. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Establishment of a functional institutional mechanism (Office for Cooperation with the Non-governmental Sector) within the Council of Ministers for its cooperation with civil society, in accordance with the Cooperation Agreement. • Establishment of the Council for Civil Society Development of the BiH Council of Ministers, as well as of mechanisms at lower levels of government, that would be similar or identical to those at state level. • Establishment of more effective and inclusive models and mechanisms for consultation with CSOs in relation to key reform issues of the stabilization and accession process to the EU

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	<p>Practice:</p> <ol style="list-style-type: none"> 1) The national level institution or mechanism(s) has sufficient resources and mandate for facilitating CSO-government dialogue, discussing the challenges and proposing the main policies for the development of Civil Society. 2) CSOs are regularly consulted and involved in processes and decisions by the competent institution or mechanism(s). 	<p>Practice:</p> <ul style="list-style-type: none"> • Resources and authorities of the (former) Sector for Civil Society within the BiH Ministry of Justice have not been, nor are (as the current Sector for Legal Aid) sufficient for facilitating dialogue between CSOs and the government. • There is no adequate system of communication and cooperation with CSOs, nor is there regular reporting or monitoring on the situation of civil society in BiH. The Sector relied on foreign projects' resources or external experts to prepare its relevant documents. • CSOs are occasionally and selectivley consulted and included in decision-making processes on behalf of institutions. 	<p>Practice:</p> <ul style="list-style-type: none"> • Enablement of the systematic involvement of CSOs in public policy creation at all authority levels, through various forms of informal information exchange and consultation (forums, focus groups, workshops, roundtables, etc.), and the inclusion of representatives of civil society in permanent and temporary working bodies, commissions and committees. • Support development of the technical and institutional capacities of governmental institutions and civil society representatives through promotional and educational programs and projects, as well as through incorporation of the concept and practices of the Agreement into the training programs for civil servants and staff implemented by the civil service agencies.
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Area 3: Government – CSO Relationship

Sub-area 3.2: CSOs are effectively included in the policy and decision-making process

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS
<p>1. There are standards enabling CSO involvement in decision-making which allow for CSOs input in a timely manner</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There are clearly defined standards on the involvement of CSOs in the policy and decision making processes in line with best regulatory practices prescribing minimum requirements which every policy-making process needs to fulfil. 2) State policies provide for educational programs/trainings for civil servants on CSO involvement in the work of public institutions. 3) Internal regulations require specified units or officers in government, line ministries or other government agencies to coordinate, monitor and report CSO involvement in their work. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Existing standards for the participation of CSOs in decision-making processes include: Uniform Rules for Legislative Drafting in BiH; Rules for Consultation in Legislative Drafting in BiH institutions; Guidelines for Actions of the Republic's Administrative Bodies on Public Participation in Legislative Drafting; public hearings; initiatives for proposing legislation; public debate; local communities; open days; municipal mayors' days (municipality statutes); and a presence in municipal assemblies/councils (municipality statutes). • Existing educational and training programs are not harmonized with the needs of civil servants to actively involve civil society organizations in the decision-making process. • On the basis of the training programs of the Agency for Civil Service for 2013, there is no specific training program for civil servants on the participation of CSOs in the work of public institutions. In addition, the Strategy for Improvement of FBiH Civil Servants does not recognize this subject in its Action Plan. • The Rules for Consultation in Legislative Drafting in BiH institutions, and the Guidelines for Actions of the Republic's Administrative Bodies on Public Participation in Legislative Drafting require the appointment of a coordinator to invite CSOs to participate in the consultation process. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Adoption and enforcement of Rules for Consultation at all levels of authority, where they don't already exist. Amendment and harmonization of existing Rules for Consultation with guidelines at the entity level. • Changes should be made to the provisions of the Rules of Procedure of Assemblies by which holding of public hearings is regulated. • Introduction of a "Civil Society" program to the existing strategies for training and development of civil servants, with emphasis on the role and capacity of CSOs in the policy-making process. • Organization and implementation of continuous joint trainings of CSOs and representatives of state institutions in order to improve the implementation of existing mechanisms for CSO participation in the work of public institutions. • Enablement of the establishment of units for cooperation with civil society, through amendments and changes to regulations of the internal organization of ministries and other institutions at all administrative levels in BiH, and harmonization of the method of

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			<p>election of the coordinator for public consultations.</p> <ul style="list-style-type: none"> • Introduction of a decision at the levels of the BiH Council of Ministries, entity governments and the Government of Brčko District which will regulate the coordination of all units to monitor and support the work of CSOs. • Definition of responsibilities and sanctions for officers and units that do not comply with the internal rules that regulate the application of the Rules for Consultation.
	<p>Practice:</p> <ol style="list-style-type: none"> 1) Public institutions routinely invite all interested CSOs to comment on policy/legal initiatives at an early stage. 2) CSOs are provided with adequate information on the content of the draft documents and details of the consultation with sufficient time to respond. 3) Written feedback on the results of consultations is made publicly available by public institutions, including reasons why some recommendations were not included. 4) The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/training. 5) Most of the units/officers coordinating and monitoring public consultations are functional and have sufficient capacity. 	<p>Practice:</p> <ul style="list-style-type: none"> • Institutions do not routinely invite all interested CSOs to comment on the process of policy and law creation. The list of interested CSOs is held by three state ministries, and partially fulfills obligations arising from the Rules for Consultation. With regard to public participation, ministries in RS follow the Guidelines for RS Administrative Bodies. Consultations are carried out only for those laws and regulations that have an impact on the public. Selected cantons also perform consultations with CSOs, some of them for all relevant laws. The Parliament of FBiH has a CSO database, but as yet it has not been used. • The abovementioned Rules and Guidelines envisage obligatory publication of draft documents on the website of the institution involved. In practice, three state ministries and all RS ministries fully comply with this obligation. Documents are also posted on most cantonal and municipality websites, as well as that of the Government of BD. On a municipality level, the municipality itself enables 	<p>Practice:</p> <ul style="list-style-type: none"> • Provision of a broader and more systematic use of the Rules for Consultation in legislation drafting, not only in the creation process of ad hoc draft laws and legal documents, but also in the process of policy development. • Establishment of an interactive database of CSOs according to field of activity, for all institutions and ministries in BiH. • Establishment of a regular reporting obligation on cooperation of ministries/institutions and CSOs, related to the inclusion of CSOs in public policy/legislation creation. • Empowerment of CSOs to use existing mechanisms for participation in public policy/legislation creation, through continuous training. • Introduction of strategies for communication with the public at the

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		<p>insight into draft documents concerning the organization of assemblies of citizens. The deadline for submission of comments is 21 days after the original posting, which does not always allow enough time to write qualitative comments for further analysis.</p> <ul style="list-style-type: none"> • Written feedback to applicants' comments should include information on which of the recommendations were taken into account, why some were not, and whether recommendations were summarized and elaborated on with the comments of other CSOs. In practice, institutions rarely send this feedback. • Despite some improvements, capacities and procedures for strategic planning, coordination and public policies development, as well as monitoring and evaluation at all authority levels, are still insufficient and very limited. • Persons appointed to coordinate the consultation process (including all resulting tasks and obligations) are expected to add this work to their existing duties and obligations. There is an evident lack of time and material resources, and of adequate training to improve the work of these coordinators with CSOs. 	<p>level of all ministries/institutions, in order to increase the transparency of impending policies, regulations and decisions.</p> <ul style="list-style-type: none"> • Agreement on procedures for the submission of documents, ensuring minimum standards in terms of accuracy, objectivity, transparency and involvement, as well as an extension of the timeframe for comment submission. • Strengthening of capacities of CSOs in terms of their analytical approach to comment-creation, and the use of normative rules in this process. • In accordance with the Strategy for Public Administration Reform it is necessary for all ministries and institutions in BiH to analyze the abilities of existing organizational and human capacities to carry out the tasks of public policy development. Based on this analysis, the establishment of training should be ensured, to enable the effective performance of abovementioned functions. <ul style="list-style-type: none"> ○ Provision of adequate training for civil servants and key decision makers (ministers, deputy and assistant ministers, etc.).
<p>2. All draft policies and laws are easily accessible to the public in a</p>	<p>Legislation:</p> <p>1) Existing legislation obliges public institutions to make all draft and adopted laws and policies public, and exceptions are clearly defined and in</p>	<p>Legislation:</p> <ul style="list-style-type: none"> • The Law on Freedom of Access to Information stipulates exceptions in terms of justifiable reasons why certain information cannot be communicated. • The legal framework prescribes publicly exposed policies and drafting laws. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Introduction of amendments to the entity Law on Freedom of Access to Information, in compliance with state law, to notify the applicant regarding deadlines, as well as penalties for

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<p>timely manner</p>	<p>line with international norms and best practices.</p> <p>2) Clear mechanisms and procedures for access to public information/documents exist.</p> <p>3) There are clearly prescribed sanctions for civil servants/units for breaching the legal requirements on access to public information.</p>	<ul style="list-style-type: none"> • The Law on Free Access to Information in BiH, FBiH, and RS regulates procedures for disclosure of information over which public authorities have control. • According to the Law on Free Access to Information in BiH, a stipulated sum is required to be paid if a public body or official does not comply with the Law. Entity laws do not prescribe sanctions/penalties for non-compliance with the Law. 	<p>public authorities and responsible persons in the case of non-compliance with the Law.</p> <ul style="list-style-type: none"> • Introduction of amendments to the Law on the Official Gazette that would allow access to law and bylaw regulations without paying compensation. • Modification of regulations, by which citizens of Bosnia and Herzegovina would be able to watch and listen to the relevant decision-making sessions transmitted directly through the Public Broadcasting Service.
	<p>Practice:</p> <p>1) Public institutions actively publish draft and adopted laws and policies, unless they are subject to legally prescribed exceptions.</p> <p>2) Public institutions answer the majority of requests for access to public information within the deadline prescribed by law, in a clear format, provide written explanations on the reasons for refusal, and highlight the right to appeal and the procedure for appealing.</p> <p>3) Cases of violations of the law are sanctioned.</p>	<p>Practice:</p> <ul style="list-style-type: none"> • Drafts of laws and policies are published on websites by some institutions at state level. At entity level, the practice of publishing draft policies is common in RS, while in FBiH only a small number of institutions comply. In BD, legislation of interest to the public is announced. At cantonal level, a percentage of draft laws are published on official websites, while at the municipal level most draft laws and policies are published on the relevant municipality's website. • Adopted laws and regulations are not always published on the websites of competent ministries, which are not regularly updated. In practice it is very difficult for CSOs to obtain accurate information. • Most institutions do not adhere to the timeframe regarding the announcement of deadline extensions. In 80% of cases, delivery of requested information in the form of solutions is omitted, 	<p>Practice:</p> <ul style="list-style-type: none"> • Advocation of the adequate application of international standards in provision of access to documents, laws and information without paying a registration fee. • Improvement of the content of ministries' and institutions' websites in terms of currency and accuracy, as well as visual functionality. • Education of CSOs regarding use of the Law on Free Access to Information, especially: how to obtain information; obligations of the public authority; and where CSOs can find help if an appeal concerning the denial of access to information is rejected. • Introduction of a sanctioning system for responsible officers/institutions who do not provide information in the prescribed manner and within the prescribed timeframe, where it does

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		<p>which indicates that there is great legal uncertainty in the process of seeking information in BiH.</p> <ul style="list-style-type: none"> • According to available data, no one has yet been charged with a criminal offense for violations of the Law on Free Access to Information in BiH. 	<p>not currently exist. Application of this system should be enforced where it is already established.</p> <ul style="list-style-type: none"> • Enablement of CSOs to continuously monitor existing legislation application that provides the right of access to information.
<p>3. CSOs representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Existing legislation requires public institutions to invite CSO representatives on to different decision-making and/or advisory bodies created by public institutions. 2) There are clear guidelines on how to ensure appropriate representation from civil society. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Institutions are not legally obliged to involve CSOs in the work of advisory or other bodies. • Agreement on Cooperation between the BiH Council of Ministers and the non-governmental sector defines the obligations of the Council, and guidelines relating to the assessment of policies, procedures and consultations in the civil society sector. • In order to strengthen cooperation between authorities and civil society, establishment of SECO mechanisms (non-institutional mechanisms) was initiated for five sectors of civil society, to be involved in the consultation process on IPA Funds II (2014-2020). 	<p>Legislation:</p> <ul style="list-style-type: none"> • Adoption of legislation that would enable participation of representatives of CSOs in various bodies, where decisions are made on the basis of clear and transparent criteria at all levels of government. • Insisting on consistent application of the Agreement, in order to comply with the commitments of the BiH Council of Ministers regarding the establishment of the Office for Civil Society as an expert advisory body, and the establishment of the Council for Civil Society Development in BiH. • Regarding IPA programs, representatives of authorities/institutions and CSOs should work together to strengthen SECO mechanisms, and involve a larger number of organizations in planning processes.

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	<p>Practice:</p> <ul style="list-style-type: none"> • Decision-making and advisory bodies on issues and policies relevant for civil society generally include CSO representatives. • CSO representatives in these bodies are enabled to freely present and defend their positions, without being sanctioned. • CSO representatives are selected through selection processes which are considered fair and transparent. • Participation in these bodies does not prevent CSOs from using alternative ways of advocacy or promoting alternative standpoints which are not in line with the position of the respective body. 	<p>Practice:</p> <ul style="list-style-type: none"> • There are examples of good practice (BiH Ministry of Justice, Ministry of Human Rights and Refugees) regarding CSO involvement in working groups for certain laws, regulations and strategies. Despite these examples, there are still no clear and transparent mechanisms by which representatives of CSOs are elected to work in decision-making and policy-making bodies. • Representatives of CSOs in these bodies are allowed to freely represent and defend their attitudes without sanction. • Participation in these bodies does not prevent CSOs from using alternative means of public advocacy or promoting their views in other ways. 	<p>Practice:</p> <ul style="list-style-type: none"> • Advocation of amendments to existing legislation that would allow greater representation of CSOs in the work of advisory bodies. • CSOs need to work on self-organization within sectoral networks, strengthening partnerships and creating joint advocacy strategies. • Insistence on the introduction of transparent criteria, to allow appointment to advisory bodies of the most competent CSO representatives with established reputations in the community.
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Area 3: Government – CSO Relationship

Sub-area 3.3: There is an environment that supports the CSOs participation in providing services

Principle: There is a supportive environment for CSO involvement in service provision

STANDARD 1	INDICATORS	FINDINGS	RECOMMENDATIONS
<p>1. CSOs are engaged in providing a variety of services and compete for government contracts on an equal footing with other services providers</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Existing legislation allows CSOs to provide services in various areas, such as education, healthcare, social services. 2) CSOs have no barriers to providing services that are not defined by law (“additional” services). 3) Existing legislation does not add additional burdensome requirements on CSOs that do not exist for other service providers. 	<p>Legislation:</p> <ul style="list-style-type: none"> • BiH law allows CSOs to provide certain services, mainly in the area of social services, but also in the areas of health and education. • Services that fall outside CSOs’ registered activities, and whose main objective is financial profit, can be provided only through a separate legal entity. • There are no obstacles for health and educational institutions that provide services related to their primary activities. • The tender procedure is carried out in accordance with the Law on Public Procurement in BiH. • Operation of CSOs is equivalent to that of other legal entities. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Creation of the option for CSOs to take over provision of selected services that have previously been exclusively regulated by government institutions or the private sector. • Amendment to the legislation in order to standardize administrative fees and achieve greater cooperation between CSOs and authorities, in the fields of education and health. • Introduction of simpler procedures and shortening of deadlines for the registration of all legal service-providing entities. • Introduction of simpler procedures and creation of a register for legal entities, that would provide activities related to social entrepreneurship. • Establishment of licenses with periodic duration, and commitment to the fulfillment of quality standards. • Implementation of permanent control over organizations that provide education and health services.

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	<p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs are able to obtain contracts in competition with other providers and are engaged in various services (e.g., education, health, research, and training). 2) CSOs are included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation). 3) When prior registration/licensing is required, the procedure for obtaining that is not overly burdensome. 	<p>Practice:</p> <ul style="list-style-type: none"> • CSOs are able to obtain contracts in competition with others in terms of necessary expertise and skills. However, provision of many services (education, health and social protection) is under state jurisdiction, so CSOs providing these services appear to supplement the work of state institutions, and are usually engaged on a project basis. CSOs generally only provide one part of services required by projects. • CSOs are generally not included in needs assessments, determination of specific services, or monitoring and evaluation. • Registration/licensing procedures depend on the competent issuing institution. • Established registration/licensing procedures are less complicated and shorter than procedures for those licenses and programs that competent institutions have not previously encountered 	<p>Practice:</p> <ul style="list-style-type: none"> • Conducting of a cost-benefit analysis regarding general provision of services (or of one type of service in a specific sector) in order to obtain and compare data on the relative quality of contributions of the government and CSOs in this area. • Recognizing of CSOs as organizations of public importance and interest, and as equal partners to the state in terms of service provision. Promotion of the capacities and capabilities of CSOs to provide services in sectors which are under state jurisdiction. • Enablement of CSO participation in the process of needs assessment, with regard to: expertise; experience in particular fields; and target groups who use the relevant services.
<p>2. The state has pledged to fund services and that funding is predictable and available for a longer period.</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The budget provides funding for various types of services which could be provided by CSOs including multi-year funding. 2) There are no legal barriers to CSOs receiving public funding for the provision of different services (either through procurement or through another contracting or grants mechanism). 3) CSOs can sign long-term contracts for provision of services. 	<p>Legislation:</p> <ul style="list-style-type: none"> • State financing of services provided by CSOs is mainly based on the allocation of funds through projects. • There are no known cases of multi-year funding. • There are no barriers preventing CSOs from receiving public funds. • There are no data showing that CSOs can sign long-term contracts for the provision of services. • Contracts signed by CSOs are mainly short- or medium-term (six months to a year). • The signing of long-term contracts is not possible in practice, as the government's budget allocation takes place on an annual basis. 	<p>Legislation:</p> <ul style="list-style-type: none"> • When adopting new laws and amendments to existing laws that involve changes to the budget, a period of postponement should be introduced. During this time, the public can be informed about and prepared for the implementation of the new law through awareness-raising campaigns. This delay should also prevent budget reduction during the course of the financial year, which can jeopardize service quality. • Introduction of capabilities that will enable CSOs to obtain long-term contracts for the provision of certain services, to be extended on an annual basis after adoption of the state budget.

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	<p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs are recipients of funding for services. 2) CSOs receive sufficient funding to cover the basic costs of the services they are contracted to provide including proportionate institutional (overhead) costs. 3) There are no delays in payments and the funding is flexible with the aim of providing the best quality of services 	<p>Practice:</p> <ul style="list-style-type: none"> • CSOs generally receive funding for the provision of certain services through projects, although they also receive part of their funds via regular budget allocations. • CSOs do not receive sufficient funding from the state to cover their basic service costs, State funding is most often combined with much higher funding from foreign donors. CSOs are not able to cover proportional overhead costs with funds allocated to them by the state. • Payment dynamics largely depend on the competent institution by which funds are awarded. • Some CSOs experienced irregular or late payments. 	<p>Practice:</p> <ul style="list-style-type: none"> • Introduction of, or increase to, regular budget allocations, to fund services provided by CSOs. • Increasing or redistribution of budgetary allocations for CSOs that provide certain services in order to cover a larger percentage of service costs, as well as a portion of their overhead expenditures. • Improvement of regular payment dynamics, to stipulate activity implementation and service provision by CSOs.
<p>3. The state has clearly defined procedures for contracting services, which allows transparent selection of service providers, including CSOs.</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a clear and transparent procedure through which the funding for services is distributed among providers. 2) Price is not the lead criterion for selection of service providers and best value is determined by both service quality and a financial assessment of contenders. 3) There are clear guidelines on how to ensure transparency and avoid conflict of interests. 4) There is a right to appeal against competition results. 	<p>Legislation:</p> <ul style="list-style-type: none"> • The Law on Public Procurement determines procedure, and guarantees transparency in the process of selecting service providers. There are no clear procedures when funding for services is distributed through different mechanisms. • It is generally considered that state institutions have priority or precedence in certain service provision, compared with CSOs. • Price is a criterion that separates public and private sector services, but there is no indication that a higher price guarantees higher quality. • Transparency of processes is mainly provided through application of the Law on Public Procurement, and by public calls for the financing of projects, which may include the provision of certain services by CSOs. • Candidates have the right to appeal competition results, but overall opinion and experience 	<p>Legislation:</p> <ul style="list-style-type: none"> • Introduction of clear procedures and options (as a base for the funding of services) to be distributed to providers, where they are not already established. • Improvement of standards in all services, and development of standards for social services, alongside the introduction of measurement methods for user satisfaction and service quality, and the publication of obtained results. • Strengthening of transparency so that CSO representatives can participate in selection committees for the awarding of those projects and funds for which they are able to provide services. • Introduction of clear procedures to prevent conflicts of interest for all parties (members of project selection committees) when making decisions regarding the allocation of funds for service provision at all authority levels and in all

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		<p>shows that results of public calls will not be revised or changed after receipt of an appeal.</p>	<p>institutions.</p> <ul style="list-style-type: none"> • Improvement of procedures for processing complaints and providing answers and explanations, regarding initial selection and appeal processes.
	<p>Practice:</p> <ol style="list-style-type: none"> 1) Many services are contracted to CSOs. 2) Competitions are considered fair and conflicts of interest are avoided. 3) State officials have sufficient capacity to organize the procedures. 	<p>Practice:</p> <ul style="list-style-type: none"> • Many services are not contracted to CSOs. • CSOs generally provide auxiliary or supplementary assistance in the provision of services usually supplied by the state. Alternatively, they provide services for which the state does not have the capacity or interest to supply itself. • It is believed that open competitions are unfair in many cases, because applicants have no access to feedback, or the reasons and criteria according to which certain contracts were awarded. • There are no procedures in place to prevent conflicts of interest. • It is believed that government officials are not competent enough to organize procedures, or to offer the additional explanations and guidelines required by applicants, although this varies between institutions. 	<p>Practice:</p> <ul style="list-style-type: none"> • Increasing of the number and range of services provided by CSOs in all sectors. • Obligation of members of project selection committees to sign a statement confirming that they have no conflicting interests when selecting proposals for service provision. • Strengthening of the capacities of national institutions, and the knowledge and skills of civil servants, to organize open competition procedures for awarding the provision of particular services by CSOs.

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<p>4. There is a clear system of responsibility, monitoring and evaluation in providing services.</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is legal possibility for monitoring both spending and the quality of service providers. 2) There are clear quality standards and monitoring procedures for services. 	<p>Legislation:</p> <ul style="list-style-type: none"> • There are legal possibilities for monitoring service provision by CSOs. • Quality standards and monitoring procedures are not strictly defined, and depend on sector legislation and the state institution in question. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Introduction of quality standards and monitoring procedures, based on previously established objectives and measurable indicators. • Development of templates for comprehensive or condensed forms of: monitoring; evaluation; quantification of successful application of funds; and quality of the application of funds and services provided. • Utilization of campaigns to raise awareness about the need for constant and transparent reviewing of service quality.
	<p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs are not subject to excessive control. 2) Monitoring is performed on a regular basis according to preannounced procedures and criteria. 3) Regular evaluation of quality and effects/impact of services provided is carried out and publicly available. 	<p>Practice:</p> <ul style="list-style-type: none"> • General opinion and experience is that there is inadequate quality control of services provided by CSOs. • Monitoring is mainly based on the submission of financial and/or narrative reports by CSOs to the state institutions that awarded funds for the provision of certain services. • In most cases, there is no regular monitoring or evaluation of the quality and effects of services provided. • Information about the services provided by CSOs is rarely available to the public. 	<p>Practice:</p> <ul style="list-style-type: none"> • Establishment of clear, comprehensive and uniform procedures and criteria for monitoring the quality of services provided. • Introduction of mandatory CSO narrative and financial reports, to be submitted to the relevant institutions. • Introduction of field visits by expert teams from competent state institutions, aimed at monitoring CSO service provision on the ground. • Establishment of criteria for evaluating the quality and effects of these services, based on concrete visible and measurable indicators, and the views of end-users. • Enablement of public access (primarily for current and potential users) to information on the quality and impacts/effects of services provided.

VI. Used Resources and Useful Links

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- <http://www.undp.ba>
- www.rak.ba
- www.bhnovinari/linija.ba
- www.vzs.ba

Annex 1

PARTICIPANTS IN RESEARCH

1. The List of Interviewed Persons:

1. Admir Kadrić, sport journalist, Brčko
2. Aida Daguda, CSPC Director
3. Aida Vežič, Association Crvena (The Red One)
4. Alma Šahbaz, Manager for Communication and Public, Coca-Cola, HBS B-H d.o.o. Sarajevo, BiH
5. Cecilija Petrović, editor on the radio Herceg Bosna, Mostar
6. Danijel Malić, consultant, consulting company Kronauer (CBGI Project), Sarajevo
7. Damir Balić, Head of Department for Judicial Budgets and Donor Funds of BiH HJPC
8. Darko Vučenović, Ministry of Local Government and Self-Government of RS
9. Dražana Lepir, Citizens Association Oštra nula (Sharp Zero), Banja Luka
10. Goran Bubalo, CRS BiH, Coordinator of the Peace Building Network
11. Ivica Čavar, Centers for Civic Initiatives
12. Jasminka Bratić, Assistant Minister, Ministry of Justice, Government and Self-Government of Herzegovina – Neretva Canton
13. Lazar Manojlović, award winner for human excellence in human rights promotion, Bijeljina
14. Nada Arsenić, the County Court judge in Doboj and member of the Press Council Appeals Commission
15. Niko Grubešić, Assistant Minister in Department for Strategic Planning, Coordination and European Integrations of the BiH Ministry of Justice
16. Melisa-Durak Buljubašić, Head of PR and Business Standardization Department, BiH Lottery, Sarajevo, BiH
17. Miroslav Živanović, municipal councilor of Novo Sarajevo Municipality
18. Mirza Sadiković, BHRT journalist, Bihać
19. Predrag Pajić, Coordinator of the projects of local and self-local government, Association of Municipalities and Cities of RS
20. Ruzmira Gaco, Expert Advisor, BiH Ministry for Human Rights and Refugees
21. Sadeta Škaljić, Minister Assistant in Department for Legal Aid, BiH Ministry of Justice
22. Samir Omerefendić, Project Manager, LOD Project
23. Saša Madacki, Director of the Center for Human Rights of Sarajevo University
24. Slaviša Prorok, Coordinator of Agreement Plus Network, Civil Society Promotion Center
25. Snježana Ninković-Ivandić, Director of the Association for Democratic Initiatives
26. Vedran Peršić, Sberbank, Sarajevo, BiH
27. Vedada Baraković from Tuzla, professor at the Department for Journalism, Faculty of Philosophy
28. Velida Kulenović, member of the Governing Board of BH Journalists, Zenica
29. Zlatiborka Popov-Momčinović, activist in the field of women's human rights and professor at Faculty of Philosophy in East Sarajevo

2. The List of Focus Group Participants for sub-area 1.2:

a) Participants of Focus Group held in Sarajevo, November 2nd 2013

1. Velida Kulenović, BH journalist, The Club of Journalists Zenica, Zenica
2. Mladen Lakić, Sarajevo Open Center; LGBT-prava.ba (LGBT-rights.ba), East Sarajevo
3. Aleksandra Savić, World Music Center, Mostar
4. Alma Buljugić, druga.tv (another.tv), Tuzla
5. Džezida Teufiković, FENA Radio, Tuzla
6. Mirna Hodžić, Center for Legal Assistance to Women, Zenica
7. Una Alikadić, BHN, Sarajevo
8. Vildana Džekman, Foundation Cure (The Girls), Sarajevo
9. Nermina Voloder, CIPS, Sarajevo
10. Rubina Čengić, Start BiH Magazine, Sarajevo

a) Participants of Focus Group held in Banja Luka, November 2nd 2013

1. Borislav Vukojević, Faculty of Political Science, Banja Luka
2. Teodora Ninić, Association Oštra nula (Sharp Zero), Banja Luka
3. Igor Kolundžija, Association Oštra nula (Sharp Zero), Banja Luka
4. Mira Čolić, Partner, Banja Luka
5. Vanja Čolić, Partner, Banja Luka
6. Ena Kljajić Grgić, Transparency International BiH, Banja Luka
7. Elvir Padalović, web portal Buka, Banja Luka
8. Milkica Milojević, Association of BiH Journalists, Banja Luka
9. Mariana Saračević, The Union of Media and Graphic Workers of RS, Banja Luka
10. Lana Jajčević, Association Udružene žene (Associated Women), Banja Luka
11. Milorad Milojević, Free Europe Radio, Banja Luka
12. Ivana Stanković, HPG BL, Banja Luka
13. Nikolina Čeko, HPG BL, Banja Luka
14. Igor Požgaj, RTRS, Banja Luka
15. Vladimir Šušak, BHT1, Banja Luka
16. Siniša Vukelić, Capital.ba, Banja Luka
17. Sandra Kukić, RTRS, Banja Luka

3. The List of Interviewed Persons, based on Questionnaire for sub-area 2.2:

1. Snježana Ninković-Ivandić, Association of Democratic Initiatives
2. Almir Peštek, Faculty of Economics in Sarajevo
3. Arijana Arnautović, Faculty of Economics in Sarajevo
4. Dragana Dardić, Helsinki Citizens' Parliament
5. Sanja Vlaisavljević, Center for Culture of Dialogue
6. Dragan Bursać, web portal Buka, Banja Luka
7. Dragan Jerinić, Association of Journalists of RS
8. Goran Bubalo, Catholic Relief Service/Mreža za izgradnju mira (Peace building Network)
9. Ivona Čelebičić, ProMENTE
10. Jagoda Petrović, Faculty of Political Science, Banja Luka
11. Njegomir Klječanin, Association of Employers and Entrepreneurs, Teslić
12. Marko Martić, GEA- Center for Research and Studies
13. Slobodanka Dekić, Media Center
14. Srđan Blagovčanin, Transparency International
15. Žarko Papić, Initiative for Better and More Human Inclusion
16. Željko Volaš, Organization of Amputees UDAS

4. The List of Interviewed Persons, based on Questionnaire for sub-area 3.3:

1. Almir Ćehajić, Open Network
2. Branko Suzić, Union of Blind People of Republic of Srpska
3. Bojana Sekulić, PRONI
4. Danijela Kozina, E-kapija (E-gate)
5. Fikret Zuko, Association of Blind People of Sarajevo Canton
6. Emina Osmanagić, Association XY
7. Jasmin Bešić, Institute for Youth Development KULT
8. Jadranka Duraković, Red Cross of Tuzla Canton
9. Jugoslav Jevđić, Youth Communication Center
10. Ljiljana Čičković, NGO Women's Center
11. Marijana Dinek, Foundation BH Women's Initiative
12. Memnuna Zvizdić, Women to Women
13. Mira Ćuk, Faculty of Political Science
14. Mijat Šarović, CDPP Sunce nam je zajedničko (The Sun is Common for All of Us)
15. Sanja Stanić, Citizens' association Viktorija (Victory)
16. Slavica Bašić, Red Cross Municipal Organization

5. The List of CSOs Surveyed (Questionnaire) for sub-area 1.1:

1. NGO EKO-Leonardo, Priboj
2. Consumers Club of Tuzla Canton, Tuzla
3. Association Inter, Tuzla
4. Humanitarian organization Merhamet, Doboj
5. Citizens' Association Center for Informative- Legal Aid (CIPP), Zvornik
6. Initiative for Better and More Human Inclusion (IBHI), Sarajevo
7. Association for language and culture Linguists, Sarajevo

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8. Center for Local and Regional Development, Derventa
9. Center for Environmental Sustainable Development (COOR), Sarajevo
10. Citizens Association DON, Prijedor
11. Eko-mladi (Eco-Youth), Busovača
12. Ecological Association Eko Put (Eco Way), Bijeljina
13. Foundation for Social Inclusion in Bosnia and Herzegovina, Sarajevo
14. Humanitarian Society Osvit (Daybreak), Zvornik
15. Association Humanitarian Organization Altruist, Mostar
16. Ključ budućnosti (The Key of Future), Ključ
17. A House of an Open Heart, Mostar
18. Association New Generation, Banja Luka
19. Association for Assistance to Mentally Disabled Persons, Prijedor
20. Association New Way, Mostar
21. NGO of Altruists for Assistance to the Persons with Diminished Abilities Svjetlo (The Light), Sarajevo
22. GERC Sumejja, Potoci
23. Youth Resource Center (ORC) TUZLA, Tuzla
24. Association Radosti druženja (The Joys of Companionship) of Una- Sana Canton, Bihać
25. Association Independent Bureau for Development, Gradačac
26. Association Prijatelji Srebrenice (The Friends of Srebrenica), Srebrenica
27. Association of Parents with Four and More Children Roda (A Stork), Prijedor
28. Roma Association Romas, Sarajevo
29. Rotor, Organization for Development of Tourism and Region, Doboj,
30. Citizens' Association Sadnice Mira (Peace Trees), Zavidovići
31. Sara-Srebrenica, Srebrenica
32. Informal Group Sažetak (The Summary), Doboj
33. Youth Cub Diamond, Jajce
34. SOS-Kinderdorf International, Innsbruck-Austria, branch in Sarajevo
35. Association for Development of Foster Care, Child Protection and Family - Family, Tuzla
36. Association of Economic Development and Employment Terra Sana, Sanski Most
37. Citizens Association ToPeeR, Doboj
38. Association of Parents in Combatting Drug Abuse - Hand to hand, Bihać
39. Citizens Association of Impaired Hearing and Speech of Una – Sana Canton, Bihać
40. UGPRŠ 91-96 in BIH, Sarajevo
41. Association Humanitarian Organization Altius, Sarajevo
42. UHO Ruhama, Zenica
43. Association of Farmers of Sarajevo Canton, Ilidža
44. Youth Center Vermont, Brčko
45. Association Women from Una, Bihać
46. Association Woman's Voice, Bihać
47. Roma Association Roma Tear, Srebrenica
48. Association of Entrepreneurship and business LiNK, Mostar

6. The List of CSOs Surveyed (Questionnaire) for sub-area 2.3:

1. ACED – Agency for Cooperation and Development, Banja Luka
2. Centers of Civic Initiatives, Banja Luka
3. Institute for Youth Development KULT, Ilidža
4. Foundation Mozaik, office in Banja Luka
5. EDA Development Agency
6. Center for informative decontamination – BUKA web portal, Banja Luka
7. Zdravo da ste (Hello to You), Banja Luka
8. Helsinki Citizens Parliament, Banja Luka
9. Transparency International BiH, Banja Luka
10. Prilika Plus (Chance Plus), Banja Luka
11. Infohouse, Sarajevo
12. Youth Communication Center, Banja Luka
13. Union of national minorities of RS, Banja Luka
14. Association of linguists – Language center, Sarajevo
15. Obrazovanje gradi BiH (Education builds BiH), Sarajevo
16. Association of employers FBiH
17. Association „akustikUm“, Tuzla
18. NGO “Svjetionik” (Lighthouse)
19. Association “Bosper”, Tuzla
20. Association of family medicine doctors of RS
21. “Women’s forum, “BRATUNAC
22. Citizens association Viktorija, Banja Luka
23. Nansen dialogue center, Mostar
24. Association of parents of children and youth with special needs
25. "Joys of companionship" Bihać
26. Youth center "Vermont" Brčko
27. Agency of local democracy, Prijedor
28. Citizens associations DON Prijedor
29. Center for IT development- InfoARS, Banja Luka
30. Association „Together“, Banja Luka
31. "Center for children, youth and family" Laktaši
32. Association Bosper, Tuzla
33. UO SOOBL (Council of youth organizations Banja Luka)
34. Municipal organization of Red Cross Brčko
35. Citizens association ‚Youth center-Jajce‘
36. Smile of woman, Laktaši
37. Youth club ‘Under the same Sun’, Jablanica
38. Citizens association BiosPLUS, Derventa
39. Association ANEA – Youth of Gračanica
40. Sara - Srebrenica
41. Sun, Bugojno
42. "Informative-educational center for youth" Tešanj
43. OCKI – Youth center for creativeness and initiative, Novi Grad
44. Association Bridge, Gradiška
45. Association "Women from Una", Bihać
46. Association "Margin", Tuzla
47. “Hello to you” Center for youth, Srbac
48. Scout unit, Trebinje
49. Center for psychotherapy “In confidence”

7. The List of Government Institutions that Participated in Survey (Questionnaire) for the sub-area 3.2:

1. BiH Ministry of Justice
2. BiH Ministry of Finance and Treasury
3. BiH Ministry for Human Rights and Refugees
4. BiH Ministry of Civil Affairs
5. BiH Ministry of Foreign Affairs
6. BiH Ministry of Security,
7. BiH Ministry of Communication and Traffic
8. RS Ministry of Local Government and Self-Government
9. Judicial Commission of Brčko District
10. Gender Center of Republic of Srpska

8. The List of Participants in Informative-Consultative Workshops held in January 2014:

a) List of participants of informative-consultative workshop held on 14th January 2014 in Sarajevo

1. Slavica Drašković, TACSO BiH, Sarajevo
2. Adi Kolašević, TACSO BiH, Sarajevo
3. Mirjana Sirčo, CPI, Sarajevo
4. Nermina Mujčić, Open Society Fund BiH, Sarajevo
5. Lejla Kusturica, Foundation Mozaik (Mosaic), Sarajevo
6. Boro Kontić, Media Center, Sarajevo
7. Miodrag Dakić, Center for Environment, Banja Luka
8. Nenad Ličanin, Foundation Mozaik (Mosaic), Sarajevo
9. Miralem Tursinović, ORC, Tuzla
10. Goran Žeravčić, CBGI Project, Sarajevo
11. Tatjana Slijepčević, Foundation for Social Inclusion in BiH, Sarajevo
12. Ranka Ninković Papić, Foundation for Social Inclusion in BiH, Sarajevo
13. Ante Jurić Marjanović, OKC, Banja Luka
14. Borka Rudić, BH Journalists, Sarajevo
15. Snježana Ivandić, ADI, Sarajevo
16. Šejla Karamehić, CSPC
17. Slaviša Prorok, CSPC
18. Milan Mrđa, CSPC
19. Omir Tufo, CSPC
20. Dejan Žakula, CSPC
21. Maja Karić, CSPC

b) List of participants of informative-consultative workshop held on 15th January 2014 in Sarajevo

1. Slavica Drašković, TACSO BiH
2. Kemal Grebo, Chamber of Commerce of Sarajevo Canton
3. Memnuna Zvizdić, Women to Women, Sarajevo
4. Jusuf Makarević, ToPeeR
5. Snežana Šešlija, ToPeeR
6. Aleksandra B. Golubović, Hope and Homes for Children
7. Murisa Marić, Citizens Association DON, Prijedor
8. Sanja Horvat, Caritas BK BiH

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9. Marijana Dinek, BHWI Foundation
10. Haris Čaušević, NGO of Altruists Svjetlo (The Light)
11. Maja Branković, Transparency International BiH
12. Dženana Alađuz, Association Infohouse
13. Mirjana Subašić, Association Infohouse
14. Momir Savić, CIP Zvornik
15. Andrea Bilandžić, SUMERO
16. Slađana Biračković, Youth Center Vermont
17. Boro Ilić, Youth Center Vermont
18. Željko Marić, Citizens Association DON
19. Ranka Ninković-Papić, Foundation for Social Inclusion in BiH
20. Ante Jurić Marjanović, OKC
21. Snježana Ivandić Ninković, ADI
22. Šejla Karamehić, CSPC
23. Slaviša Prorok, CSPC
24. Milan Mrđa, CSPC
25. Omir Tufo, CSPC
26. Maja Karić, CSPC

Annex 2

Monitoring Matrix on Enabling Environment for Civil Society Development

Version as of January 2013

PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
Area 1: Basic Legal Guarantees of Freedoms			
Sub-area 1.1.: Freedom of association			
Freedom of association is guaranteed and exercised freely by everybody	1. All individuals and legal entities can freely establish and participate in informal and/or registered organizations offline and online	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a legal framework according to which any person can establish associations, foundations and other types of non-profit, non-governmental entities (e.g., non-profit company) for any purpose. 2) The legal framework allows both individual and legal persons to exercise this right without discrimination (age, nationality, legal capacity, gender etc). 3) Registration is not mandatory, and in cases when organizations decide to register, the registration rules are clearly prescribed and allow for easy, timely and inexpensive registration and appeal process. 4) The law allows for networking among organizations in the countries and abroad without prior notification. <p>Practice:</p> <ol style="list-style-type: none"> 1) Every individual or legal entity in practice can form associations, foundations or other non-profit, non-governmental organizations offline or online. 2) Individuals and legal entities are not sanctioned for not-registering their organizations. 3) Registration is truly accessible within the legally prescribed deadlines; authorities decide on cases in non-subjective and apolitical manner. 	<p>NGO Sustainability Index for Central and Eastern Europe and Euroasia , USAID (http://transition.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/)</p> <p>ICNL NGO Law Monitor (http://www.icnl.org/research/monitor/index.html)</p> <p>United States International Grantmaking (USIG) (http://www.usig.org/countryinfo.asp)</p> <p>EU Progress Report (http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm)</p> <p>Freedom House (www.freedomhouse.org)</p> <p>Democracy Index (https://www.eiu.com)</p> <p>Freedom Meta Index (http://www.freeexistence.org)</p> <p>Human Development Index (http://hdr.undp.org/en/humandev/hdi/)</p> <p>Social Development Index (http://www.indsocdev.org/)</p> <p>Civic Engagement Index (http://www.oecdbetterlifeindex.org/topics/civic-engagement/)</p> <p>Charity Commission NGO</p>

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PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
	<p>2. CSOs operate freely without unwarranted state interference in their internal governance and activities</p>	<p>4) Individuals and CSOs can form and participate in networks and coalitions, within and outside their home countries.</p> <p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework provides guarantees against state interference in internal matters of associations, foundations and other types of non-profit entities. 2) The state provides protection from interference by third parties. 3) Financial reporting (including money laundering regulations) and accounting rules take into account the specific nature of the CSOs and are proportionate to the size of the organization and its type/scope of activities. 4) Sanctions for breaching legal requirements should be based on applicable legislation and follow the principle of proportionality. 5) The restrictions and the rules for dissolution and termination meet the standards of international law and are based on objective criteria which restrict arbitrary decision making. <p>Practice:</p> <ol style="list-style-type: none"> 1) There are no cases of state interference in internal matters of associations, foundations and other types of non-profit entities. 2) There are no practices of invasive oversight which impose burdensome reporting requirements. 3) Sanctions are applied in rare/extreme cases, they are proportional and are subject to a judicial review. 	<p>Sector&Regulation Review Tool (http://www.ngoregnet.org/whats_new/NGO_Sector_and_Regulation_Review_Tool.asp)</p> <p>Nations in Transit (www.freedomhouse.org/report-types/nations-transit)</p> <p>Polity IV Project (http://www.systemicpeace.org)</p> <p>Civil Society Index (https://www.civicus.org/csi/)</p> <p>Global Corruption Barometer (www.transparency.org/research/gcb/overview)</p> <p>Index of Economic Freedom (http://www.heritage.org)</p> <p>Doing Business In Index (http://www.doingbusiness.org)</p>

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PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
	<p>3. CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Legislation allows CSOs to engage in economic activities. 2) CSOs are allowed to receive foreign funding. 3) CSO are allowed to receive funding from individuals, corporations and other sources. <p>Practice:</p> <ol style="list-style-type: none"> 1) Legislation on CSOs engaging in economic activities is implemented and is not burdensome for CSOs. 2) There are no restrictions (e.g. administrative or financial burden, preapprovals, or channelling such funds via specific bodies) on CSOs to receive foreign funding. 3) Receipt of funding from individuals, corporations and other sources is easy, effective and without any unnecessary cost or administrative burden. 	
Sub-area 1.2.: Related freedoms			
<p>Freedoms of assembly and expression are guaranteed to everybody</p>	<p>1. CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The legal framework is based on international standards and provides the right for freedom of assembly for all without any discrimination. 2) The laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies. 3) The exercise of the right is not subject to prior authorization by the authorities, but at the most to a prior notification procedure, which is not burdensome. 4) Any restriction of the right based on law and prescribed by regulatory authority can be appealed by organizers. <p>Practice:</p> <ol style="list-style-type: none"> 1) There are no cases of encroachment of the freedom of assembly, and any group of people can assemble at desired place and time, in line with the legal provisions. 2) Restrictions are justified with explanation of the reason for each restriction, which is promptly communicated in writing to the organizer to guarantee the possibility of appeal. 	<p>NGO Sustainability Index for Central and Eastern Europe and Euroasia, USAID (http://transition.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/)</p> <p>ICNL NGO Law Monitor (http://www.icnl.org/research/monitor/index.html)</p> <p>World Press Freedom Index (http://en.rsf.org)</p> <p>Media Sustainability Index (www.irex.org/msi)</p>

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PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
		<p>3) Simultaneous, spontaneous and counter-assemblies can take place, and the state facilitates and protects groups to exercise their right against people who aim to prevent or disrupt the assembly.</p> <p>4) There are cases of freedom of assembly practiced by CSOs (individually or through their organizations) without prior authorization; when notification is required it is submitted in a short period of time and does not limit the possibility to organize the assembly.</p> <p>5) No excessive use of force is exercised by law enforcement bodies, including pre-emptive detentions of organizers and participants.</p> <p>6) Media should have as much access to the assembly as possible.</p>	
	<p>2. CSO representatives, individually or through their organizations enjoy freedom of expression</p>	<p>Legislation:</p> <p>1) The legal framework provides freedom of expression for all.</p> <p>2) Restrictions, such as limitation of hate speech, imposed by legislation are clearly prescribed and in line with international law and standards.</p> <p>3) Libel is a misdemeanour rather than part of the penal code.</p> <p>Practice:</p> <p>1) CSO representatives, especially those from human rights and watch dog organizations enjoy the right to freedom of expression on matters they support and they are critical of.</p> <p>2) There are no cases of encroachment of the right to freedom of expression for all.</p> <p>3) There are no cases where individuals, including CSO representatives would be persecuted for critical speech, in public or private.</p> <p>4) There is no sanction for critical speech, in public or private, under the penal code.</p>	
	<p>3. Civil society representatives, individually and through</p>	<p>Legislation:</p> <p>1) The legal framework provides the possibility to communicate via and access any source of information, including the Internet and ICT; if there are legal restrictions, these are exceptional,</p>	

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PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
	their organizations, have the rights to safely receive and impart information through any media	<p>limited and based on international human rights law.</p> <p>2) The legal framework prohibits unjustified monitoring of communication channels, including Internet and ICT, or collecting users' information by the authorities.</p> <p>Practice:</p> <p>1) There are no cases in practice where restrictions are imposed on accessing any source of information, including the Internet or ICT.</p> <p>2) The Internet is widely accessible and affordable.</p> <p>3) There is no practice or cases of unjustified monitoring by the authorities of communication channels, including the Internet or ICT, or of collecting users' information.</p> <p>4) There are no cases of police harassment of members of social network groups.</p>	
Area 2: Framework for CSOs' Financial Viability and Sustainability			
Sub-area 2.1: Tax/fiscal treatment for CSOs and their donors			
CSOs and donors enjoy favourable tax treatment	<p>1. Tax benefits are available on various income sources of CSOs</p>	<p>Legislation:</p> <p>1) The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs.</p> <p>2) The law provides tax benefits for economic activities of CSOs.</p> <p>3) The law provides tax benefits for passive investments of CSOs.</p> <p>4) The law allows the establishment of and provides tax benefits for endowments.</p> <p>Practice:</p> <p>1) There is no direct or indirect (hidden) tax on grants reported.</p> <p>2) Tax benefits for economic activities of CSOs are effective and support the operation of CSOs.</p> <p>3) Passive investments are utilized by CSOs and no sanctions are applied in doing so.</p> <p>4) Endowments are established without major procedural difficulties and operate freely, without administrative burden nor high financial cost.</p>	<p>NGO Sustainability Index for Central and Eastern Europe and Euroasia, USAID (http://transition.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/)</p> <p>ICNL NGO Law Monitor (http://www.icnl.org/research/monitor/index.html)</p> <p>United States International Grant making (USIG) (http://www.usig.org/countryinfo.asp)</p> <p>Index of Economic Freedom (http://www.heritage.org/index/about)</p> <p>Economic Freedom of the World Index (http://www.freetheworld.com/index.html)</p> <p>Global Giving Index (https://www.cafonline.org/publications/2011-publications/world-giving-index-2011.aspx)</p>

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PRINCIPLE	STANDARDS/ BENCHMARKS	INDICATORS	RELEVANT GLOBAL OR REGIONAL INDEXES
	<p>2. Incentives are provided for individual and corporate giving.</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The law provides tax deductions for individual and corporate donations to CSOs. 2) There are clear requirements/conditions for receiving deductible donations and these include a wide range of publicly beneficial activities. 3) State policies regarding corporate social responsibility consider the needs of CSOs and include them in their programs. <p>Practice:</p> <ol style="list-style-type: none"> 1) There is a functional procedure in place to claim tax deductions for individual and corporate donations. 2) CSOs are partners to the state in promoting CSR. 3) CSOs working in the main areas of public interest, including human rights and watchdog organizations, effectively enjoy tax deductible donations. 	
Sub-area 2.2.: State support			
<p>State support to CSOs is provided in a transparent way and spent in an accountable manner</p>	<p>1. Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a law or national policy (document) that regulates state support for institutional development for CSOs, project support and co-financing of EU funded projects. 2) There is a national level mechanism for distribution of public funds to CSOs. 3) Public funds for CSOs are clearly planned within the state budget. 4) There are clear procedures for CSO participation in all phases of the public funding cycle. <p>Practice:</p> <ol style="list-style-type: none"> 1) Available public funding responds to the needs of the CSO sector. 2) There are government bodies with a clear mandate for distribution and/or monitoring of the distribution of state funding. 3) Funding is predictable, not cut drastically from one year to 	<p>NGO Sustainability Index for Central and Eastern Europe and Euroasia, USAID http://transition.usaid.gov/locations/europe_euroasia/dem_gov/ngoindex</p> <p>Transparency International http://www.transparency.org</p> <p>Corruption Perception Index http://cpi.transparency.org/cpi2011/results/</p> <p>Global Giving Index https://www.cafonline.org/publications/2011-publications/world-giving-index-2011.aspx</p> <p>Global Integrity Report http://www.globalintegrity.org/report</p>

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		<p>another; and the amount in the budget for CSOs is easy to identify.</p> <p>4) CSO participation in the public funding cycle is transparent and meaningful.</p>	
	<p>2. Public funding is distributed in a prescribed and transparent manner</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The procedure for distribution of public funds is transparent and legally binding. 2) The criteria for selection are clear and published in advance. 3) There are clear procedures addressing issues of conflict of interest in decision-making. <p>Practice:</p> <ol style="list-style-type: none"> 1) Information relating to the procedures for funding and information on funded projects is publicly available. 2) State bodies follow the procedure and apply it in a harmonized way. 3) The application requirements are not too burdensome for CSOs. 4) Decisions on tenders are considered fair and conflict of interest situations are declared in advance. 	
	<p>3. There is a clear system of accountability, monitoring and evaluation of public funding</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The procedure for distribution of public funds prescribes clear measures for accountability, monitoring and evaluation. 2) There are prescribed sanctions for CSOs that misuse funds which are proportional to the violation of procedure. <p>Practice:</p> <ol style="list-style-type: none"> 1) Monitoring is carried out continuously and in accordance with predetermined and objective indicators. 2) Regular evaluation of effects/impact of public funds is carried out by state bodies and is publicly available. 	
	<p>4. Non-financial support is available from the state</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Legislation allows state authorities to allocate non-financial support, such as state property, renting space without financial compensation (time-bound), free training, consultations and other resources, to CSOs. 2) The non-financial support is provided under clearly prescribed 	

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		<p>processes, based on objective criteria and does not privilege any group.</p> <p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs use non-financial state support. 2) CSOs are treated in an equal or more supportive manner as compared to other actors when providing state non-financial resources. 3) There are no cases of state authorities granting non-financial support only to CSOs which do not criticize its work; or of cases of depriving critical CSOs of support; or otherwise discriminating based on loyalty, political affiliation or other unlawful terms. 	
Sub-area 2.3: Human resources			
<p>State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs</p>	<p>1. CSOs are treated in an equal manner to other employers</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) CSOs are treated in an equal manner to other employers by law and policies. <p>Practice:</p> <ol style="list-style-type: none"> 1) If there are state incentive programs for employment, CSOs are treated like all other sectors. 2) There are regular statistics on the number of employees in the non-profit sector. 	<p>World Economic Forum Global Competitiveness Report (http://www.weforum.org/issues/global-competitiveness)</p> <p>Global Employment Trends (http://www.ilo.org/global/research/global-reports/global-employment-trends/WCMS_171571/lang--en/index.htm)</p> <p>World Economic Forum Global Gender Gap (http://reports.weforum.org/global-gender-gap-2011/)</p> <p>Civic Engagement Index (http://www.oecdbetterlifeindex.org/topics/civic-engagement/)</p> <p>Global Giving Index (https://www.cafonline.org/publications/2011-publications/world-giving-index-2011.aspx)</p>
	<p>2. There are enabling volunteering policies and laws</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Legislation stimulates volunteering and incorporates best regulatory practices, while at the same time allowing for spontaneous volunteering practices. 2) There are incentives and state supported programs for the development and promotion of volunteering. 3) There are clearly defined contractual relationships and protections covering organized volunteering. <p>Practice</p> <ol style="list-style-type: none"> 1) Incentives and programs are transparent and easily available to CSOs and the policy/strategic document/ law is fully 	

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	<p>3. The educational system promotes civic engagement</p>	<p>implemented, monitored and evaluated periodically in a participatory manner.</p> <p>2) Administrative procedures for organizers of volunteer activities or volunteers are not complicated and are without any unnecessary costs.</p> <p>3) Volunteering can take place in any form; there are no cases of complaints of restrictions on volunteering.</p> <p>Legislation:</p> <p>1) Non-formal education is promoted through policy/strategy/laws.</p> <p>2) Civil society-related subjects are included in the official curriculum at all levels of the educational system.</p> <p>Practice:</p> <p>1) The educational system includes possibilities for civic engagement in CSOs.</p> <p>2) Provision of non-formal education by CSOs is recognized.</p>	<p>*Several other reports can be consulted, such as: World of Work Report, Youth Employment, Global Wage Report, World Social Security Report</p>
Area 3: Government – CSO Relationship			
Sub-area 3.1.: Framework and practices for cooperation			
<p>There is a strategic approach to furthering state-CSO cooperation and CSO development</p>	<p>1. The State recognizes, through policies and strategies, the importance of the development of and cooperation with the sector</p>	<p>Legislation:</p> <p>1) There are strategic documents dealing with the state-CSO relationship and civil society development.</p> <p>2) The strategic document includes goals and measures as well as funding available and clear allocation of responsibilities (action plans incl. indicators).</p> <p>3) The strategic document embraces measures that have been developed in consultation with and/or recommended by CSOs.</p> <p>Practice:</p> <p>1) CSOs from different areas of interest regularly participate in all phases of the strategic document development, implementation and evaluation.</p> <p>2) There are examples demonstrating that cooperation between state and CSOs and civil society development is improved and implemented according to or beyond the measures envisaged in</p>	<p>Bertelsmann Stiftung's Transformation Index (http://www.bti-project.org/country-reports/pse/blr/)</p> <p>EU Progress Report (http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm)</p> <p>Sustainable Governance Indicators (http://www.sgi-network.org/index.php)</p> <p>*Status Index and Management Index</p>

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	<p>2. The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector</p>	<p>the strategic document.</p> <p>3) The implementation of the strategic document is monitored, evaluated and revised periodically.</p> <p>4) State policies for cooperation between state and CSOs and civil society development are based on reliable data collected by the national statistics taking into consideration the diversity of the sector.</p> <p>Legislation:</p> <p>1) There is a national level institution or mechanism with a mandate to facilitate cooperation with civil society organizations (e.g., Unit/Office for cooperation; contact points in ministries; council).</p> <p>2) There are binding provisions on the involvement of CSOs in the decisions taken by the competent institution or mechanism(s).</p> <p>Practice:</p> <p>1) The national level institution or mechanism(s) has sufficient resources and mandate for facilitating CSO-government dialogue, discussing the challenges and proposing the main policies for the development of Civil Society.</p> <p>2) CSOs are regularly consulted and involved in processes and decisions by the competent institution or mechanism(s).</p>	
Sub-area 3.2: Involvement in policy- and decision-making processes			
<p>CSOs are effectively included in the policy and decision-making process</p>	<p>1. There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner.</p>	<p>Legislation:</p> <p>1) There are clearly defined standards on the involvement of CSOs in the policy and decision making processes in line with best regulatory practices prescribing minimum requirements which every policy-making process needs to fulfil.</p> <p>2) State policies provide for educational programs/trainings for civil servants on CSO involvement in the work of public institutions.</p> <p>3) Internal regulations require specified units or officers in government, line ministries or other government agencies to coordinate, monitor and report CSO involvement in their work.</p>	<p>NGO Sustainability Index for Central and Eastern Europe and Euroasia, USAID (http://transition.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/)</p> <p>ICNL's NGO Law Monitor (http://www.icnl.org/research/monitor/index.html)</p> <p>Worldwide Governance Indicators (http://info.worldbank.org/governance/wgi/index.asp)</p> <p>Civic Engagement Index (http://www.oecdbetterlifeindex.org/topics/civic-</p>

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		<p>Practice:</p> <ol style="list-style-type: none"> 1) Public institutions routinely invite all interested CSOs to comment on policy/legal initiatives at an early stage. 2) CSOs are provided with adequate information on the content of the draft documents and details of the consultation with sufficient time to respond. 3) Written feedback on the results of consultations is made publicly available by public institutions, including reasons why some recommendations were not included. 4) The majority of civil servants in charge of drafting public policies have successfully completed the necessary educational programs/training. 5) Most of the units/officers coordinating and monitoring public consultations are functional and have sufficient capacity. 	<p>engagement/) Bertelsmann Stiftung's Transformation Index (http://www.bti-project.org/country-reports/pse/blr/)</p>
	<p>2. All draft policies and laws are easily accessible to the public in a timely manner</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 4) Existing legislation obliges public institutions to make all draft and adopted laws and policies public, and exceptions are clearly defined and in line with international norms and best practices. 5) Clear mechanisms and procedures for access to public information/documents exist. 6) There are clearly prescribed sanctions for civil servants/units for breaching the legal requirements on access to public information. <p>Practice:</p> <ol style="list-style-type: none"> 1) Public institutions actively publish draft and adopted laws and policies, unless they are subject to legally prescribed exceptions. 2) Public institutions answer the majority of requests for access to public information within the deadline prescribed by law, in a clear format, provide written explanations on the reasons for refusal, and highlight the right to appeal and the procedure for appealing. 3) Cases of violations of the law are sanctioned. 	
	<p>3. CSO representatives are equal partners in</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) Existing legislation requires public institutions to invite CSO representatives on to different decision-making and/or advisory 	

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	discussions in cross-sector bodies and are selected through clearly defined criteria and processes	<p>bodies created by public institutions.</p> <p>2) There are clear guidelines on how to ensure appropriate representation from civil society, based on transparent and predetermined criteria.</p> <p>Practice:</p> <p>1) Decision-making and advisory bodies on issues and policies relevant for civil society generally include CSO representatives.</p> <p>2) CSO representatives in these bodies are enabled to freely present and defend their positions, without being sanctioned.</p> <p>3) CSO representatives are selected through selection processes which are considered fair and transparent.</p> <p>4) Participation in these bodies does not prevent CSOs from using alternative ways of advocacy or promoting alternative stand-points which are not in line with the position of the respective body.</p>	
Sub-area 3.3: Collaboration in service provision			
There is a supportive environment for CSO involvement in service provision	1. CSOs are engaged in different services and compete for state contracts on an equal basis to other providers	<p>Legislation:</p> <p>1) Existing legislation allows CSOs to provide services in various areas, such as education, healthcare, social services.</p> <p>2) CSOs have no barriers to providing services that are not defined by law (“additional” services).</p> <p>3) Existing legislation does not add additional burdensome requirements on CSOs that do not exist for other service providers.</p> <p>Practice:</p> <p>1) CSOs are able to obtain contracts in competition with other providers and are engaged in various services (e.g., education, health, research, and training).</p> <p>2) CSOs are included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation).</p> <p>3) When prior registration/licensing is required, the procedure for obtaining that is not overly burdensome.</p>	<p>NGO Sustainability Index for Central and Eastern Europe and Euroasia, USAID (http://transition.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/)</p> <p>Human Development Index (http://hdr.undp.org/en/statistics/hdi/)</p> <p>Global Giving Index (https://www.cafonline.org/publications/2011-publications/world-giving-index-2011.aspx)</p>

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	<p>2. The state has committed to funding services and the funding is predictable and available over a longer-term period</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) The budget provides funding for various types of services which could be provided by CSOs, including multi-year funding. 2) There are no legal barriers to CSOs receiving public funding for the provision of different services (either through procurement or through another contracting or grants mechanism). 3) CSOs can sign long-term contracts for provision of services. <p>Practice:</p> <ol style="list-style-type: none"> 1) CSOs are recipients of funding for services. 2) CSOs receive sufficient funding to cover the basic costs of the services they are contracted to provide, including proportionate institutional (overhead) costs. 3) There are no delays in payments and the funding is flexible with the aim of providing the best quality of services. 	
	<p>3. The state has clearly defined procedures for contracting services which allow for transparent selection of service providers, including CSOs</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is a clear and transparent procedure through which the funding for services is distributed among providers. 2) Price is not the lead criterion for selection of service providers and best value is determined by both service quality and a financial assessment of contenders. 3) There are clear guidelines on how to ensure transparency and avoid conflict of interests. 4) There is a right to appeal against competition results. <p>Practice:</p> <ol style="list-style-type: none"> 1) Many services are contracted to CSOs. 2) Competitions are considered fair and conflicts of interest are avoided. 3) State officials have sufficient capacity to organize the procedures. 	
	<p>4. There is a clear system of accountability, monitoring and evaluation of service provision</p>	<p>Legislation:</p> <ol style="list-style-type: none"> 1) There is legal possibility for monitoring both spending and the quality of service providers. 2) There are clear quality standards and monitoring procedures for services. <p>Practice:</p>	

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		1) CSOs are not subject to excessive control. 2) Monitoring is performed on a regular basis according to pre-announced procedures and criteria. 3) Regular evaluation of quality and effects/impact of services provided is carried out and publicly available.	

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Annex 3

LIST OF QUESTIONNAIRES USED

Name of organization:

Address:

Telephone/e-mail/web:

Person in charge/contact person:

1. Questionnaire for sub-area 1.1.

Area: Legal guarantee of freedoms - freedom of association

1. At what level is the organization registered?
 BiH FBiH RS
 Cantonal Unregistered (acting as an informal organization/network)
2. In your opinion, the procedure for the registration/change of registration of the organization was:
 Quick and simple, and in accordance with the legal due date of 30 days
 Slow and inefficient, burdened by many administrative obstacles and unnecessary demands
 Other (please add)
3. Had your Organization acted as an informal organization/network/group before being registered?
 Yes No
4. What were the administrative costs involved for the organization's registration/change of registration?
Please indicate amount:
5. In your opinion, the costs of registration/change of registration are:
 Realistic and appropriate
 Unrealistic and high
6. Were any demands made of you during the registration process which you considered to be groundless, unnecessary and/or superfluous and complicated?
Please explain:
7. Has the organization ever been faced with unjustifiable and inappropriate state interference while performing its activities?
 Yes, often Yes, in some rare cases No, never

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If your answer was one of the first two options, please explain:

8. Has the organization ever been subject to inspection?

- Yes
 No

If Yes, please indicate the type of inspection (financial, police, administrative, labor).

9. Has the organization ever been subject to sanction/caution by competent state authorities?

- Yes
 No

If your answer is affirmative, please answer the following:

a) Did you have the opportunity to lodge an appeal?

- Yes No

b) Did you utilize the opportunity to lodge an appeal or administrative dispute?

- Yes No

c) What was the result of the appeal/administrative dispute?

- The decision against which we made an appeal/administrative dispute was confirmed
 The decision against which we made an appeal/administrative dispute was changed

9. In your opinion, has the organization been discriminated against by a decision or treatment by a state/administrative body? If so, please explain:

2. Questionnaire for sub-area 2.2.

1. Do you consider there to be a mechanism for allocation of government funds?

- Yes No

If Yes, please describe this mechanism.

2. Do you consider that available funds reflect the needs of CSOs?

- Yes No

3. Is CSO participation in the public fund allocation procedure transparent?

- Yes No

4. Are the conditions and criteria for fund allocation clear, not complicated, and published in a timely manner?

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Yes No

5. Are decisions on funding allocated to CSOs transparent and without conflict of interest?

a. Yes No

6. What do you think about the monitoring and evaluation process of CSOs that have been granted funds (is there permanent monitoring and evaluation of the effect of public funding, is it based on previously determined criteria and indicators, are there sanctions for misuse, etc)?

7. Do CSOs have the option to use non-financial state support?

Yes No

If Yes, please name the example.

8. Are CSOs that receive support from parties other than the state treated the same as other actors by the government in the provision of state non-financial support?

Yes No

9. Have there been cases of discrimination of certain CSOs in the granting of non-financial state support? Please give examples.

3. Questionnaire for sub-area 2.3.

Please read this table and evaluate the legislation and its practice according to the table headings. For each section, circle a 'mark' for one of the given statements.

RATING LEVEL AREA	THREATENING AND NONFUNCTIONAL ENVIRONMENT	THREATENING ENVIRONMENT	MODERATELY STIMULATING ENVIRONMENT	STIMULATING ENVIRONMENT	FULLY STIMULATING ENVIRONMENT
Legislation	Legislation is nonfunctional and threatening	Legislation is threatening and doesn't guarantee application of the relevant standards	Legislation is not threatening, and encompasses minimal standards	Optimal Legislation is optimal, and guarantees civil sector development	√
MARK	1	2	3	4	5
Practice	Misuse is frequent, endangers the civil sector and influences work of CSOs	Misuses are reported and threats to work of CSOs are increasing	Misuses are reported periodically	Misuses are reported, but there is no space for improvement	√
MARK	1	2	3	4	5

1. Employment within CSOs (also known as citizens' associations or non-governmental organizations)

1.1. Evaluate the legal framework for employment in civil society organizations.

1. The legal framework does not treat CSOs in the same way as other employers. Practices of the state are alarming, and lead to a nonfunctional situation
2. The legal framework does not guarantee employment standards within CSOs, and the situation is threatening
3. The legal framework is the same for both CSOs and employers
4. The legal framework is optimal and guarantees further development
5. The legal framework is the best possible

Please indicate the ordinal number of one of the above-mentioned answers: _____

Comment:

1.2. Evaluate the stimulation measures for employment: are CSOs treated like other employers?

1. Stimulation measures do not treat CSOs in an equal manner to other employers, which is threatening to CSOs and leads to their nonfunctionality
2. Stimulation measures are not equal, CSOs report this, and consequently their work is jeopardized
3. Stimulation measures are equal for CSOs and other employers
4. Stimulation measures are equal CSOs and other employers, but the measures are particularly adjusted to CSOs
5. Stimulation measures are the best possible

Please indicate the ordinal number of one of the above-mentioned answers: _____

Comment:

1.3. Evaluate the recording of regular statistics on the number of CSO employees.

1. There are no regular statistics on the number of employees within CSOs. This is quite threatening for CSOs and leads to their nonfunctionality
2. Statistics are not regularly kept on the number of employees within CSOs, or on what is reported by CSO. This jeopardizes their work
3. Regular statistics are kept on the number of employees within CSOs
4. Regular statistics are kept on the number of employees within CSOs, data are proceeded and this leads to further development
5. Regular statistics are kept on the number of employees within CSOs, in the best possible way

Please indicate the ordinal number of one of the above-mentioned answers: _____

Comment:

2. Volunteerism

2.2. Evaluate the legal framework for volunteerism

1. The legal framework is not good, the situation is disheartening and leads to nonfunctionality
2. The legal framework does not guarantee volunteering standards, and is disheartening
3. The legal framework is good
4. The legal framework is good and further development of volunteerism is provided
5. The legal framework is the best possible, and incorporates best practices

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Please indicate the ordinal number of one of the above-mentioned answers: _____
Comment:

2.2. Evaluate the state's stimulation measures for volunteerism development and promotion.

1. Stimulation measures do not exist, the situation is disheartening and leads to nonfunctionality
2. Stimulation measures do not exist. CSOs report this, and consequently their work is jeopardized
3. Stimulation measures exist but they are insufficiently developed
4. Stimulation measures exist and enable further development of volunteerism
5. Stimulation measures are the best possible

Please indicate the ordinal number of one of the above-mentioned answers: _____
Comment:

2.3. Contractual relations and protection are clearly defined in organized volunteering.

1. Contractual relations are not clearly defined, the situation is disheartening and leads to nonfunctionality
2. Contractual relations are not clearly defined. CSOs report this, and consequently their work is jeopardized
3. Contractual relations and protection are clearly defined in organized volunteering
4. Contractual relations and protection are clearly defined in organized volunteering, and there is space for additional consultation between volunteers and volunteering organizers
5. Contractual relations and protection are clear and well-defined in the organization of volunteering

Please indicate the ordinal number of one of the above-mentioned answers): _____
Comment:

2.4. Evaluate the application of volunteering stimulation measures, their transparency and the extent to which policies and laws are being implemented

1. Stimulation measures and laws are not being implemented, the situation is disheartening and leads to nonfunctionality
2. Stimulation measures and laws are selectively implemented, and CSOs report this
3. Stimulation measures and laws are being implemented
4. Stimulation measures and laws are being implemented in a good way, and further development is enabled
5. Stimulation measures and laws are being implemented in the best possible way

Please indicate the ordinal number of one of the above-mentioned answers: _____
Comment:

2.5. Evaluate the administrative procedures for organizers of volunteering activities.

1. Procedures are too complicated with many needless costs, the situation is threatening and leads to nonfunctionality
2. Procedures are complicated, CSOs report this and consequently their work is jeopardized
3. Procedures are not complicated
4. Procedures are not complicated and are being improved
5. Procedures are not complicated, there are no costs and the situation is the best possible

Please indicate the ordinal number of one of the above-mentioned answers: _____
Comment:

2.6. Evaluate potential restrictions to volunteerism, where volunteerism is apparent in all its forms.

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1. Restrictions are frequent, volunteerism appears in all its forms, the situation is disheartening and leads to nonfunctionality
 2. Restrictions exist, CSOs report them, and consequently their work is jeopardized
 3. There are no complaints about restrictions to volunteerism, volunteerism is apparent in almost all its forms
 4. There are no complaints about restrictions to volunteerism, new forms of volunteerism are being developed
 5. There are no complaints about restrictions to volunteerism, volunteerism is apparent in all its forms
- Please indicate the ordinal number of one of the above-mentioned answers) _____

Comment:

3. Non-formal education

3.1. Evaluate the promotion of non-formal education through existing laws, strategies and policies

1. Legal framework/policies/strategies do not promote non-formal education, the situation is frightening for further development of non-formal education and leads towards non-functionality
2. Legal framework/policies/strategies do not promote non-formal education, CSOs are sporadically occupied by this issue
3. Legal framework/policies/strategies promote non-formal education
4. Legal framework/policies/strategies promote non-formal education enabling simple further development
5. Legal framework/policies/strategies promote non-formal education in a best possible way

Please indicate the ordinal number of one of the above-mentioned answers: _____

Comment:

3.2. Evaluate the extent of inclusion of non-formal education into formal education at all levels through existing subjects

1. Non-formal education is not included in formal education at all levels, the situation is disheartening for further development of non-formal education and leads to nonfunctionality
2. Non-formal education is not included in formal education at all levels, CSOs sporadically work to promote inclusion of non-formal education into formal education
3. Non-formal education is not included in formal education at all levels, but CSOs intensively work on its inclusion
4. Non-formal education is included in formal education at all levels, and there is potential for further development
5. Non-formal education is included in formal education at all levels in the best possible way

Please indicate the ordinal number of one of the above-mentioned answers: _____

Comment:

3.3. Evaluate the possibility of civic engagement of CSOs within formal education.

1. Civic engagement is not possible at all levels of formal education, the situation is threatening for the further development of civic engagement
2. Civic engagement is not possible at all levels of formal education, CSOs cooperate only sporadically with formal education institutions
3. Civic engagement is possible at all levels of formal education, CSOs cooperate only sporadically with formal education institutions
4. Civic engagement is possible at all levels of formal education, CSOs cooperate continually with educational institutions, this cooperation enables further development

5. Civic engagement is possible at all levels of formal education, CSOs cooperate continually with institutions, this cooperation is maximally exploited

Please indicate the ordinal number of one of the above-mentioned answers: _____

Comment:

3.4. Evaluate the acknowledgment of non-formal education organized by CSOs.

1. Non-formal education organized by CSOs is not acknowledged, the situation is disheartening for the further development of non-formal education
2. Non-formal education organized by CSOs is not acknowledged, CSOs organize non-formal education, the standardization of non-formal education is not developed
3. Non-formal education organized by CSOs is not acknowledged, CSOs organize non-formal education, standards within non-formal education are good
4. Non-formal education organized by CSOs is acknowledged, CSOs organize non-formal education, the future of non-formal education is promising
5. Non-formal education organized by CSOs is acknowledged, CSOs organize non-formal education, cooperation between formal education institutions and CSOs is excellent

Please indicate the ordinal number of one of the above-mentioned answers: _____

Comment:

5. Questionnaire for sub-area 3.2.

1. Has the organization ever participated in public consultations, organized by any institution as prescribed by the Rules on Consultations related to the creation of BiH legislation?¹²⁴

Yes No

If Yes, how many times did you participate in consultations?

2. Have you ever submitted comments in writing regarding legal regulations in public consultation procedures?

Yes No

3. Did the organization make agreements regarding inclusion in the public consultation process with any institutions?

Yes No

4. Is the organization registered in one of the existing databases kept by institutions, and utilized for the needs of public consultations?

Yes No

¹²⁴ Rules on Consultations related to BiH legislation creation: www.mpr.gov.ba/userfiles/file/Javne%20konsultacije/Pravila%20za%20konsultacije.pdf

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5. Have you ever received a response from an institution to which you sent the comments, stating that your comments were accepted/rejected?

Yes No

6. In your opinion, do institutions have a clearly developed methodology for collecting and processing comments submitted during the consultation process?

Yes No

7. Do institutions announce the list of normative-legal issues on their websites, and deliver them to interested organizations and individuals from the list and those who ask for it in writing (Article 5 and Article 7 of PJK)?

Yes No

8. Has the organization ever been asked by an institution to participate in working groups for the creation of legislation?

Yes No

9. In your opinion, is the existing mechanism for public consultations well utilized?

Yes No

Comment:

6. Questionnaire for sub-area 3.3.

1. Are you familiar with the legal options and provisions according to which CSOs are able to provide certain services (education, health, social services, etc.)?

Yes No

2. Are there obstacles for CSOs which are not defined by law in the provision of certain services?

Yes No

If Yes, what are these obstacles?

3. Do CSOs have to realize additional demands if they want to provide some of these services?

Yes No

If Yes, please explain:

4. Can CSOs receive answers from the government sector about the provision of certain services in competition with other service providers?

Yes No

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5. Are CSOs involved in all phases of the development of service provision, and what are those phases (e.g. needs assessment, determination of specific services, monitoring and evaluation)?
- Yes No
6. Are you familiar with the procedures for CSOs to obtain licenses for the provision of certain services (e.g. establishment of a safe house, therapeutic community, home care and assistance) and how do you evaluate those procedures (complicated, lengthy)?
- Yes No
7. In what way does the government sector provide funding for the services delivered by CSOs?
8. Are there any legal obstacles for CSOs to be contracted by the government sector for the provision of certain services?
- Yes No

If Yes, what are these obstacles?

9. What kind of agreement with the governmental sector is to be signed by CSOs for providing services if they are awarded a contract (short-term, mid-term, long-term)?
10. Do CSOs receive sufficient funds from the government sector to cover the basic costs of the services for which they signed the contract, including proportionate organization costs?
- Yes No

If Yes, please explain the dynamics of these fund installments:

11. What do you think about the procedures and criteria on which fund allocation for certain services are based (procedures are clear and transparent, price is the main criterion for vendor selection, service quality is the main criterion for bidder selection, there is no possibility of conflict of interest, the applicant is entitled to submit an appeal against the competition results, etc.)?
12. Do you consider open call procedures established by the government sector for CSO service provision fair and transparent?
- Yes No
13. Do you find government officials competent in organizing procedures and open calls for CSO service funding?
- Yes No
14. Are there legal options for the monitoring of service provision, and to what controls and evaluations are CSOs subject?
15. Is there quality control for the services provided by CSOs, and is this information available to the public?
- Yes No

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If Yes, please indicate what these mechanisms of control are, and in which way data are made available to the public:

7. Questionnaires for Institutions for sub-area 3.2.

Name of Institution:

Date:

Place:

Questions:

1. Does the institution conduct consultations as prescribed in the Rules on Consultations in BiH draft legislation?¹²⁵
 Yes No

2. If Yes, does the institution evaluate the impact of regulations to the public and determine the form of consultations (Article 8)?
 Yes No

3. Does the institution fulfil its obligations as outlined in the Rules, in those areas that are of importance to the public (Article 8 and Article 15-23)?
 Yes No

4. How many consultations were held in 2013?
Number of minimal consultations:___ Number of extensive consultations:___

5. Has the institution developed internal procedures that elaborate on the Rules on Consultations – Book of Regulations (Article 23-27)?
 Yes No

6. Is there an appointed coordinator for consultations within the institution (Article 4)?
 Yes No

7. Has the institution made a list of CSOs and individuals interested in consultations (Article 3)?
 Yes No

8. Has the institution made an agreement with CSOs and individuals for consultations (Article 28)?

¹²⁵ Rules on Consultations related to BiH legislation creation: www.mpr.gov.ba/userfiles/file/Javne%20konsultacije/Pravila%20za%20konsultacije.pdf

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Yes No

9. Does the institution have a developed methodology for collecting and processing comments obtained during the consultation process?

Yes No

10. Does the institution announce a list of normative-legal issues on its website, and deliver it to interested organizations and individuals from this list, and to those who request it in writing (Article 5 and Article 7)?

Yes No

11. Have CSO representatives been involved in working groups that created regulations for the institution?

Yes No



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