



BALKAN CIVIL SOCIETY DEVELOPMENT NETWORK



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

Monitoring Matrix on Enabling Environment for Civil Society Development

COUNTRY REPORT FOR BOSNIA & HERZEGOVINA 2014



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List of Abbreviations

BCSDN	Balkan Civil Society Development Network
BD	Brčko District
BiH	Bosnia and Herzegovina
CBGI	Capacity Building of Government Institutions project
CSPC	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

Civil Society and Civil Society Development in Bosnia and Herzegovina²

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, practical implementation of these standards is not at the satisfactory level making it difficult for civil society to experience its development. Discrepancy is particularly noticeable between the legislative framework which defines activities of associations and foundations³ and creates a generally harmonized environment for their establishment and operation and inconsistency in implementation of these laws in practice, the consequence of these differences result in different treatment of CSOs based on the administrative level on which they are registered.

The mentioned 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. Moreover, 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 funding their programs. Allocation of the funds is additionally hindered by lack of transparent and fair mechanisms for distribution, as well as defined and clear procedures for the monitoring and evaluation of funded programs. Thus, transparency and efficiency in the use of support directed to CSOs is crucial to the development and encouragement of civil society by the public administration. What additionally contributed to making the financial environment of CSOs even more complicated is the reduction of foreign funds available to CSOs in Bosnia and Herzegovina. The decline in the number of programs supported by international donors as well as the amount of funds, resulted in CSOs' increased demand for reliance on government support.

When analyzing the **relationship between the state and CSOs**, it can be concluded that there is no sufficient and constructive cooperation or understanding between government and civil society. The 2007 signing of the Cooperation Agreement⁴ between the BiH Council of Ministers and the Non-Governmental Sector in BiH should have improved the situation, however this chance for establishing cooperation remained unutilized. The fact that there are no adequate and necessary legal and institutional mechanisms for proper implementation of inter-sector partnership and civil dialogue at neither state nor entity level further obstructs relations between the two. The Strategy for Creation of an Enabling Environment for the Development of a Sustainable Civil Society has not been developed yet. The Rules on Consultations on Legislative

² Country report for BiH 2013

³ State and entity laws on associations and foundations, [Zakonom o udruženjima i fondacijama Bosne i Hercegovine](#) ("Službeni glasnik BiH", br. 32/01), [Zakonom o izmjeni Zakona o udruženjima i fondacijama Bosne i Hercegovine](#) ("Službeni glasnik BiH" br. 42/03), [Zakonom o izmjenama i dopunama Zakona o udruženjima i fondacijama Bosne i Hercegovine](#) ("Službeni glasnik BiH", br. 63/08) i [Zakonom o izmjenama i dopunama Zakona o udruženjima i fondacijama Bosne i Hercegovine](#) ("Službeni glasnik BiH", br. 76/11), te u skladu sa [Pravilnikom o načinu vođenja registra udruženja i fondacija Bosne i Hercegovine i stranih i međunarodnih udruženja i fondacija i drugih neprofitnih organizacija](#) ("Službeni glasnik BiH", broj: 44/10); <http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=4d2f2d862>; http://www.fbihvlada.gov.ba/bosanski/zakoni/2002/zakoni/47_bos.htm; <http://www.skupstinabd.ba/zakoni/152/b/Zakon%20o%20udruzenjima%20i%20fondacijama-lokalna%20verzija-B.pdf>

⁴ The Agreement on Cooperation between the Council of Ministers of BH and the Non-Governmental Sector in Bosnia and Herzegovina, 2007, available at: http://civilnodrustvo.ba/files/docs/Agreement_on_cooperation.pdf?phpMyAdmin=4dbc505c79a6t34771d80r81d7&phpMyAdmin=687c50a0fa0ct42d51eb1r81d7

Drafting in BiH⁵ 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 capacities of CSOs, and empower them to continuously articulate, promote, and act according to the needs and interests of citizens.

1. Key Findings⁶

Most of currently registered associations are not non-for-profit organizations in essence, which is the case with professional sport clubs registered under the Law for Associations and Foundations⁷, that are functioning as profit organizations. The status of these organizations, namely the non-for-profit character, allows some of them to be exempt from paying taxes and thus be privileged against other non-for-profit organizations.⁸ Additionally, the same status of these organizations discriminates other profitable entities who fulfill their legal obligations of paying taxes with no possibility of becoming exempt from tax payments.

Another noticeable change in the area of financial viability and sustainability of CSOs, particularly related to human resources is the issue of volunteering. Volunteering is regulated by the RS Law on Volunteering (2013) and by the FBiH Law on Volunteering (2012),⁹ which define the basic terms related to volunteering, principles of volunteering, contracts, rights and obligations of volunteers and organizers of volunteer work, and supervision of performance of volunteers. 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 its significance due to insufficient implementation on the ground. CSOs are almost united in their assessment that the situation is poor regarding transparency in giving financial stimulus to volunteers - 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 engagement. The "Strategy on Development and Improvement of Volunteering in Republika Srpska"¹⁰ is adopted but it is a matter of question if the Budget of 2015 will support the implementation of the main issues of the Strategy and improve the situation in area of voluntary work.

Involvement of CSOs in policy – and decision making processes remains insufficiently regulated. The ministries have no clear methodology for collection and processing of comments by CSOs and citizens, and coordinators in charged for communication between ministries and CSOs rarely inform CSOs of whether their comments were accepted, shortened 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;¹¹ therefore, investing in educating civil servants is crucial for implementation of the Rules. The Council of Ministers adopted new Rules of Consultations on September, 2014 that comprising solutions:

⁵http://www.mpr.gov.ba/web_dokumenti/Pravilnik%20za%20konzultacije%20sa%20javnoscu.pdf

⁶ Findings from 1.-3. are related to research in 2014, 4.-6. are from Report 2013

⁷ Law on Associations and Foundations of Bosnia and Herzegovina ("Official Gazette of BiH", No.: 32/01, 42/03, 63/08 and 76/11

⁸ The Parliament of Federation of BiH adopted the Law on payment and partial writing off debts for sport clubs in Federation BiH.

⁹ The Brčko District does not have a law specifically applicable to the area of volunteering.

¹⁰ Strategy for Improvement and Development of Volunteering in the Republic of Srpska 2014-2018, available at:

<http://www.icnl.org/research/library/files/Bosnia%20and%20Herzegovina/strategy.pdf>

¹¹ 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 the Council session on the basis of failure to conduct public consultations.

amendments to problematic articles; introduction of disciplinary measures in case of failure to implement the Rules; and a regular annual evaluation of their implementation.¹² In majority of cases CSOs did not insist on consistent implementation the Rules, except in two occasions.¹³

At the level of the Federation and cantons¹⁴ 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.¹⁵

No	Top findings from the report.	Reference	
		Area	
1.	The Law on payment and partial writing off a debts for sport clubs in Federation BiH grants privileged status to sport organizations at the expense of other CSOs ¹⁶	Area	2.
		Sub-Area	2.1.
2.	Improvement regarding legal framework on volunteerism are noticeable in RS, through the adoption of Law on Volunteerism and Strategy on development and improvement of volunteering in Republika Srpska. In Federation, the Law on Volunteering lacks concrete activities by the competent ministry, the Ministry of Justice of FBiH, regarding the implementation of the mentioned law. Brcko District still lacks legislation that regulates volunteering.	Area	2
		Sub-Area	2.3.
3.	At the level of the Federation a “ <i>Regulation on rules for participation of interested public for procedure of preparations of federal legal regulations and other acts</i> ” has been adopted. ¹⁷ In comparison to 2012-2013 period, there is a slight progress in application of the Rules by certain number of federal ministries. Participation of representatives of CSOs in work of working groups for creation of rules is not regulated by any legislative act, but lately we have more examples ¹⁸ where CSOs have been directly included in work of a working group for creation of certain regulation/document. ¹⁹	Area	3.
		Sub-Area	3.2.

¹² 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.

¹³ 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.

¹⁴ Country report for BiH 2013

¹⁵ 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.

¹⁶ « Official Gazette of the Federation of BiH », no. 45/14 /6.6.2014./

¹⁷ Based on article 19. subpart 1. of the Law on the Government of the Federation of Bosnia and Herzegovina (“Official Gazette of the Federation of BiH”, no. 1/94, 8/95, 58/02, 19/03, 2/06, 7/06), Government of the Federation of Bosnia and Herzegovina at 53rd session held on June 6, 2012.

¹⁸ Ministry of Trade of FBiH in cooperation with associations of consumers has created Regulation on financing and co-financing of NGOs-associations of consumers, Mostar, October, 2014.

¹⁹ One of the good examples of inclusion of CSOs in work of working groups for creation of law is participation of NGO ‘Vaša prava BiH’ in work of working group that was preparing a fourth draft of the Law on Free Legal Aid.

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.	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's contribution and relevance.	Area	1.
		Sub-Area	1.1.
6.	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. Key Policy Recommendations

The Law(s) on Associations and Foundations, at all three levels – state BiH, both entities Federation BiH (FBiH) and Republika Srpska (RS) as well as Distrikt Brčko, have to be changed and modified but also these laws should be harmonized in order to avoid problems in the functioning of associations and foundations at the whole territory of Bosnia and Herzegovina.

The forms and mechanisms of organization of citizens' participation in decision-making processes are primarily a task of the government. Therefore, adopting decisions for establishing units for cooperation with CSOs at all levels of Governments, monitoring and assisting their work as well as involving them in decision-making in a timely manner should be of priority and importance for policy-makers.

No	Top recommendations for reform	Reference	
1.	Entity laws on income tax and profit tax for legal persons should be revised and harmonized. Laws on activities on public benefits should be determined at level of FBiH.	Area	2.
		Sub-Area	2.1.
2.	Pass a Law on Volunteering in Brčko District. In cooperation with Ministry of Justice, ensure the implementation and promotion of the Law on Volunteering in FBiH.	Area	2
		Sub-Area	2.3.
3.	Change and harmonize existing Rules of Consultation at entity level, and implement them at entity and state level, as well adopt the Rules at canton level of authority.	Area	3.
		Sub-Area	3.2.

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.	Change and harmonize Law on Associations and Foundations at the levels of State, Entities and District Brčko. Establish a unique register to provide information on CSOs in BiH and establishing statistics of the number, structure and all other relevant details of CSOs.	Area	1.
		Sub-Area	1.1.
6.	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.

3. 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). This Monitoring Report is the second of this kind to be published on a yearly basis for at least the 48-month duration of the project. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev) developed by BCSDN and ECNL. It is part of a series of country reports covering 8 countries in the Western Balkans and Turkey²⁰. A region Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area at www.monitoringmatrix.net.

The Monitoring Matrix presents the main principles and standards that have been identified as crucial to exist in order for the legal environment to be considered as supportive and enabling for the operations of CSOs. The Matrix is organized around three areas, each divided by sub-areas: (1) Basic Legal Guarantees of Freedoms; (2) Framework for CSOs’ Financial Viability and Sustainability; (3) Government – CSO Relationship. The principles, standards and indicators have been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They rely on the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries. The Matrix aims to define an optimum situation desired for civil society to function and develop effectively and at the same time it aims to set a realistic framework which can be followed and implemented by public authorities. Having in mind that the main challenges lies in implementation, the indicators are defined to monitor the situation on level of legal framework and practical application.

Annual monitoring and reporting in 2014 is focused on 12 core standards:

Area 1: Basic Legal Guarantees of Freedoms Sub-area 1.1.: Freedom of association, standard 2. CSOs operate freely without unwarranted state interference in their internal governance and activities; standard 3. 3. CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities; Sub-area 1.2.: Related Freedom, standard 1. CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly

²⁰ Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

Area 2: Framework for CSOs' Financial Viability and Sustainability Sub-area 2.1: Tax/fiscal treatment for CSOs and their donors, standard 1. Tax benefits are available on various income sources of CSOs; Sub-area 2.2.: State support, standard 1. Public funding is available for institutional development of CSOs, project support and co-financing of EU and other grants; standard 2. Public funding is distributed in a prescribed and transparent manner; Sub-area 2.3: Human resources, standard, standard 1. CSOs are treated in an equal manner to other employers; standard 2. There are enabling volunteering policies and laws

Area 3: Government – CSO Relationship Sub-area 3.1.: Framework and practices for cooperation, standard 2. The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with the sector; Sub-area 3.2.: Involvement in policy- and decision-making processes, standard 1. There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner; standard 3. CSOs representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes; Area 3: Government – CSO Relationship - Sub-area 3.3: There is an environment that supports the CSOs participation in providing services, standard 1. CSOs are engaged in providing a variety of services and compete for government contracts on an equal footing with other services providers.

The notable changes are registered in the following sub-areas and standards - **sub-area 2.1. Tax/fiscal treatment of CSOs and their donors, Standard 1. Tax benefits are available on various income sources of CSOs; 2.3.: Human resources, Standard 2. enabling volunteering policies and laws; Sub-area 3.2.: Involvement in policy- and decision-making processes, Standard 1. There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner.**

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 for 2014, and refers to both the legislative framework and its related practice, with an emphasis on key findings and recommendations for improvement. This report is in substance based on the monitoring and elaborating of only two areas, **Area 2:** Framework for CSO Financial Viability and Sustainability, Sub-areas 2.1.: Tax/fiscal treatment of CSOs and their donors 2.3: Human Resources and **Area 3:** Government-CSO Relationship, Sub-area 3.2: Involvement in policy and decision making processes, due to the fact that only in the mentioned areas some measurable changes have occurred. The other areas regarding enabling environment for civil society in 2014 remain unchanged and practically are identical to situation in 2013 in legislation and aspects of practice.

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 enabling environment and sustainability of civil society at regional and country level and to strengthen structures for CSO integration and participation in EU policy and accession process on European and country level.

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). This is second Monitoring Report to be published on a yearly basis for at least the 48-month duration of the project. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev). It is part of a series of country reports covering 8 countries in the Western Balkans and Turkey²¹. A regional Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-

area at www.monitoringmatrix.net

The Monitoring Matrix presents the main principles and standards that have been identified as crucial to exist in order for the legal environment to be considered as supportive and enabling for the operations of CSOs. It underscores the fact that enabling environment is a complex concept, which includes various areas and depends on several factors and phases of development of the society and the civil society sector.

This Matrix does not aim to embrace all enabling environment issues, Rather it highlights those that the experts have found to be most important for the countries which they operate in. Therefore, the standards and indicators have

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

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

been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They have been drawn from the experiences of

²¹ Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

the CSOs in the countries in terms of the legal environment as well as the practice and challenges with its implementation. The development of the principles, standards and indicators have been done with consideration of the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries.

The 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 practices of its application, the standards are further explained through indicators. The full Matrix is available in section IV. Findings and Recommendation section.

The development of the Monitoring Matrix on enabling environment for CSDev was part of a collective effort of CSO experts and practitioners from the BCSDN network of members and partners and with expert and strategic support by ECNL. The 11-member expert team spanned a variety of non-profit and CSO specific knowledge and experience, both legal and practical, and included experts from 10 Balkan countries. The work on the Matrix included working meetings and on-line work by experts, which was then scrutinized via stakeholder focus group and public consultations. The work on the 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

Since the last Monitoring Report from 2013, it can be noted that the situation regarding civil society in BiH has not experienced change in some of its core areas. As noted in the previous Monitoring Report, the research with aggregated data on the number of CSOs in BiH dates back from 2009.²² No relevant research on this topic has been conducted since then.²³ Moreover, the absence of the unique registry which would show the number and structure of CSOs in BiH still remains the key obstacle to any analysis of civil society development. Thus, the lacks of relevant records prevent the statistics on the civil society in BiH to be presented.

In addition to deficiency of data, one of the major impediments for civil society development continues to be recurrently political crisis in BiH. Ever present nationalistic rhetoric, concentrated on protecting interests of three main ethnic groups, directly obstructs European integration process of the country. This trend is noted in the Progress Report where it is stated that: "There [in BiH] remains a lack of collective political will on the part of the political leaders to address the reforms necessary for progress on the EU path."²⁴ The same document notices that: "Cooperation with civil society at the State, Entity and cantonal levels remains weak."²⁵

Another challenge CSOs are faced with is their acceptance by community as an element which brings change and prosperity. Widely held belief among citizens is that CSOs' dependence on donor funding redirects CSO motivation from meeting citizens' demands to fulfilling donors' expectations. Failure to meet expectations of the citizens has created division between CSOs and those who seek to be represented by them. CSOs' inability to deeply root itself in the community thus resulted in negative perception directed towards them. As noted in the previous

²² Country report for BiH 2013

²³ Research from 2009 showed that there were 12.189 CSOs in BiH. Due to the duplication produced by overlapping of registers at different administrative levels, this number cannot be considered accurate. The number of active CSOs in 2009 is estimated to be 4,629.

²⁴ EC, "Bosnia and Herzegovina Progress Report 2014" Brussels, 8.10.2014, p. 2,

http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-bosnia-and-herzegovina-progress-report_en.pdf

²⁵ Ibid

report, this negative perception of CSOs weakens the efforts of few dedicated to advocating increase of transparency and accountability of government.²⁶ ;

During 2014 there were no significant changes in the legislation and implementation of policies that regulate and ensure enabling environment for development of civil society in Bosnia and Herzegovina. In the following text, the key events that marked the area of enabling environment for civil society will be discussed, since these will surely have influence and consequences on the further development and ambient in which civil society and whole community in Bosnia and Herzegovina is developing. In the next pages three main events in 2014 will be elaborated which are showing that civil society in BiH is still weak, not adequately organized as well as without enough solidarity among organizations and citizens to act as strong and self-confident partners to Government. At the same time, civil society in BiH hasn't had enough power to enforce the Government to cooperate or hear the citizens' voice. However, the events during 2014, in which civil society had been involved, showed all the negative but also some positive aspects of enabling environment for CSOs, which will be elaborated in the following text.

First among these events are the **February 2014 protests** which from the very beginning and its start in Tuzla have demonstrated violent character, different in escalation and hardness from anything seen in BiH before. Demonstrations erupted as an expression of final dissatisfaction of workers from several factories in Tuzla Canton because during their privatizations, which also had illegal dimensions and will have its epilogue before the court, they lost their jobs and salaries for period of few years. The workers lost the property at the factories that could be used for bankruptcy procedure to repay all the debts, because all movable and real estate was made worthless and used as a mortgage.

What initially started as a workers protest, ended up as expression of dissatisfaction of large number of citizens. This wave of dissatisfaction erupted due to various socio-economic reasons, such as small pensions, bad public safety, high unemployment rates, particularly among younger population, etc.

Similar events have spread all over other cantons, particularly in cities such as Sarajevo, Zenica, Bihac, Travnik and Mostar with similar violent manifestations, so the demonstrations turned into a nation-wide social unrest. In Sarajevo buildings of the cantonal government and Centar Municipality, along with the building of the Presidency of BiH as one of the most significant state institutions were also set on fire.

Very soon, many political parties followed up and connected with the protests, no matter whether they are in power or opposition, wanting to capitalize on the expressed citizen's dissatisfaction. The epilogue was resignations and removals of officials in the governments of four cantons. There was also some clear requests for resignation of the Government of the Federation of BiH and members of the Presidency of BiH but at that time, the energy of protesters was already vanished and political manipulations started to arise.

Soon after a Plenum of Citizens have been formed as a part of citizen's gathering, with one purpose and that is to unite, catalize and formulate all differences and dissatisfactions into clear and concrete requests towards authorities. But Plenums that were led by anonymous, individuals

²⁶ Country report for BiH 2013

who arose from movements, in non-professional and unskilled manner, lost their legitimacy and effectiveness very fast, so majority of them were shut down already during March.

Regardless of all disadvantages, acceptance or non-acceptance of violent character by the public, these initially worker movements have encouraged other citizens to express their grievances in the streets. Positive results are, among others, forcing of one part of the authorities to resign and give up on privileges, but results have also shown lack of leadership and organizational capacities for such kind of social movements.

Serious objection could be sent to trade unions who acted as a confused actor and who did not respond to its obligation and expected constructive role. If everything is seen through a prism of the common citizen, this is a measurable jump towards awareness raising of active and participatory citizenship based on numbers of people gathered at streets, but also qualitative progress based on bodies created for the first time – the plenums. The plenums had in their essence civic background, in development of something that should be called awaken civic consciousness. The citizens demonstrated attitude of non-acceptance of authorities who do not fulfill basic obligations and assignments that have a key impact on quality of life which literally dropped at level of existential minimum. It can be expected that for all future protests citizens will not need big reasons to express their dissatisfaction but also that capability to create and deliver concrete requests will be at more mature level.

Another major event that marked year 2014 were **floods and landslides in May** that struck almost half of the north of Bosnia and Herzegovina. This massive destruction of residential and business areas showed not only the lack of engagement of authorities and responsible services on prevention in past years, but also their complete unreadiness for adequate reaction in such sudden natural disasters.

Numerous non-government organizations, associations and individuals have shown their capability and awareness for adequate engagement to prevent greater damages and sanitize those occurred, to collect and distribute humanitarian aid and readiness to engage in monitoring of spending of funds from Donor's conference for rebuilding of flooded areas.

Big achievement of civil society and clear evidence of awareness of both associations and individuals was, among other things, to help each other across institutional borders of municipalities, cantons and entities, including significant ethnic/national component. It was happened despite of generally accepted stereotype that this is insurmountable obstacle, especially at the places where individuals or groups of people have been in danger no matter of the side of the imaginary lines and ethnic group they belonged to.

These events of floods and landslides as well as the threat of new ones, have significantly risen awareness on need of people to take control in their hands and do not wait for authorities to take care of prevention measures and other tasks which are their regular obligation. For sure, this is going to raise level of self-respect and self-confidence among citizens, so in the future more resolute response and competent relation can be requested towards assignments that are going to be awarded to any future elected authorities.

Third significant event for civil society were **General Elections held in October 2014** that to great extent defined lack of authorities' readiness and ability to more actively deal with changes and improvements of legislation related to civil society, in last six months of their time in office. With all mentioned events, with protest and floods, it is completely logical that legislative ambient

for civil society has not been changed during 2014 because politicians had excuse not to work their job and fulfill obligations.

Non-government organizations gathered in coalition 'Pod lupom' have conducted monitoring and followed regularity election process giving in that way significant contribution to greater responsibility and awareness of political parties subject that procedures have to be and must be realized in accordance with the Election Law. Some other coalitions and individual organizations also gave their contribution during pre-election process by raising awareness among citizens on their need and obligation to go out and vote; to use possibility that through open lists give support to candidates with noticeable achievements from previous period, to encourage woman to be candidates and to elect female candidates with unquestionable results in their professional fields.

As matter of fact, results itself do not suggest orientation of voters towards civic options, rather to nationalist parties but someone can also say that awareness of citizens was at satisfactory level in direction to change its decision and not vote to those political options who previously betrayed trust of voters given at 2010 General Elections. It is sure that in next period of time after formation of institutions of authority, a very critical approach and control over the implementation of promised policies from political campaigns can be expected.

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

Due to the lack of substantial changes in the most of Matrix segments, as it is previously explained, CSPC elaborated only Area 2: Framework for CSO Financial Viability and Sustainability, Sub-area 2.1. Tax/fiscal treatment of CSOs and their donors (standard 1) and sub-area 2.3: Human Resources (standard 2), Area 3: Government-CSO Relationship, Sub-area 3.2: Involvement in policy and decision making processes (standard 1) in which notable changes are registered.

5. Acknowledgements and thanks

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 for 2014 with inputs of Mrs. Snježana Ninković-Ivandić from the Association for Democratic Initiatives, Mr. Ante Jurić Marijanović from the Youth Communication Center (OKC Banja Luka), and Mr. Slaviša Prorok from the CSPC.

CSPC would like to thank the Balkan Civil Society Development Network 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.

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III. Methodology

1. Overview of the methodological approach

Having in mind that the very wide survey was provided in 2013, using questionnaire, interviews, meetings, etc., but with fairly lack of interest from organizations to participate, as well as with before elaborated situation in 2014 which affected many organizations, CSPC decided only to update the collected data from 2013 in the areas suggested by our researchers. Suggestions were made based on direct contacts with relevant stakeholders: CSOs and BiH Institutions representatives, international and domestic consultants, as well as representative of EU Capacity Building of Government Institutions Project (CBGI) “Strengthening capacities of government institutions for participation in political dialogue with civil society”.

During the research, several laws and regulations adopted in 2014 were analyzed. The research team participated to events focused on issues related to areas of their interest, as well as had a direct contact with distinguished individuals in both sectors. The all relevant sources for information like webs, portals, etc. were used for collecting and estimation of current status in relation to 2013.

The final list of contacted persons and attended events is attached as **Annex I**.

2. Participation of the CSO community

Based on the CSPC’s experiences with Questionnaire for preparation the Monitoring Report in 2013²⁷, as well as having in mind situation in BiH during the whole 2014 and significant engagement of NGOs, particularly in floods and landslides (several hundreds of NGOs were directly affected in flooded areas so their equipment and working places have been destroyed totally because mostly they rented/worked in premises in basements or ground floors), CSPC researchers directly contacted 10 distinguished NGOs in order to check possible changes and differences in practice.

3. Lessons-learnt

The Matrix is confirmed as 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 interested CSOs, as well as of

²⁷ The total number of distributed questionnaires was 1500; whereas the number of responses obtained for all treated sub areas is 35, i.e. to less than 3% of total number of questionnaires.

the experts conducting the survey. The applications of the Matrix, with the specific administrative structure of BiH in mind, should 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 should be more constructive but complete CSO environment has to be more mature in order to use the Matrix as a base for their campaigns. The experts in the acquisition of data and information was also considered as relatively interested, but not self-initiative enough. 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. Having in mind lack of improvements in 2014 CSPC expect a respectable feedback from associations, institutions and individuals to use the Report findings as the strongest advocacy tool.

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 two years of monitoring will be used to revise and compose a further improved methodology for future monitoring particularly having in mind the new composition of political parties in governments and parliaments after the General Elections 2014.

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 foundations²⁸ 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 sectorial and other laws on each administrative level, resulting in the creation of different environments for enabling their establishment.

As noted in the 2013 Report, 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.²⁹ In RS and at state level there are no laws specifically defining the status of humanitarian organizations.³⁰ 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. As in the previous year, the discrepancy between lists of permitted activities on state and entity level still remains unadjusted. The recommendations regarding this issue remain unchanged in this year as they were in the previous, namely harmonization of entity laws and tax regulation is needed.³¹ Moreover, the process of obtaining the status of Public Benefit still varies between state and entity levels, as it was the case in 2013, which resulted in the fact that very low number of CSOs obtained such a status.

Associations may establish unions or other forms of alliance, and freely associate and cooperate with international organizations to promote the same rights and interests. As indicated in the last year's report, more than 50 active CSO networks are present in BiH.

²⁸ 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).

²⁹ 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.

³⁰ 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.

³¹ Conclusions from the workshop organized by CSPC on 15 January 2014

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. Situation regarding forming a unique register of CSOs is unchanged compared to last year, which absence was highlighted in CSPC monitoring report.³² However, 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.³³ The registries are public, some of them are accessible online³⁴. 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. As noted in 2013, there is 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.³⁵ The Ministry of Justice of BiH has been addressing this issue for several years³⁶, 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.³⁷

Results of a survey conducted by CSPC in 2013 showed that 56% of analyzed CSOs evaluated process of registration as simple and attainable within prescribed 30 days.³⁸ Although this number cannot be validated with certainty today, it is however noticeable that CSOs still face some limitations during the registration process, such as the provision of additional requirements, selection of a name,³⁹ 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)⁴⁰.

As the report from 2013 stated, 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. According to CSPC survey form 2013, CSOs reported that the government did not interfere in their internal affairs. However, a few isolated cases of direct state interference in the internal matters of associations were recorded.⁴¹ To date, there is no record of a CSO being terminated by force of law. Control over the legality of

³² CSPC Monitoring Matrix Report 2013

³³ 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.

³⁴ http://www.mpr.gov.ba/organizacija_nadleznosti/uprava/registracije/udruzenja/RU_06_01_15.pdf

³⁵ CSPC Monitoring Matrix Report 2013

³⁶ 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.

³⁷ As foreseen at: <http://www.mpr.gov.ba/aktuelnosti/propisi/propisi/default.aspx?id=3842&langTag=bs-BA>.

³⁸ 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.

³⁹ 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.

⁴⁰ TACSO, BiH report for 2011, USAID Index of CSO sustainability for 2012

⁴¹ CSPC Monitoring Matrix Report 2013

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 occurred in which CSOs have been exposed to different pressures, which were generally politically motivated⁴² and/or expressed through repeated inspections (financial, labor, trade, sanitary).⁴³ Sanctions that CSOs or individuals incur in these cases were most often based on legal provisions, which were rarely, if ever, enforced.⁴⁴ 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.⁴⁵ 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,⁴⁶ 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.

The Ministry of Justice initiated amendments to the Law on associations and foundations and the first draft has been passed in procedure of public consultations.

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.

⁴² 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.

⁴³ 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.

⁴⁴ 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.513Kny6V.dpuf>

⁴⁵ This matter has been addressed in Area 2 of Section IV of this Report.

⁴⁶ 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.”⁴⁷ 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.⁴⁸ 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.⁴⁹

Citizens may also express their dissatisfaction with political events through spontaneous protests, as in the example of February Protests this year. Unlike all other governments’ and parliaments, which by their very nature are necessarily

The most significant gain to date of the workers’ uprising in Bosnia and Herzegovina is the foundation and daily activities of the Tuzla Plenum. It’s natural that in the town where the uprising began, where from the very beginning the strength of the movements’ working base was most clearly expressed – which had gathered around it the students, the unemployed and pensioners - would be the first to introduce into the life of the country a new political form in the service of the oppressed. form the public accordingly, and assembly. It is permitted to appeal this decision before

⁴⁷ Venice Commission and OSCE/ODIHR, Joint Opinion on the Act on Public Assembly of the Sarajevo Canton, **CDLAD(2010)036**, Venice, June 2010, p.3.

⁴⁸ Except for spaces determined in the official acts of the city and municipalities in the vicinity of: hospitals; kindergartens and primary schools; national parks and other protected facilities. They are also prohibited, on main, regional and local roads if they endanger traffic.

⁴⁹ 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. Immediately upon the receipt of the decision prohibiting public assembly, the organizer must, if possible remove publicly propounded notifications about the peaceful assembly. It is permitted to appeal this decision before the competent court.

bureaucratized, corrupt and represent a tool in the hands of politicians allied with tycoons and capitalists of all stripes, the Plenum is a body of the very people and it represents their interests. For this reason, the Plenums represent the most important political event of recent decades, not only in Bosnia and Herzegovina, but in the whole region. The meaning of the Plenum isn't temporary, nor does it represent a one-off episode. However the movement develops in the following weeks and months, no one will be able to erase its existence from the memory of the working class.

There are no official statistics 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 year, most often among protesters⁵⁰.

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.⁵¹

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. As stated in the Report 2013, the large number of court cases⁵² 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.

⁵⁰ http://bs.wikipedia.org/wiki/Protesti_u_Bosni_i_Hercegovini_%28februar_2014%29

⁵¹ 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>

⁵² 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.

CSO activists and journalists are 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.⁵³

While the legislative framework prohibits hate speech,⁵⁵ 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,⁵⁶ and therefore denial of genocide, war crimes or the Holocaust, among other offences, is not punished. Report from 2013 noted many cases in which representatives of CSO organizations were victims of hate speech, as well as verbal and other types of attacks. It also highlighted that members of CSOs dealing with human rights and protection of returnees, LGBT population, women and supporters of sports teams were particularly exposed to these forms of violence.⁵⁷

Numerous threats and acts of intimidation by political and religious authorities impeded investigative journalism. The national journalists' association recorded 44 violations of freedom of expression in as of November, including 3 physical assaults. In April, the OSCE representative on freedom of the media voiced concern over threats against journalists Predrag Lucic on online forums and Nebojsa Vukanovic by a religious leader and the overall hostile atmosphere for journalists⁵⁴.

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. According to report 2013, various forms of violations were recorded, such as the impossibility of determining accountability of public officials and the lack of adequate sanctions for withholding information, all underlining the necessity of harmonizing entity and state laws.⁵⁸ With respect to intervention/interference from public authorities⁵⁹, current practice still shows inconsistencies between laws at different authority levels.

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

⁵³ CSPC Monitoring Matrix Report 2013

⁵⁴ <http://www.hrw.org/world-report-%5Bscheduler-publish-yyyy%5D/world-report-2014-bosnia-and-herzegovina>

⁵⁵ 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.

⁵⁶ 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.

⁵⁷ CSPC Monitoring Matrix Report 2013

⁵⁸ CSPC Monitoring Matrix Report 2013

⁵⁹ 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.

appropriate public evaluation of their actions, through the media and other public communication channels.⁶⁰ “

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 Luka⁶¹ were revealed to the wider public, at which point it remained unclear whether or not these measures were taken in accordance with existing laws.⁶² 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.

Main recommendations for action:

- Establish a CSO cross-sectorial lobby group for the protection and public defense of the right to freedom of expression⁶³.
- 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

Financial aspect of CSOs' operations is regulated by legal framework, namely entity laws. They

⁶⁰ 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.

⁶¹ 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).

⁶² 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.

⁶³ Within the „Civil society sustainability project“ (2013-18) 12 sector networks are established and will be supported by the project

provide different legislative solutions for fiscal treatment of CSOs. It is worth noting that depending on the type of registration of an association, the eligibility to apply for funding from different levels of government varies (state, entity, cantonal and municipal).

As specified in the report 2013, if associations and foundations perform the non-profit activities for which they were established, then they 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. On the other hand, 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.⁶⁴ CSOs are not required to pay VAT on goods or services received in this manner, nor do they pay VAT on their further management.⁶⁵ 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.

A change in this year in the area of state support to CSOs was noted regarding fiscal treatment of sport clubs. At the Parliament of Federation BiH the Law on tax payment and partial writing off debts for sport clubs in Federation BiH⁶⁶ was adopted in April, 2014. The Law regulates conditions, modalities and procedures of matured and unpaid tax obligation, originated up to 31 December 2013, writing off penalties and costs of compulsory compensation of debt, for sport clubs in Federation BiH. There are also anticipated some modalities for reductions in payment off the head tax.

This Law is of certain importance for domestic sport and clubs having in mind their long term problem with debts exceeding millions KM. The Law will enable sport clubs to solve financial situation, provide solvency and create environment and circumstances for better functioning.

The main problem for sport clubs was that Tax administration refused to establish licenses for international contests and by adopting such regulations the gap have been avoided and clubs are able to participate at competition.

⁶⁴ 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.

⁶⁵ 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.

⁶⁶ Official gazette of Federation BiH «Službene novine Federacije BiH», broj 45/14 /6.6.2014./

On the other hand the Law created an environment of inequality in Federation BiH. The sport clubs, some of them are professional and profit organizations but anyway registered under Law for Associations and Foundations, are privileged against other associations. It is necessary to change and harmonized the Law(s) on Associations and Foundations, to provide better regulation for sport through Law on sports. It is necessary to improve procedures with registration by creating integrated registration data base as well as to define status of associations and foundations at all levels authorized for registration.

Main recommendations for action:

- Entity laws on income tax and profit tax for legal persons should be revised and harmonized. The Laws on activities on public benefits should be determined at level of FBiH⁶⁷
- 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 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 general trend of the funds allocation from BiH governments' budgets to non-governmental sector has been decreasing over the several past years and reached the level of 100,006,470.48 BAM⁶⁹ in 2012. Even though this declining trend continues, still it is an important source of support to CSOs. During the last decade, the involvement of international donors in BiH has been substantially reduced. Since BiH is no longer considered to be post-conflict zone, many multilateral agencies that were heavily involved in the country have either left or scaled

The trend of BiH governments' support to the non-government sector:

- 2007 – 107.219.316,05
- 2008 – 118.033.391,43
- 2010 – 114.078.193,73
- 2012 – 100.006.470,48⁶⁸

⁶⁷ Within the „Civil society sustainability project“ (2013-18) campaigns for the entity laws on income tax and profit tax for legal persons will be conducted

⁶⁸ 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'

⁶⁹ 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.

down their activities. Although foreign aid to BiH has decreased over the past decade, the level of donor assistance to civil society remains relatively high for the region. Having in mind that international donors are slowly withdrawing from the region, which affects BiH as well, state support became increasingly significant and ever more sought for.⁷⁰

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. 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.⁷¹

Organizations that receive funding from different levels of government may be grouped as follows: sports clubs/organizations (38.9%)⁷²; 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%).⁷³ For nearly all categories, the highest share of allocation occurs at a municipal level which has improved its methodology for allocation increasingly.⁷⁴

Government institutions' support funds for non-governmental organizations are most often awarded through public calls for funding proposals, inclusion in regular budgets or through public procurements. All three manners of funding are used at all levels of government. The ministries that allocate funds for such purposes publish the requirements for their allocation through public announcements for CSOs. The legal framework enables timely, informative, transparent and fair allocation procedures.⁷⁵

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

⁷⁰ Mladen Ostojic, Prof. Dr Adam Fagan, "Donor strategies and practices for supporting civil society in the Western Balkans", Balkan Civil Society Development Network, 2014, p.41-47, http://www.balkancsd.net/images/stories/Balkan_Civic_Practices_11_Donor_Strategies.pdf

⁷¹ CSPC Monitoring Matrix Report 2013

⁷² 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%.

⁷³ 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

⁷⁴ 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.

⁷⁵ 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.

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.

Main recommendations for action:

- Establish mechanisms for the transparent funding of CSO programs and projects from the budget, which 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.
- Create Law on sports and exclude treatment of sport clubs from Law on Associations and Foundation.

Sub-area 2.3.: Human resources

Throughout BiH, CSOs are still 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.⁷⁶ 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,⁷⁷ 380 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.

Although above stated treatment towards CSOs was not changed during 2014, changes were noted in 2014 in comparison to 2013 in the area of state policies that regulate volunteering. In March, 2014 the Government of the Republika Srpska adopted 'Strategy on development and improvement of volunteering in Republika Srpska' The Strategy itself is very significant because it is the first document that deals with volunteering in a strategic way in BiH, and also stipulates allocation of special part of budget of the Government of the RS to deal with this matter which

⁷⁶ Associations of employers and unions are regulated by special provisions.

⁷⁷ This information was obtained in February 2014, via e-mail; the request was submitted in November 2013.

will have positive impact on further development in this field.

In addition to the Strategy, new Law on volunteering was adopted by the Government of Republika Srpska which came into force in October 2013⁷⁸. By adopting this law, the Government tried to address shortcoming of the previous law and to promote the development of volunteering throughout RS. Thus, unlike the previous law, the Law on Volunteering from 2008, the new law revoked the obligation of signing the contract for volunteering. This resulted in the reduction of unnecessary administrative burdens for the organizers of volunteer activities. However, the obligation of signing the contract was not abolished completely. It remained in the cases where the beneficiaries of the volunteering are special categories of beneficiaries, i.e. children, persons with disabilities, the elderly, people with special needs, people fully or partial deprived of work capacity. Additionally, the law stipulates that organizers of volunteering are not obliged to submit reports on realization of volunteering activities, only at the request of competent ministry, which is the novelty compared to the law 2008.

Volunteering in FBiH is regulated by Law on Volunteering (2012),⁷⁹ which define basic terms related to volunteering, principles of volunteering, contracts, rights and obligations of volunteers and organizers of volunteer work, and overseeing applications. During 2014. Ministry of Justice of FBiH did not developed yet appropriate by-laws, what is the reason that this law could not be fully applied.

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).

Area 3: Government-CSO Relationship

Sub-area 3.1.: Framework and practices for cooperation

Situation regarding the cooperation between state and CSOs has not experienced changes from 2013. As indicated in the previous report, general institutional framework for cooperation and dialogue between the state and CSOs in BiH was established by signing the Cooperation Agreement between the BiH Council of Ministers and the non-governmental Sector in 2007.⁸⁰. However, the implementation of the Agreement is still at a standstill due to the lack of institutional mechanisms for its realization.

⁷⁸ Official Gazette of Republic Srpska, no. 89/13

⁷⁹ The Brčko District does not have a law specifically applicable to the area of volunteering.

⁸⁰ 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>

The Agreement stipulated: 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, to date, 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. As the part of Ministry of Justice, and as very poor capacity the Sector were inadequate for implementation of the activities assigned to it⁸¹ and finally was transformed into the Sector for Legal Aid⁸² of the BiH MoJ.

Council of Ministers started process of redefining the Agreement to CS by established a working group consisted of state and both entity representatives.

The Strategy and Action Plan for Creation of Enabling Environment for Civil Society Development, both initiated in 2011, are, same as in the 2013, still at halt.

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 (80 of 142 municipalities). Agreements between the Sarajevo Canton Government, Bosnian Podrinje Canton Government and the non-governmental sector in these cantons were 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. Still remains the question of full implementation of this mechanisms.

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, not even 7 years after its signing. As highlighted last year, 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:

⁸¹ 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>.

⁸² 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.

- 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 process

Taking into account that modern democracy is based on principle that allows citizens to participate in process of decision-making, it is of extraordinary importance that state establish adequate institutional mechanisms that would provide transparent and inclusive participation in creation of public policies. Those public policies would finally result in establishment of relations for cooperation and trust, goals and priorities of public policies would be closer to real needs of citizens, its legitimacy would increase and because of greater support to adopted policies, transaction cost for its implementation would decrease.⁸³

As stated in the previous report, the forms and mechanisms of the organization of citizens' participation in decision-making processes are primarily a task of the government. They appear in various forms, such as: the provision of information on activities, consultations on specific matters of importance to the community; active participation in these processes through submission of concrete proposals and contributions to the discussion and selection of priorities; and delegation of powers to citizens to choose and make decisions about certain important issues.⁸⁴ 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),⁸⁵ which require ministry staff to consult citizens, 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 in the Institutions of BiH⁸⁶ are significant, as they establish in a systematic

⁸³ CBGI project, training material, „ Participation CBGI projekat, trening materijal, „ Učešće OCD u kreiranju javnih politika“ 5. novembar 2014, Sarajevo of OCDs in creation of public policies“ November 5, 2014, Sarajevo

⁸⁴ 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.

⁸⁵ 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.

⁸⁶ 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.

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 consultation⁸⁷ are observed by four ministries, while only three⁸⁸ have appointed public consultation coordinators, and compiled lists of CSOs and individuals who receive information related to the public consultation process.⁸⁹

Positive improvement in 2014 was made by certain number of state agencies⁹⁰ who started to apply the Rules. But still most of the ministries and agencies have not adopted Rules on Public Consultation that would clearly define and arrange methodology to collect and process the comments⁹¹. Most of state institutions employees do not consider the Rules obligatory, so their additional education is necessary.⁹² By stating insufficient implementation of Rules on Consultation in 2013, Ministry of Justice of Bosnia and Herzegovina has started process of its improvement with solutions that are including change of problematic articles, investigation of disciplinary responsibility for non-implementation and regular annual evaluation of the Rules.⁹³ With support of CBGI⁹⁴ project the Rules on changes and amendments of Rules on Consultation in creation of legal regulations have been created and adopted by the Council of Ministers on September 17, 2014. One of the improvements of existing practice is that consultations at state level are obligatory for all ministries (minimum consultations) and that will be established web platform for online consultation.

At the level of the Federation, *Regulation on rules for participation of interested public in process of creation of federal legal and other acts* has been adopted⁹⁵. In comparison with year 2012-

⁸⁷ 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.

⁸⁸ This data was acquired by the analysis of questionnaires from state ministries in October 2013. and situation is not changed in 2014.

⁸⁹ Of these, two ministries failed to conduct transparent listing of CSOs in databases, and there are no official criteria for selection of these organizations.

⁹⁰ Regulatory Agency for Communications of BiH, Agency for Food Safety of BiH, Agency for Development of Higher Education and Quality Assurance and Civil Service Agency of BiH on their web pages are regularly publishing legal acts and inviting interested public to send their comments, full filing in that way a minimum of obligations on public consultation.

⁹¹ It is of special importance that institutions in their rules and regulations on internal systematization of work places define a position of coordinator for public consultation. With this we would avoid previous practice of formal naming of a person that does not have needed knowledge, nor time to deal in systematic way with collection and processing of comments, and sending feedback to those who made the comments as defined by the Rules. No-existence of feedback by institutions, which usually happens with comments sent by citizens and OCDs in process of consultation, represents demotivating factor for future consultation.

⁹² Good indicator is information that the Council of Ministers for period of seven years has never refused to put certain acts on its agenda for not having public consultation on it.

⁹³ Conclusions made at Round table "How to improve implementation of Rules on Consultation in creation of legal acts in BiH" held on October 28, 2013., organized by Ministry of Justice of BiH.

⁹⁴ Project "Strengthening of capacities of state institutions for participation in dialogue with civil society" (CBGI), financed by the EU, and implemented by consulting firm Kronauer from Sarajevo.

⁹⁵ Based on article 19. subpart 1. of Law on the Government of the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of BiH", no. 1/94, 8/95, 58/02, 19/03, 2/06, 7/06), the Government of the Federation of Bosnia and Herzegovina, at its 53rd session held on June 4, 2012.

2013, there is a progress in implementation of the Rules by certain number of federal ministries⁹⁶ The Government of the RS has in similar way by its *Guidelines for republic organs of self-governance on public participation and consultations in creation of laws*⁹⁷ defined under which conditions, when and who is making consultations with the public, how comments are collected and processed, and how explanation are created on whether comments are accepted or not. Coordinator is named for every specific law separately. Guidelines are obligatory and all those included in creation of the law are obliged to follow them.⁹⁸ At cantonal level there are no Rules on Consultation but certain number of cantons⁹⁹ same as District of Brcko are implementing consultations.¹⁰⁰

As in the last year, the problems related to collection and processing of comments remain present. Still, 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;¹⁰¹ therefore, educating civil servants is crucial for implementation of the Rules. On all but two occasions, CSOs have not insisted on consistent implementation of the Rules.¹⁰²

Regarding provision of information to CSOs, institutions frequently fail to observe established deadlines, and information submitted is often incomplete. 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. Draft Law on Changes and Amendment of the Freedom to Access Information Act¹⁰³ initiated by Personal Data Protection Agency of Bosnia and Herzegovina has not been adopted yet, even if Ministry of Justice of BiH published it on May 10, 2013 and provided consultation between May 10 - 31, 2013.

Concrete problem with implementation of existing regulations is when, in the case of breach of the Law, legal procedure against state organs should be initiated by inspection for governance, which is also another state organ, closely connected with others.¹⁰⁴

⁹⁶ Federal Ministry of Trade, Federal Ministry of Energy, Mining and Industries, Federal Ministry of Agriculture, water management and Forestry

⁹⁷ 'Official Gazette of Republika Srpska' no. 123/08 i 73/12

⁹⁸ The Government of the RS and all contributors to the law are indeed following the Guidelines and laws are passing process of consultation with public, according to an interview with representative of Republic's Secretariat for legislation (example, Ministry of Industry, Energy and Mining, <http://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/mper/Pages/default.aspx>).

⁹⁹ Ministry of Justice of Una –Sana Canton, Ministarstvo of Justice, Governance and local self-governance of HNK

¹⁰⁰ Public Consultation of Justice Commission of District Brcko, „Draft of Rules and regulations on type and conditions to execute criminal sanctions of work for public good while on freedom“24/3/2011.

¹⁰² 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.

¹⁰³ Article 4. of the Draft has caused the most of controversy in public because his content completely changes article 8 of the Freedom to Access Information Act and introduces limits in access to information related to privacy protection and other legitimate private interests, and, what is more important, it limits questioning of public interest.

¹⁰⁴ 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

Largest number of institutions in BiH still do not have developed strategies of communication with citizens, documents are published on web sites that are not functional and easily viewable, and publishing of documents is usually late.

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/document.¹⁰⁵ 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.

It is still questionable a way of selection of representatives of CSOs in working groups because most of institutions do not have established databases of CSOs. On the other hand, legitimacy of representatives of CSOs in working groups is also questionable because it is not rare case that selected persons do not represent particular but private interest. With aim to early involvement organizations of civil society in process of law adoption, Parliament of the Federation of Bosnia and Herzegovina supported by USAID's Project of Strengthening of Parliaments in BiH, in May, 2013 has established parliamentary registry of non-government organizations.¹⁰⁶

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 social provision

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.

¹⁰⁵ One of examples of good practice is inclusion of OCDs in work of working groups for creation of law is participation of NGO 'Vaša prava' BiH' in work of working group that was preparing creation of fourth Draft Law on Free Legal Aid.

¹⁰⁶ Newly established database will provide representatives of both houses of the Parliament of the Federation, deputies and delegates to have in one place review of all basic information on registered non-government organizations from the whole country, and are willing to establish direct cooperation with Parliament of the Federation in creation of laws, participation in public discussions, and similar activities in accordance with recommendations of Council of Europe and rules and regulations of both houses.

Civil society organizations provide various services, mainly to marginalized groups, youth, and rural communities.¹⁰⁷ CSOs fill an important role, particularly regarding the provision of basic social services, including soup kitchens, home care, and informal education. The government 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.

The legal framework for service provision in the field of social protection is determined by BD law, as well as entity¹⁰⁸ 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 making of service providers plural.¹⁰⁹ 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.¹¹⁰

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.¹¹¹ Predominant types of contract for which CSOs are commissioned for service provision are short and mid-term contracts.¹¹² Contracts with duration over 3 years, i.e. long term contracts, entail implementation of mapping of the needs of social services and relocation of funds according to priorities.

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 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).

¹⁰⁹ 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

¹¹⁰ 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).

¹¹¹ "Heads-or-Tails: Government Sector Allocations for the Non-Governmental Sector in BiH for 2012", FSI in BiH and CSPC, Sarajevo, February 2013.

¹¹² 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.

As in the 2013, amounts awarded are generally insufficient for CSOs to cover the basic costs of the services they are contracted to provide,¹¹³ 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, remain complicated and time-consuming.¹¹⁴ Improvements regarding selection of providers, i.e. meeting quality of services over formal conditions, have not been noticed neither in the last year nor in this year.¹¹⁵ 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 application for new or innovative programs tends to be more complicated than for the one already managed. In BiH, still 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.

Control and evaluation of the services provided by CSOs is covered by legislative framework, however the practice shows that periodical reporting to competent institutions is still the main form of assessment of the provision of these services.¹¹⁶ Last year's situation regarding the commission of CSOs for conducting needs assessments in the area of social services provision has not been changed, despite the fact that they have a direct insight into the needs of the targeted groups they are assisting. So far their role is still seen as merely service providers. 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

¹¹³ 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.

¹¹⁴ 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.

¹¹⁵ 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.

¹¹⁶ 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.

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>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 	<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 	<p>Legislation:</p>

	restrict arbitrary decision making.	from interference by third parties when exercising freedom of association. <ul style="list-style-type: none"> The association or foundation can be terminated voluntarily, or by force of law. 	
	<p>Practice:</p> <ol style="list-style-type: none"> There are no cases of state interference in internal matters of associations, foundations and other types of non-profit entities. There are no practices of invasive oversight which impose burdensome reporting requirements. 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.

<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"> Legislation allows CSOs to engage in economic activities. CSOs are allowed to receive foreign funding. 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.
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	<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>
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Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.2.: Related Freedom

Principle: Freedoms of assembly and expression are guaranteed to everybody

STANDARDS	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 	<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>to exercise their rights in this regard.</p> <ul style="list-style-type: none"> Peaceful assembly may be prohibited pursuant to these laws. 	
	<p>Practice:</p> <ol style="list-style-type: none"> 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. 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. 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. 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. No excessive use of force is exercised by law enforcement bodies, including pre-emptive detentions of organizers and participants. Media should have as much access to the assembly as possible 	<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 assembly. 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>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 the police. Education of police and security agencies about human rights and fundamental freedoms.

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

STANDARDS	INDICATORS	FINDINGS	RECOMMENDATIONS
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1. Tax benefits are available on various income sources of CSOs	Legislation: <ol style="list-style-type: none"> 1) The law provides tax free treatment for all grants and donations supporting non-for-profit activity of CSOs. 2) The law provides tax benefits for economic activities of CSOs. 3) The law provides tax benefits for passive investments of CSOs. 4) The law allows the establishment of and provides tax benefits for endowments. 	Legislation: <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 well as monetary donations and gifts of goods and services given to NGOs by different institutions are not subject to taxation. • 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. • Parliament of Federation BiH adopted the Law on tax payment and partial writing off a debts for sport clubs in Federation BiH 	Legislation: <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 donated, and based on which tax may be exempted. • 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.
	Practice: <ol style="list-style-type: none"> 1) There is no direct or indirect (hidden) tax on grants 	Practice: <ul style="list-style-type: none"> • Pursuant to the FBiH Law on Corporate 	Practice: <ul style="list-style-type: none"> • Initiation of an extensive debate

	<p>reported.</p> <ol style="list-style-type: none"> 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>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.</p> <ul style="list-style-type: none"> • In general, CSOs are fully equal with the profit sector regarding performance of economic activities. • Exemption of sport clubs of paying taxes and partial writing off a debts – making inequality among associations registered under the same law 	<p>regarding the differences in the nature of economically similar activities in the non-profit sector, and the nature of the profit sector.</p> <ul style="list-style-type: none"> • 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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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	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<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>Legislation:</p> <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 	<p>Legislation:</p> <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

		<p>on the publishing of public calls for funding and regular budget allocations to CSOs.</p> <ul style="list-style-type: none"> • 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. • 	<p>framework plans related to necessary budget funds when passing strategies or laws with long term applications.</p> <ul style="list-style-type: none"> • 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.
	<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 another; and the amount in the budget for CSOs is easy to identify. 4) CSO participation in the public funding cycle is transparent and meaningful. 	<p>Practice:</p> <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 society and society in general. The majority of funds for NGOs (38%) are allocated to sports organizations. • 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 	<p>Practice:</p> <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 sports organizations and other CSOs. • 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

		<p>BAM in 2008; 114 078 193.73 BAM in 2010; and 100 006 470.48 BAM in 2012.</p> <ul style="list-style-type: none"> • 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 regarding allocation of funds to CSOs is not open to participation. 	<p>CSOs/NGOs</p> <ul style="list-style-type: none"> • 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. • 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

			<p>deadlines publicly available and available online.</p> <ul style="list-style-type: none"> • 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 Selection Committee. • Establish Law on sports
	<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 	<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

		not announced prior to the procedure.	<p>the institution publishing public calls, through which CSOs can ask questions and request additional explanations regarding the public call.</p> <ul style="list-style-type: none"> • Strengthening and promotion of transparency of decision - making regarding the allocation of public funds. • 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.
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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

STANDARDS	INDICATORS	FINDINGS	RECOMMENDATIONS
1. CSOs are treated in an equal manner to other employers.	<p>Legislation:</p> <p>1) CSOs are treated in an equal manner to other employers by law and policies.</p>	<p>Legislation:</p> <ul style="list-style-type: none"> • CSOs are treated the same way as other employers according to laws and bylaws. 	<p>Legislation:</p>
	<p>Practice:</p> <p>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>	<p>Practice:</p> <ul style="list-style-type: none"> • The majority of CSOs consider that they don't have equal treatment as other employers generally. • There is a lack of regular statistics maintenance (by entity employment institutes) regarding the number of non-profit sector employees. Agencies cannot provide available 	<p>Practice:</p> <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

		data on the total number of CSO employees.	those institutes for statistics which regularly collect data on the number of CSO employees and their salaries.
2. There are enabling volunteering policies and laws	<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. • Government of the Republika Srpska adopted ‘Strategy on development and improvement of volunteering in Republika Srpska’¹¹⁷ 	<p>Legislation:</p> <ul style="list-style-type: none"> • Improvement of the implementation of existing laws on volunteering in FBiH. • 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.

¹¹⁷ <http://www.volontiram.ba/wp-content/uploads/2014/09/Strategija-volontiranja-RS-2014-2018.pdf>

	<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"> • Transparency in encouragement of volunteers are poor. • Many of the CSOs are confused by administrative procedures related to volunteering. Only 45% of CSOs familiar with the procedures claim that they are not complicated. • CSOs are 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 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. • Improve the implementation of existing laws on volunteering, by CSOs and relevant institutions and pass a Law on Volunteering in BD.
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Sub-area 3.1.: Framework and practices for cooperation

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

STANDARDS	INDICATORS	FINDINGS	RECOMMENDATIONS
<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. • Council of Ministers started process of redefining the Agreement to CS by established a working group consisted of state and both entity representatives 	<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

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

Principle: CSOs are effectively included in the policy and decision-making process

STANDARDS	INDICATORS	FINDINGS	RECOMMENDATIONS FOR THE STANDARD
<p>1. There are standards enabling CSO involvement in decision-making, which allow for CSO 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 policies are insufficient in regard of educational and training programs and are not harmonized with the needs of civil servants to actively involve civil society organizations in the decision-making process. • Strategy for Improvement of FBiH Civil Servants does not recognize this subject in its Action Plan Based on review of education programs of Civil Service Agency for 2014, it has been found that specific program for training for civil servants on participation of OCDs in work of public institutions does not exist. • The Rules for Consultation in Legislative Drafting in BiH institutions, Regulation on rules of participation of interested public in creation of federal legal and other acts and the Guidelines for Actions of the Republic's Administrative Bodies on Public Participation in Legislative Drafting require the appointment of a coordinator for conducting consultation process. The Council of Ministers adopted new Rules of Consultations on September, 2014 	<p>Legislation:</p> <ul style="list-style-type: none"> • Amendment and harmonization of existing Rules for Consultation with guidelines at the entity level, and adoption at cantons level of authority. • 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. • 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. • Enabling 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 election of the coordinator for

			<p>public consultations.</p> <ul style="list-style-type: none"> • 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. <ol style="list-style-type: none"> 1) 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 should be under monitoring of 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 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. • 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. 	<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 level of all ministries/institutions, in order to increase the transparency of impending policies, regulations and decisions. • Agreement on procedures for the submission of documents, ensuring minimum standards in terms of accuracy, objectivity, transparency 	

		<ul style="list-style-type: none"> • 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>and involvement, as well as an extension of the timeframe for comment submission.</p> <ul style="list-style-type: none"> • 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. • Provision of adequate training for civil servants and key decision makers (ministers, deputy and assistant ministers, etc.).
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<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. 	<p>Legislation:</p> <ul style="list-style-type: none"> • Adoption of legislation or codex 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.
	<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. • In order to strengthen cooperation between authorities and civil society, establishment of SECO mechanisms (non-institutional mechanisms) was 	<p>Practice:</p> <ul style="list-style-type: none"> • Advocating 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 sectorial 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.

		initiated for five sectors of civil society, to be involved in the consultation process on IPA Funds II (2014-2020).	
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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

STANDARDS	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.

	<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.
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VI. Used Resources and Useful Links

1. Bibliography:

List of laws analyzed:

- Constitution of Bosnia and Herzegovina, Annex IV Dayton Peace Agreement
- Constitution of Federation of Bosnia and Herzegovina
- Constitution of Republika Srpska
- Criminal Law, at administrative levels: Bosnia and Herzegovina, Federation of BiH and Republika Srpska
- Decision on Freedom of Information and Abolition of Criminal Penalties for Insult and Defamation (1999) High Representative to Bosnia and Herzegovina (Official Gazette of BiH, 14/99)
- Election Law, Chapter 16, Media in the Election Campaign
- European Convention on Human Rights
<http://www.echr.coe.int/Documents/Convention_BOS.pdf>
- General Collective Agreement for RS (Official Gazette of RS, 40/10)
- General Collective Agreement for FBiH (Official Gazette of FBiH, 54/05, 62/08)
- Law on Associations and Foundations of BiH (Official Gazette of BiH, 32/01, 42/03, 63/08, 76/11)
- Law on Associations and Foundations of RS (Official Gazette of RS, 52/01, 42/05)
- Law on Associations and Foundations of FBiH (Official Gazette of FBiH, 45/02)
- Law on Association of Citizens and Foundations of BD, BiH (Official Gazette of BD, BiH, No.12/02).
- Law on Humanitarian Agencies and Organizations (Official Gazette of FBiH, 35/98)
- Labor Law of RS (Official Gazette of RS, 55/07)
- RS Law on Protection at Work (Official Gazette of RS, 1/08)
- Labor Law of FBiH (Official Gazette of FBiH, 43/99,32/00,29/03)
- Law on Protection at Work (Official Gazette of BiH, 22/90)
- Law on Accounting and Revision (Official Gazette of RS, 36/09)
- Law on Accounting and Revision (Official Gazette of FBiH, 83/09)
- Law on Child Protection (Official Gazette of RS, 4/02, 17/08, 1/09)
- Law on Communications of Bosnia and Herzegovina (Official Gazette of BiH, 21/02, 31/03, 75/06, 32/10)
- Law on Conflict of Interest in Governmental Institutions of BiH (Official Gazette of BiH, 16/02,14/03,12/04,63/08)
- Law on Conflict of Interest in Governmental Institutions of FBiH (Official Gazette of FBiH, 70/08)
- Law on Conflict of Interest in Governmental Institutions of RS (Official Gazette of RS, 73/08)
- Law on Council of Ministers (Official Gazette of BiH, 30/03,42/03.81/06,76/07,81/07,24/08)
- Law on Free Access to Information (Official Gazette of FBiH, 32/01)
<<http://fmrsp.gov.ba/s/images/stories/zakoni/zakon%20o%20slobodnom%20pristupu%20informacijama.pdf>>
- Law on Gender Equality (Official Gazette of BiH 16/03, 102/09 32/10)
<<http://www.arsbih.gov.ba/bhs/pravni-okvir/zakon-o-jednakosti-spolova-u-bih>>
- Law on the Intelligence and Security Agency (OSA) (Official Gazette of BiH, 27/04, 35/05, 49/09)
<<http://www.ohr.int/decisions/statemattersdec/pdf/bos%20intelligence%20law.pdf>>
- Law on Local Self-Government (Official Gazette of RS, 101)
<http://www.alvrs.com/v1/media/djcatalog/2004-11-18-SI_glasnik_br_101-Zakon_o_lokalnoj_samoupravi_RS.pdf>
- Law on Obligation Relations (Official Gazette of SFRY, 29/78, 39/85, 57/89)
- Law on Obligation Relations (Official Gazette of BiH, 2/92, 13/93, 13/94)
- Law on Obligation Relations (Official Gazette of RS, 17/93, 3/96)
- Law on Prohibition of Defamation (Official Gazette of FBiH, 59/02)
- Law on Prohibition of Defamation (Official Gazette of RS, 37/01)
- Law on Prohibition of Defamation (Official Gazette of BD, 0-02-022-213/03)

- Law on Public Broadcasting Service of BiH (Official Gazette of BiH, 78/05)
- Law on Public Broadcasting Service of FBiH (Official Gazette of FBiH, 48/08)
- Law on Public Broadcasting Service of RS (Official Gazette of RS, 49/06)
- Law on Public Broadcasting System (Official Gazette of BiH, 37/03)
- Law on Public Enterprises of RS (Official Gazette of RS, 78/11)
- Law on Public Enterprises of BiH (Official Gazette of BiH, 92/05)
- Law on Public Enterprises of FBiH (Official Gazette of FBiH, 8/05, 81/08, 22/09, 109/12)
- Law on Social Protection RS (Official Gazette RS br. 37/12)
- Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children (Official Gazette of FBiH, 36/99, 54/04, 39/06, 14/09)
- Law on the State Investigation and Protection Agency (SIPA) (Official Gazette of BiH, 27/04, 63/04, 35/05, 49/09, 40/12)
<<http://www.msb.gov.ba/PDF/Zakon%20o%20SIPA-i%20-integralni%20tekst.pdf>>
- Law on Strikes (Official Gazette of FBiH, 14/00)
- Law on Strikes (Official Gazette of RS, 111/08)
- Law on Volunteering (Official Gazette of RS, 73/08)
- Law on Volunteering (Official Gazette of FBiH, 110/12)
- Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities (Official Gazette of FBiH, 2/10)
- Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities (Official Gazette of RS, 59/09-revised text)
- Law on Protection of Personal Data (Official Gazette of BiH, 49/06) <<http://www.azlp.gov.ba>>
- Law on tax payment and partial writing off a debts for sport clubs in Federation BiH Official gazette of FBiH, 45/14 /6.6.2014./

Annex I

List of persons and organizations that participated in research update

List of interviewed persons:

1. Emina Bećirević, Center for civil society development, Doboj, 25/4/ 2014;
2. Emir Prčanović, director NVO “Your rights”, member of WG for development the Law on pro bono legal help in BiH, 12/9/2014;
3. Momir Savić, Center for informative legal help (CIPP) Zvornik, 17/9/2014;
4. Tamara Zrnović, Helsinki comity for human rights RS, 22/9/2014;
5. Niko Grubešić, Ministry of Justice, Deputy, 10/10/2014, Sarajevo,
6. Sadeta Škaljić, Ministry of Justice, Deputy, 14/11/2014,
7. Predrag Golubović, Ministry for local government and self-government RS, 20/11/2014.

Participation at events

- “Strengthening of managing processes and institutions” June, 2014. – public consultations and mechanism of public participation in decision making processes (KULT Sarajevo, Prava za sve i Luna Rudo, Ministry of Justice BiH and entity Ministry of Justice)

- Conference within the project “Strengthening capacities of government institutions for participation in political dialogue with civil society in BiH” (CBGI) 8 state Ministry and 13 entity Ministries on topic “Application of Law on free access to information in BiH”, 3/6/2014.
- Meeting with Mr. Anđelko Kvesić, President of War prisoners association SBK and Mr. Zlatko Prkić, President of Concentration camp detainees in BiH, 3/7/ 2014;
- Meeting with Mrs. Murisa Marić, Chair of Board NGO Network Agreement Plus and Directress President of NGO DON Prijedor, Mrs. Snežana Šešlija, Directress of NGO TOPER Doboje, Mr. Milan Mrđa, Program manager of NGO Civil society promotion centre, Mr. Slaviša Prorok, Coordinator of NGO Network Agreement, Civil society promotion centre, 11/10/2014,
- Meeting organized by Ministry of Trade in Federation BiH with topic “Involvement of Consumers Association in preparation of strategic documents;
- “Advocacy program for enabling environment for civil society development in BiH”

Annex II

QUESTIONNAIRE

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

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?

- 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	THREATENING AND NONFUNCTIONAL ENVIRONMENT	THREATENING ENVIRONMENT	MODERATELY STIMULATING ENVIRONMENT	STIMULATING ENVIRONMENT	FULLY STIMULATING ENVIRONMENT
AREA					
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 non-functionality
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 non-functionality
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 non-functionality
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

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 non-functionality
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 non-functionality
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 non-functionality
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 non-functionality
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.

1. Restrictions are frequent, volunteerism appears in all its forms, the situation is disheartening and leads to non-functionality
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 non-functionality

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, and this cooperation enables further development

5. Civic engagement is possible at all levels of formal education, CSOs cooperate continually with institutions, and 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, and the standardization of non-formal education is not developed
3. Non-formal education organized by CSOs is not acknowledged, CSOs organize non-formal education, and standards within non-formal education are good
4. Non-formal education organized by CSOs is acknowledged, CSOs organize non-formal education, and the future of non-formal education is promising
5. Non-formal education organized by CSOs is acknowledged, CSOs organize non-formal education, and 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?¹¹⁸

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

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

¹¹⁸ Rules on Consultations related to BiH legislation creation: www.mpr.gov.ba/userfiles/file/Javne%20konsultacije/Pravila%20za%20konsultacije.pdf

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

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

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?¹¹⁹
 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)?

 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)?

¹¹⁹ Rules on Consultations related to BiH legislation creation: www.mpr.gov.ba/userfiles/file/Javne%20konsultacije/Pravila%20za%20konsultacije.pdf

Yes No

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

Yes No

