

REGULATING THE FINANCING OF CIVIL SOCIETY ORGANISATIONS FROM PUBLIC BUDGETS IN FBiH

Aida Daguda and Dajana Cvjetković

INITIATIVE FOR MONITORING
THE EU INTEGRATION OF
BOSNIA AND HERZEGOVINA

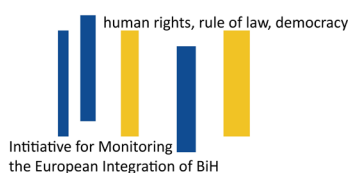
www.eu-monitoring.ba

Sarajevo, February 2022

ISSN: 2303-6079

CONTENTS

ABBREVIATIONS	3
INTRODUCTION	4
Definitions of terms association and foundation	5
Question at issue: financing of associations and foundations from public budgets in FBiH	6
MODES OF FINANCING CIVIL SOCIETY ORGANISATIONS IN BIH	9
BY-LAWS AND RULEBOOKS	15
RECENT DEVELOPMENTS	18
CONCLUDING REMARKS AND RECOMMENDATIONS	20
REFERENCES	22
ABOUT AUTHORS	23
ABOUT THE INITIATIVE	24



Edition *Human Rights Papers* of the Sarajevo Open Centre
Publication No. 62

Title: Regulating the Financing of Civil Society Organisations from Public Budgets in FBiH

Authors: Aida Daguda and Dajana Cvjetković

Editor: Dajana Bakić

Language editing: Sandra Zlotrg

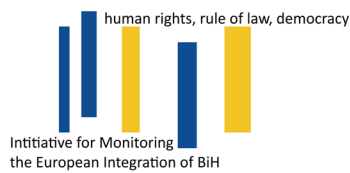
Translation: Translation Services Context o.d.

Design/Layout: Lejla Huremović

Publisher: Sarajevo Open Centre (www.soc.ba) on behalf of the Initiative for Monitoring the EU Integration of BiH (www.eu-monitoring.ba)

On Behalf of the Publisher: Emina Bošnjak

© Sarajevo Open Centre



Non-commercial copying, photocopying or any other reproduction of this publication or parts of it is desirable, with the prior written notification to the publisher at: office@soc.ba

The contents of this publication are the sole responsibility of its authors.

ABBREVIATIONS

BD – Brčko District

BiH – Bosnia and Herzegovina

CSO – Civil Society Organisation

EC – European Commission

EU – European Union

FATF – Financial Action Task Force

FBiH – Federation of Bosnia and Herzegovina

FIA – FBiH Financial Intelligence Agency

LSGU – Local Self-Government Unit

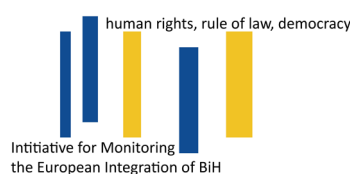
RS – Republika Srpska

INTRODUCTION

The complex administrative structure of Bosnia and Herzegovina makes it impossible to fully comprehend the overall situation in any field, including civil society or, more specifically, associations and foundations. The exact number of registered associations and foundations is impossible to estimate because they can be founded at different administrative levels and entered in separate registers (eighteen of them) in line with the three applicable laws. As of September 1, 2021, there are **27,432**¹ registered legal entities (associations or foundations) in Bosnia and Herzegovina, according to the Collective Register of Associations and Foundations of BiH.

The register is kept by the BiH Ministry of Justice and comprises information about all registered associations, foundations and other non-profit organisations, regardless of which competent authority registered them or under which law. Unfortunately, the Register does not accurately reflect the current situation in the sector for a variety of reasons, including: irregular updating of data by competent authorities, lack of control over the validity of data, inconsistent standards in the selection of associations and foundations, and lack of common selection criteria. Furthermore, a major issue is that the laws clearly specify the obligations and responsibilities of associations and foundations, failure to which the closing/shutdown of associations and foundations is contemplated. The method of control over the fulfilment of legal obligations is not defined, making it impossible to determine whether registered legal entities perform their obligations, and consequently suspend or close the association or foundation due to unfulfilled obligations such as holding regular annual meetings, submitting annual financial reports, and so on.

One of the fundamental issues is the uneven interpretation of the definition of associations and foundations, which results in different interpretations of legal provisions, relevance of the requirements for founding associations in relation to the mission, vision and goals



¹ There is an evident decrease in the number of newly registered associations and foundations. 2,894 associations and foundations were registered in 2018, 1734 in 2019, and only 237 in the period 2020-2021.

presented in the statute, and different interpretations of possible practices, that is, ways of doing business, which allows for the establishment of various legal entities under the veil of the Law on Associations and Foundations, while at the same time acting as limited liability companies or other legal entities that have a purely commercial purpose, or are registered for political or religious purposes. Statistics, records, and databases, on the other hand, are based on varied interpretations of the definitions of association and foundation, making it hard to compare them and draw reliable conclusions. For example, in its 2020 Annual Review of Financial Performance Indicators of Associations and Foundations in the Federation of BiH, the FBiH Financial Intelligence Agency included all those registered under the Law on Associations and Foundations in FBiH and BiH, but also those registered under other laws such as the Law on Political Parties. In the aforementioned review, there are associations, but also political parties and some other agencies that cannot be defined as associations or foundations.

Definitions of terms association and foundation

Much of the problem originates from how the law is applied, i.e., from a superficial rather than a society-oriented interpretation. Both the BiH Law on Associations and Foundations and the FBiH Law on Associations and Foundations define two types of organisations in the same way:

Article 2

1. An association, as defined by this Law, is any form of voluntary association of three or more physical and/or legal persons established in order to improve and accomplish common or public interests or goals, in accordance with the Constitution and the law, whose basic statutory purpose is not to generate profit.

(...)

5. A foundation is a legal person, without its own membership, intended to manage certain property for the accomplishment of public or common interests. A foundation becomes a legal person when it is registered as provided in this Law.

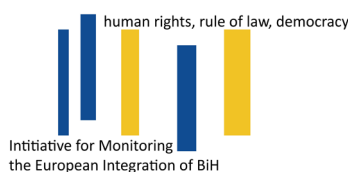
This document exclusively pertains to associations and foundations registered under two laws: the BiH Law on Associations and Foundations and the FBiH Law on Associations and Foundations, both of which define associations and foundations in the same way.

Question at issue: financing of associations and foundations from public budgets in FBiH

The civil sector in BiH is numerous yet significantly underdeveloped, with a proclivity for substantial but also financial degradation. The fact that it is impossible to determine which levels of government and in what amounts finance a number of associations and foundations, demonstrates the complexity of the issue of financing associations and foundations from the public budgets in FBiH. However, previous research and established indicators can contribute to clarify the boundaries of a rather blurry image of financing and the relationship between government and public institutions with associations and foundations.

A major issue continues to be the lack of a unified framework for the distribution of public budget funds to organisations and foundations, as well as the lack of a centralised data monitoring system, i.e., the process of allocating, distributing and spending/implementing projects with clear outcomes in the community and target groups. This situation allows public budget funds to be allocated non-transparently every year, without adequate rules and procedures, allowing funds to be distributed in a way that benefits organisations that are favourable or well connected with the ruling parties, while neglecting organisations' competencies and relevance.

This approach reduces the space available for the operation of organisations and foundations established with the goal of contributing to the development of society and the state, and which operate in line with statutory provisions in a professional, transparent, and independent manner. According to international documents, increasing barriers to the financing of organisations and foundations from public budgets leads to a reduction and threat to civic space, which is one of the most dangerous factors restricting organisational activities, civil society development, and democracy.²

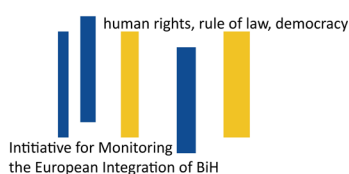


² OPINION: Financing of Civil Society Organisations by the EU [own-initiative opinion], 2017. European Economic and Social Committee

It is crucial to note that prior research shows considerable allocations from public budgets for associations and foundations, with an annual value over **100 million BAM**, putting the state at the top of the list of the most important donors in BiH. According to prior research findings, this sum is largely made up of allocations at the local level (municipal), accounting for 62% of the overall amount, followed by 25% from the cantonal level and only 6% from the state level.³ The majority of funds are allocated for war-related associations and sports associations (54.1%), with just 34.4% remaining for the growth of civil society (11.5 percent), marginalised groups, and other key areas.

This amount is not surprising given the decentralised management system and the fact that more than **350 institutions** (administrative units) allocate funds to organisations and foundations, including 156 municipalities and cities, 10 cantons, 150 ministries, 3 entity and Brčko District governments with more than 30 ministries, and the Council of Ministers with 9 ministries and agencies.

Quantitative analysis for 2012, as well as previous years, revealed that the state allocates significantly more funds to the non-governmental sector than international donors. Out of BAM 100,006,470.48, allocated for the non-governmental sector in BiH in 2012, BAM 57,602,954.51 were allocated at the FBiH level, BAM 30,538,566.15 at the RS level, BAM 11,189,949.15 at the BD BiH level, and BAM 675,000.00 at the BiH level.⁴ The aforementioned amount was unevenly distributed in 2012, with 38.9% allocated to sports organisations, 15.2% allocated to veterans' and disabled people's associations and related organisations, 11.5% allocated to CAs/NGOs focusing on providing social services/ social protection of citizens, and 34.4% allocated to other types of CAs/NGOs. Aside from the uneven distribution of public budget funds and the lack of a strategic foundation for such activity, a major issue is the lack of a framework for transparent and meaningful financing of organisations and associations, as determined in the European Commission's Analytical Report:



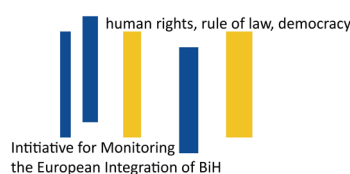
³ <http://civilnodrustvo.ba/media/26210/pismo-glava-izdvajanja-vladinog-sektora-za-nevlatin-sektor-u-bosni-i-hercegovini-za-2012-godinu.pdf>

⁴ Analiza pravnog, institucionalnog i fiskalnog okvira za organizacije civilnog društva u BiH (The Analysis of Legal, Institutional and Fiscal Framework for Civil Society Organisations in BiH), 2014. Centre for Civil Society Promotion.

“Only some municipalities have a legal framework for transparent funding of civil society organisations on the basis of clearly defined criteria and monitoring and evaluation tools. The distribution of public funds to civil society organisations is not fully transparent and systematic. Public funding calls and, in some cases, the results of selections, have been publicly available, but certain mechanisms for distribution of funds are not legally binding and were not fully implemented. Overall, Bosnia and Herzegovina needs to ensure a framework for the transparent funding of civil society organisations.”⁵

The current model of financing associations and foundations from public budgets is unfavourable for associations and foundations, as well as for government (typically ministries and municipalities) and the overall development of civil society, according to an analysis of the situation in the civil sector and previous research. Specifically, this method of allocating funds makes it difficult to contribute to the positive development of civil society.

The reasons for this are a lack of specific criteria for the allocation of funds, a lack of clearly set principles and rules, and a lack of a defined purpose to be achieved with providing financial support to associations and foundations. “This process involves too much politics and lobbying and no planned and systematic analysis. Added to this, there is no monitoring of the projects’ implementation that could prove the success or failure of the projects, or lead to improvements in funding allocation in following years. All this has resulted in less trust in the relevant government institutions, their work and methods of fund allocation. Large amounts of money are wasted, while the effectiveness of the projects and their broader impact are never assessed. Moreover, it is unlikely that BiH, or even any other economically more stable and stronger country, can afford to allocate such large amounts of money without any evaluation or efficiency assessment of projects they fund and their effect on society.”⁶



5 Analitički izvještaj: Mišljenje Komisije o zahtjevu Bosne i Hercegovine za članstvo u Evropskoj uniji, str. 22.

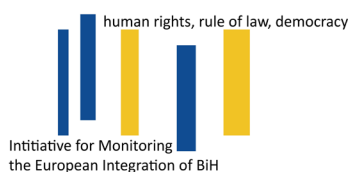
6 https://osfbih.org.ba/images/Progs/00-16/PDFP/pdfp_09/bos_selma_o_agovic_full.pdf

MODES OF FINANCING CIVIL SOCIETY ORGANISATIONS IN BIH

“There are currently three modes of financing CSOs from the public institutions’ budget funds. These are: strategic, long-term, and contract. The first two modes are far better for CSOs as they ensure continual and systematic funding of organisations, while the contract presents a transfer of the government institutions’ competencies to CSOs in cases when those institutions have no capacity to provide certain services stipulated by laws and regulations.”⁷ Each of the three modes of financing has its advantages and represents the best approach in certain circumstances, but only if they are directed by high professional standards, strategic documents and goals, and are implemented in a transparent and accountable manner.

Budgets of institutions in BiH are adopted in accordance with the **Law on Financing of Institutions of BiH**, which regulates the preparation, adoption, execution, accounting, reporting and supervision of the Budget of Bosnia and Herzegovina, the single treasury account at the level of Bosnia and Herzegovina, and the investment of public funds, as well as the principles, system, and harmonisation of financial management and control in the institutions of Bosnia and Herzegovina. Budgets of institutions in FBiH are adopted in accordance with the FBiH Law on Budgets, which regulates the planning, preparation, approval, and execution of the budget of the Federation of Bosnia and Herzegovina, the budgets of cantons, cities and municipalities, and financial plans of extrabudgetary funds, budget principles, borrowing, guarantees and debt management, public investment programme, fiscal responsibility rules, accounting, reporting, supervision, and audit of the budget and other budget beneficiaries.

The law envisions the development of programmes that will allow line ministries, cantons, and municipalities to allocate funds in accordance with strategic goals, and a particular indent establishes responsibility for achieving goals and making good use of funds. “z) A statement of responsibility for achieving the institution’s goals is a statement in



⁷ Ibid

which the head of the institution confirms that during the fiscal year, they ensured the intended, purposeful, and legal use of funds approved by the institution's budget to achieve established goals, as well as the economical, efficient, and effective functioning of the financial management and control system". Article 8 of this law also defines the content of the budget, which must include: a) revenues and expenditures; b) explanations, and it is intended that within the explanations, grants for non-governmental organisations be described and envisaged; c) current assets; d) annexes, etc.

The Law on the Budget of the Institutions of BiH and International Obligations for 2020 defines a grant amount of more than 7 million BAM for non-profit organisations, although this figure includes all non-profit organisations, not just associations and foundations. Furthermore, Article 10 of the Law, Current Grants and Transfers, defines obligations for the following: "Co-financing of cultural institutions projects in Bosnia and Herzegovina", "International cultural cooperation", "Support to technical culture and innovation in Bosnia and Herzegovina", "Co-financing of sports events", "Programmes for preparation of projects and potential candidates for funds from the H2020 fund", "Co-financing of projects of non-governmental organisations in the field of HIV and tuberculosis prevention in BiH" and "Grant for realisation of bilateral cooperation projects in the field of science based on international agreements".

In addition to the specified obligations for financial support, there is also an obligation that (3) Budget users whose budget funds for current grants are approved must notify the user of the obligation to report on the intended use of allocated funds. Budget users, through whom these grants are realised, are required to submit a report on the intended use of these funds in their periodic reports within the deadlines prescribed by Article 22 of the Law on Financing, based on reports of end users of current grants. (4) Budget users with planned current grants and transfers are required to obligate end users of current grants and transfers to include the gender aspect when allocating current grants and transfers and reporting on the intended use of funds.

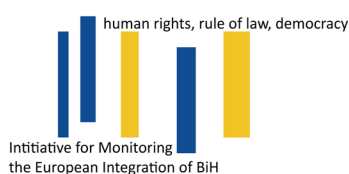
However, the question of how and who controls the allocated funds, as well as how the results and achieved goals are measured, arises.

In the midst of so many examples of bad practice, it is especially important to highlight rare examples of good practice. The BiH Ministry of Foreign Trade and Economic Relations, for example, has unified the application form as well as the form for reporting on the use of allocated grant funds, significantly simplifying the application process for applicants and justifying the use of allocated funds.

It is worth noting that the BiH Ministry of Civil Affairs is the only state ministry that has demonstrated a link between grant allocation and strategic document goals. The **Law on Budgets in the Federation of Bosnia and Herzegovina** regulates the planning, preparation, approval, and execution of the budget of the Federation of Bosnia and Herzegovina, the budgets of cantons, cities and municipalities, and financial plans of extrabudgetary funds, budget principles, borrowing, guarantees and debt management, public investment programme, fiscal responsibility rules, accounting, reporting, supervision, and audit of the budget and other budget beneficiaries. Article 11 outlines expenditures, and grants for associations and foundations fall under the category of “current transfers and other current expenditures”. This law also applies to organisations as extrabudgetary users, but only to those organisations that provide and perform public services and are governed by separate regulations.

Both laws provide for the allocation of a portion of the public budget for certain programmes and activities of associations and foundations. This principle applies to entity budgets as well as cantonal budgets in the FBiH, where CSOs receive a substantially bigger share of civil sector funds. Municipalities adopt their budgets in accordance with the statute’s requirements, which may contain the planned funds for certain entities or programme activities of organisations and associations. In addition to budget intended funds, there is a mechanism in place to allocate funds from the current budget reserve through by-laws (decisions of executive authorities or administrative bodies), which is considered an interventional use of funds, i.e., on an as-needed basis.

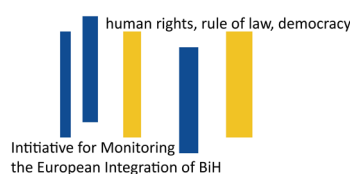
It is important to emphasise that all levels of government can decide on the strategic, long-term and contractual financing of associations and foundations.



Strategic financing means planning the budget in accordance with the strategic documents of the body that prepares the budget, so that certain programmes are implemented by associations and foundations in accordance with their expertise and presented project proposals. It is necessary to establish common criteria and rules for this type of financing, as well as to ensure the competitiveness and development of civil society through the publication of public calls, criteria for selecting the best projects, and methodology for monitoring and evaluation of funded projects and programmes. Although progress has been achieved, and some municipalities apply the principles of transparent financing of organisations, according to the EC Analytical Report, greater transparency and equal access of all levels of government to the allocation of public budget funds is required. Some ministries and municipalities prefer to co-finance projects and programmes of associations and foundations, citing unfounded arguments that granted funds are less likely to be misused in this way.

A lot of resources and efforts are invested in order to provide an adequate model of transparent, uniform, and fair financing of organisations and foundations from public budget funds. Local authorities have a responsibility to work transparently and adopt responsible policies, and we certainly mean transparent spending of budget users' money, which includes the process of open and fair allocation of funding intended for local organisations. Municipalities allocate the majority of funds, and thus play the most important role in the development and sustainability of civil society in BiH. "On the other hand, it is encouraging that 68% of municipalities/cities in BiH publish calls for allocation of funds to local CSOs once or twice a year, and that some have adopted decisions that clearly define the methodology of allocation (criteria, selection of commissions, selection methods, etc.)"⁸ In accordance with the Law on Associations and Foundations, the Council of Ministers adopted the Rulebook on Criteria for Financing and Co-financing Projects in Areas of Public Interest Implemented by Associations and Foundations.

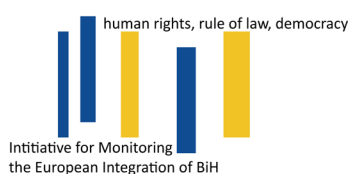
The Rulebook was adopted in 2019 and clearly outlines the procedure for publishing the call, wording of the public call, criteria, method of



⁸ Transparentnost i prakse lokalnih vlasti pri dodjeli javnih prostora, finansiranju i drugim oblicima saradnje sa OCD, dopunjeno izdanje 2020 (Transparency and Practices of Local Authorities in the Allocation of Public Spaces, Financing, and Other Forms of Cooperation with CSOs, Updated Edition 2020), CCI ACED, p. 29

selection, required documentation, and project application forms in its annexes.

Another method of financing the work of associations and foundations provided by the Law is long-term financing of programmes and projects of public interest. It is important to emphasise here that programmes and projects of public interest are adopted by the institutions of Bosnia and Herzegovina, as stipulated in the Article 13 of the Law on Associations and Foundations of BiH, and represent rounded and thematically clearly defined activities whose implementation improves the quality of life of individuals, i.e., the development of the social community: Paragraph (3) “Institutions in Bosnia and Herzegovina shall enter into contracts with associations for the implementation of programmes or projects of public interest based on a public call, i.e., competition”; Paragraph (4) “Association’s activities of public interest are those that contribute to the promotion of: human rights, rights of persons with disabilities, protection of children with developmental disabilities, rights of national minorities, equity and equality in combating discrimination, protection from violence, activities of children and youth, combating various forms of addiction, developing volunteerism, humanitarian activities, social protection, environmental protection, nature protection, protection of human health, arts, education, culture and all other activities that can be considered acts of public interest by their nature.”; Paragraph (5) “An association that has received funds for the implementation of programmes or projects of public interest submits a report to the funder and informs the public through its website.”; Paragraph (6) “An association that has received funds for the implementation of programmes or projects of public interest in the implementation of programmes or projects may enjoy tax, customs, and other benefits in line with specific regulations.”; Paragraph (7) “The Council of Ministers of Bosnia and Herzegovina shall, at the proposal of the Ministry, adopt a by-law regulating the criteria for the development and implementation of programmes and projects of public interest that may be implemented by associations”.

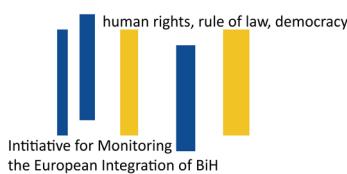


Furthermore, association or foundation may, within the scope of its statutory activities, be entrusted by law to perform public competencies. “If an association or foundation which performs public competencies

does not exercise entrusted activities in accordance with its duties, the competent supervisory administrative body shall notify in writing the management board of the association or foundation to that effect, propose measures to remedy perceived deficiencies and other measures falling within the scope of its competencies and duties. The activities referred to in paragraph 1 of this Article shall be exercised in accordance with the provisions on public competencies of the Law on Administration of the Federation of Bosnia and Herzegovina (“Official Gazette of the Federation of BiH”, 28/97), which relate to public competencies.”

The Law, on the other hand, contemplates the potential of declaring an association as an association of public or special significance, and states that criteria for granting status as well as transferring public competencies to the association must be established. Although the criteria for declaring an association of public significance have not been adopted, the authorities that make such decisions reach their conclusions based on ad hoc criteria and accessible documentation. One example is the Decision on Determining the Special Significance for the City of Sarajevo of the Association “Education Builds BiH”, which was adopted on the initiative of Mayor Benjamina Karić on June 2, 2021, and is based on Article 26 of the Statute of the City of Sarajevo. The example from 2017 when the Municipal Council of Novo Sarajevo passed a Decision on the Criteria, Conditions and Methods of Determining Veterans’ Associations with Status of Special Interest and Social Importance for the Municipality of Novo Sarajevo, stating that the status of veterans’ association of special interest and social importance can be obtained by an association whose activities exceed the interests of its members, if it is intended to meet the needs of citizens of the local community in the field of veteran - disability protection and resolve the membership status issues. Article 4 defines the application paperwork required, and Article 5 defines the criteria by which the above-mentioned basic requirement cannot be measured.

The third type of financing associations and foundations is contractual, which involves the transfer of competencies. This is a relatively unusual instance, but it is used in practice on occasion. For example, the Ministry of Security of BiH, through a contract, authorises the association to



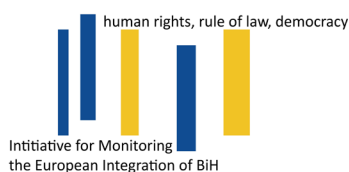
provide services to women victims of violence or human trafficking. This type of financing is characterised by non-transparent allocation of funds without a public call, project application, or any control over the use of funds.

BY-LAWS AND RULEBOOKS

The most important by-laws regarding the financing of associations and foundations in the FBiH are listed below:

Rulebook on Criteria for Financing and Co-financing Projects in Areas of Public Interest Implemented by Associations and Foundations, based on Article 56a paragraph 2 of the Law on Associations and Foundations of Bosnia and Herzegovina (Official Gazette of BiH, 32/01, 42/03, 63/08, 76/11, 94/16), Article 17 of the Law on the Council of Ministers of Bosnia and Herzegovina, (Official Gazette of BiH, 30/03, 42/03, 81/06, 76/07, 81/07, 94/07, 24/08), at the proposal of the Ministry of Justice of Bosnia and Herzegovina, was adopted by the Council of Ministers of Bosnia and Herzegovina, at its 176th session, held on August 5, 2019. This rulebook prescribes general principles, criteria, and procedure for allocating and contracting funds from the budget of Bosnia and Herzegovina for projects in areas of public interest implemented by associations and foundations, as well as the manner of exercising control over the expenditure of allocated budget funds and other issues relevant for planning, financing, and co-financing of projects in areas of public interest implemented by associations and foundations, unless otherwise specified in a separate regulation. Institutions at the state level have shown interest in this rulebook, but an analysis of its implementation has yet to be completed.

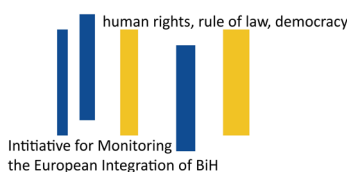
The FBiH Ministry of Finance published **Guidelines on minimum standards for the allocation of budget funds through transfers and subsidies in the Federation of Bosnia and Herzegovina** in February 2018, which is a significant step forward in regulating this area at the FBiH level.



There are numerous documents at the lower levels that regulate the allocation of funds to associations and foundations. For example, at its 42nd session held on November 22, 2011, the Government of the Sarajevo Canton passed a **Decree on the criteria for financing programmes and projects of non-profit organisations and associations that are financed/co-financed from the budget of the Sarajevo Canton**. This Decree determines the general and special criteria for financing programmes and projects of non-profit organisations and associations that are financed/co-financed from the budget of the Sarajevo Canton, the procedure for submitting applications for funds, the procedure for appropriating funds, and the procedure for controlling the spending of funds by associations.

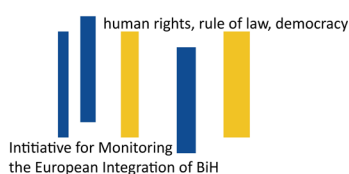
Another example of similar documents at the municipal level is the **Rulebook on the allocation of funds from the budget of the City of Živinice for financing projects and programmes of non-governmental organisations and associations and reporting on spent funds**, adopted by the mayor of Živinice at the end of 2019. This Rulebook determines the procedure, selection and financing of programmes and projects of non-profit and non-governmental organisations and associations with headquarters in the City of Živinice (and outside the city if budgeted) whose projects are fully or partially implemented in the city of Živinice, as well as monitoring the use of allocated funds.

Although it is not a by-law, it is worth noting that on March 13, 2014, the Government of the Federation of BiH passed a Decision adopting a “Methodology for transparent financing of projects of civil society organisations in accordance with European Union standards (LOD methodology)”. At the time, the FBiH Government recommended that the LOD methodology be adopted and applied to lower levels of government - cantons and local self-government units. The adoption of this decision is the outcome of several months of activity through which the Association of Municipalities and Cities of the FBiH, with the help of the LOD III project, consulted with relevant FBiH ministries and made recommendations that were well received by the FBiH Government. As explained, the aim of the LOD methodology is to provide clear



procedures for the transparent allocation of funds to civil society organisations (CSOs), while also ensuring the strengthening of mutual trust. Most importantly, proper use of LOD methodology contributes to the achievement of government development goals by optimising the usage (efficient and effective spending) of funds allocated to civil society organisations.

It is not essential to provide additional budget funds for the implementation of the Methodology, and the FBiH ministries of justice and finance are in charge of monitoring the implementation of the Decision. It is unknown whether these institutions are actually monitoring the implementation of the Decision, but research was conducted in 2020 as part of the ReLOaD project. Specifically, the Association of Municipalities and Cities of Republika Srpska and the Association of Municipalities and Cities of the Federation of Bosnia and Herzegovina conducted an analysis of the practices of 21 partner local self-government units (LSGU) in Bosnia and Herzegovina in the field of Transparent Financing of Civil Society Organisations (CSOs) from the LSGU budget. The analysis showed that most LSGUs continue to allocate up to 30% of budget funds through a competitive and project approach, but there is a visible trend of increasing the share allocated in this manner. Five LSGUs use this method to allocate more than 50% of funds. Ten partner LSGUs raised allocations for CSOs in 2019 compared to the previous year, while others lowered their allocations. Partner LSGUs are increasingly using a competitive approach in the allocation of funds to sports and veterans' organisations. In some LSGUs, the so-called linear allocation of funds is used, in which all projects, i.e., organisations that applied for the call, receive funds, and a lesser or greater correction to the requested amount is made to allow distribution to all applicants. Positive efforts are also being made by partner LSGUs to increase the practice of supervising and monitoring the implementation of CSO projects through standardised reporting forms, field visits to activities, and direct communication with beneficiaries.⁹ It is clear that this practice has not fully taken hold, and that it is primarily used for the distribution of budget funds combined with UNDP project funds.



⁹ “Najbolje prakse jedinica lokalne samouprave u okviru ReLOaD projekta” (Best Practices of Local Self-Government Units within the ReLOaD Project), October 2020, ReLOaD

RECENT DEVELOPMENTS

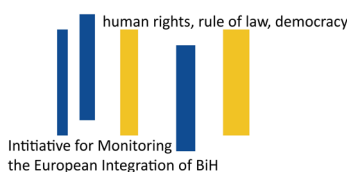
The FBiH Ministry of Justice, in cooperation with UNDP in BiH, is carrying out activities aimed at improving the normative framework for the establishment and operation of civil society organisations in BiH, within the project Enable and Manage more Beneficial Civil Society EMBRACE, funded by the Government of the Kingdom of Norway.

In its initial phase, the EMBRACE project includes, among other things, the preparation of a Regulatory Impact Assessment (RIA), which would regulate the social area in question covered in this introduction and would, according to current regulations in the territory of FBiH, represent a set of steps in terms of defining the problem and determining the goals that the proposed regulation seeks to achieve.

The FBiH Law on Associations and Foundations does not specify the conditions, manner, dynamics, or responsibilities for CSO financing, particularly from budget funds and funds from other authorities. Such shortcomings have, among other things, brought our country into the special focus of international organisations, primarily Moneyval and the FATF, which concluded after a series of evaluation visits to our country that CSOs in BiH are extremely vulnerable legal entities within the social problem of money laundering and terrorist financing, which is recognised in the world today a first-rate international problem. In this regard, BiH is tasked with improving the entire set of legal regulations, based on which the fight against money laundering and terrorist financing would be more effective and easier.

In June 2021, the FBiH Ministry of Justice opened a public consultation on its website¹⁰ with two documents available:

- Impact assessment of the financing of civil society organisations in the Federation of Bosnia and Herzegovina
- Form for conducting an abbreviated regulatory impact assessment (RIA)



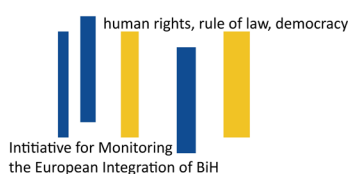
In this manner, the FBiH Ministry of Justice, in contact with civil society organisations, sought to share findings from the subject analysis and gain support for further steps towards the final drafting of the Law

¹⁰ <https://www.fmp.gov.ba/bs/news-reader/poziv-za-javnu-raspravu.html>

on Financing Civil Society Organisations in the FBiH through direct communication, comments, proposals or suggestions.

In response to the FBiH Ministry of Justice's invitation for a public discussion, the Centre for Civil Society Promotion invited associations and foundations to an online public discussion held on June 10, 2021, in which 14 organisations participated, as well as Dragan Golubović, an international consultant and member of the Council of Europe's Expert Council for Non-Profit Law. The meeting concluded that the document offered for public discussion, which serves as the basis for the RIA form, is fundamentally flawed, that it does not meet the requirements for impact assessment in any segment, and that it should be withdrawn from public discussion and replaced with a new document that meets all prescribed requirements for regulatory impact assessment analysis. Only after this document has passed the public discussion, a new form for conducting an abbreviated regulatory impact assessment should be developed, as well as thorough consultations with CSOs.

Following that, UNDP and the BiH Ministry of Justice organised a focus group in July 2021 at the International Centre for Children and Youth Grbavica in Sarajevo, and the meeting's results will be made available to the legislator as an additional argument to move more decisively toward correct and transparent regulation of the subject area. It is important to underline that only after this procedure can we anticipate the start of actions related to the drafting and adoption of the recommended law.



CONCLUDING REMARKS AND RECOMMENDATIONS

Despite the pandemic and the problems it has brought, government institutions at various levels continue to provide considerable amounts of public budget funds to associations and foundations in the FBiH. Although the institutions have mainly improved the system of allocating, monitoring, and controlling the intended use of funds, this area remains insufficiently regulated. Monitoring the results and effects of funded projects, as well as the transparency of the entire process of allocating funds through grants to associations and foundations, is a particular shortcoming.

The lack of political will to systematically address the issue of financing civil society organisations, i.e., establishing clear criteria for the allocation of funds, is also associated with political governance of the civil sector. Unfortunately, public funding for associations and foundations is often used as a tool in the service of political interests, and organisations funded in part from public budgets face additional risks in terms of political dependence, impaired legitimacy and reconsideration of all activities in the community.

Furthermore, a major challenge is the general disorder and incoherence of the databases of associations and foundations, and the databases/registers available to the public often contain inaccurate and/or outdated data.

Recommendations:

- Improve the classification of associations and foundations, and in particular, create a database of organisations that have received funding from the public budget, in order to better exchange information and coordinate the activities of different institutions and levels of government.
- Ensure maximum transparency of the process of allocating funds to associations and foundations.
- Improve the quality of the process of allocating grants to associations and foundations in various institutions and at various levels of government, particularly by using examples of good practice, both from BiH and other countries.
- Ensure that the grant allocation from the public budget is based on

clear criteria and with the use of appropriate forms that are clear and not too complicated.

- Continuously implement and improve the capacity building of ministries and civil servants who allocate funds to associations and foundations.
- Provide education for associations and foundations that are potential applicants for state budget funds.
- Better regulate the work of associations and foundations, especially with regard to financial procedures stipulated by the Law on Associations and Foundations, in order to prevent money laundering and terrorist financing. This is conditioned by the recommendations of MONEYVAL and FATF.
- Strengthen the Sector for Legal Aid and Civil Society Development at the Ministry of Justice of BiH, particularly in terms of creating an enabling environment for civil society development and coordination of various government institutions in terms of financing CSOs.
- Encourage state-level institutions to use the support of the newly established Advisory Body of the Council of Ministers of BiH for Cooperation with Non-Governmental Organisations, especially when amending existing laws and by-laws regulating the financing of associations and foundations from public budgets.
- Analyse the application of rulebooks and other by-laws regulating this area, particularly those that have recently entered into force (such as the Rulebook on Criteria for Financing and Co-financing Projects in Areas of Public Interest Implemented by Associations and Foundations at the state level).
- Promote the introduction of a mechanism for co-financing projects of associations and foundations funded by the EU or other foreign funds that need co-financing, at various levels of government.
- Improve the aspect of impact assessment of projects that have received financial support from public budgets in the fields of gender equality, the rights of persons with disabilities, environmental impact, etc.
- Further regulate the allocation of funds to organisations based on their special status (sports organisations, organisations of special public interest, etc.).

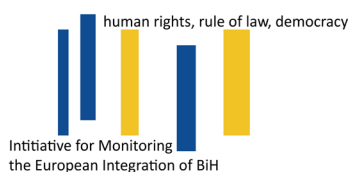
REFERENCES

1. 2020 Annual Review of Financial Performance Indicators of Associations and Foundations in the FBiH, Financial Intelligence Agency
2. Analiza postojeće prakse saradnje vladinih institucija sa organizacijama civilnog društva, 2015. Kronauer Consulting
3. Analiza pravnog, institucionalnog i fiskalnog okvira za organizacije civilnog društva u BiH, 2014. Centar za promociju civilnog društva
4. Analytical Report accompanying the Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union
5. BiH Law on Associations and Foundations
6. Collective Register of Associations and Foundations of BiH
7. Decision on Temporary Financing of the Institutions of BiH and International Obligations of Bosnia and Herzegovina for January - March, April - June, and July - September, 2021
8. Decision on the Criteria, Conditions and Methods of Determining Veterans' Associations with Status of Special Interest and Social Importance for the Municipality of Novo Sarajevo, 2017
9. FBiH Law on Associations and Foundations
10. FBiH Law on Budgets
11. Finansijska podrška javnih institucija nevladinim organizacijama u Bosni i Hercegovini u 2011. godini, 2011. TACSO
12. Finansiranje organizacija civilnog društva iz budžeta domaćih institucija - case study
13. Indeks održivosti organizacija civilnog društva u Bosni i Hercegovini za 2018. godinu, CPCD
14. Istraživanje, „Na pola puta“: Izdvajanja vladinog sektora za nevladin sektor u BiH za 2010. godinu, Fondacija za socijalno uključivanje u BiH i Centar za promociju civilnog društva
15. Izvještaj o poticajnom okruženju za razvoj civilnog društva 2019. CPCD
16. Law on the Budget of Institutions of BiH and International Obligations for 2020
17. Najbolje prakse jedinica lokalne samouprave u okviru ReLOaD projekta, 2020.
18. OPINION: Financing of Civil Society Organisations by the EU [own-initiative opinion], 2017. European Economic and Social Committee
19. The Monitoring Matrix on Enabling Environment for Civil Society Development, about developments in Bosnia and Herzegovina throughout 2019. CPCD
20. Transparentnost i prakse lokalnih vlasti pri dodjeli javnih prostora, finansiranju i drugim oblicima saradnje sa OCD, dopunjeno izdanje 2020. CCI ACED
21. Uporedna analiza iskustava saradnje civilnog sektora i državnih institucija i tijela u procesu Evropske integracije u Crnoj Gori, Hrvatskoj i Srbiji, 2020. CEDEM

ABOUT AUTHORS

Aida Daguda, Director of the Centre for Civil Society Promotion since 2008. She has respectable knowledge of civil society in the Western Balkans region, as well as the structure and forms of international assistance in BiH. Ms. Aida Daguda has 25 years of experience in international and local civil society organisations. She is the Chairperson of the Advisory Body of the Council of Ministers of BiH for Cooperation with Non-Governmental Organisations. She is a member of the Steering Committee of the Balkan Civil Society Development Network (BCSDN). She is also the initiator of Bosnia and Herzegovina's largest mentorship programme for women, as well as other regional initiatives in the Western Balkans region. Multi-skilled and experienced in project, programme, and civil society organisation management. Aida Daguda has vast experience in creating a more enabling environment for civil society development, as well as institutional mechanisms of cooperation between government and civil society organisations in Bosnia and Herzegovina and the Western Balkans region. Committed to open dialogue, gender equality, and active involvement in decision-making processes.

Dajana Cvjetković, holds a Master's Degree in Communication and works as Programme Manager at the Centre for Civil Society Promotion, an organisation that has been working for 25 years on creating a supportive environment for the growth and development of civil society and democratic values, researching trends and analysing the status of civil society with a focus on the situation in the field of civil society organisations, their capacities, degree of quality and expediency of cooperation with government institutions. As programme manager, she is at the source of information regarding civil society activities, as well as relationships with various levels of government on a daily basis, and she cooperates with all representatives of BiH authorities and the media. She is most proud of her work with civil society organisations, particularly in the areas of professionalisation and capacity building through direct support, mentoring, grant allocation and monitoring. She is a big supporter of educational processes, particularly adult education, as seen in her involvement with the SMART Centre for Adult Education at the Centre for Civil Society Promotion.



ABOUT THE INITIATIVE

The Initiative for Monitoring the European Integration of Bosnia and Herzegovina is an informal coalition of civil society organisations that contributes to the monitoring of the reforms and overviews the application of EU policies, laws and standards, focusing on democratisation, rule of law and human and minority rights. Find out more about the Initiative at <http://eu-monitoring.ba/o-inicijativi/>.

Active members of the Initiative are:

Aarhus Centre in BiH, Sarajevo
Association for Democratic Initiatives, Sarajevo
BH Journalists Association, Sarajevo
BIRN BiH, Sarajevo
Centre for Investigative Reporting, Sarajevo
Youth Centre Kwart, Prijedor
Centre for Civil Society Promotion, Sarajevo
CURE Foundation, Sarajevo
Foundation 787, Sarajevo
Forum Civil Peace Service, Sarajevo
Helsinki Citizens' Assembly, Banja Luka
Youth Initiative for Human Rights in BiH, Sarajevo
Association Kali Sara, Sarajevo
Association Network for Building Peace, Sarajevo
MyRight – Empowers People with Disabilities, Sarajevo
Oštra Nula, Banja Luka
Transparency International in BiH, Banja Luka/Sarajevo
Transitional justice, responsibility and memory, Sarajevo
TRIAL International, Sarajevo
Sarajevo Open Centre, Sarajevo
Vaša prava BiH, Sarajevo
Citizens' Association Why Not, Sarajevo
Association Land of Children in BiH, Tuzla

Initiative coordinated by:

Sarajevo Open Centre
dajana@soc.ba

Initiative supported by:

Centre for Socio-Ecological Development, Banja Luka; Human Rights Centre of the University of Sarajevo; Crvena, Sarajevo; Green Council, Sarajevo; Infohouse, Sarajevo; OKC Abrašević, Mostar; Perpetuum mobile, Banja Luka; Association PEKS, Tuzla; Vesta, Tuzla; Foreign Policy Initiative BH, Sarajevo; Green Neretva, Konjic, ELSA, Sarajevo.

