



Assessment
on the State of the
Enabling Environment
and Capacities of
Civil Society
against the Guidelines
for EU support to Civil
Society in Enlargement
Region, 2014-2020
for the period
2018-2019

FINAL REPORT

**ANNEX 4.
BRIEF IPA BENEFICIARIES
OVERVIEW**

COUNTRY BRIEF: BOSNIA AND
HERZEGOVINA

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CSO sustainability and general conducive environment for CSOs in Bosnia and Herzegovina have been in general **stagnation** for more than 10 years.

With regards to the freedom of association, there are eight (8) laws governing freedom of association in Bosnia and Herzegovina, including at the state level, the two entities and the Brčko District. The state-level Law on Associations and Foundations was amended in November 2016 to reflect the requirements and recommendations of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), and the Financial Action Task Force (FATF). Associations and foundations are required to submit to the Ministry of Justice of Bosnia and Herzegovina a financial and performance report, which the Ministry publishes on its website. Also, the new Law introduces the category of “public interest” for programmes and projects that can be proposed by all CSOs. Amendments to the Law also regulate the right of persons, who are not Bosnia and Herzegovina citizens, but reside in Bosnia and Herzegovina, to be founders of an association or foundation.

In practice there have been gatherings and protests organized by the civil society in Bosnia and Herzegovina, although the legislation as well as institutional actions to some extent limit the freedom of assembly. The **legislative framework** regulating this area remains **unchanged**. There are twelve (12) laws governing freedom of gathering, in the Republika Srpska entity, in each of the ten cantons of the Federation entity, and in the Brčko District. There are rare cases of using control or monitoring mechanism to ensure the proper and harmonized implementation of legal requirements of this right due to costly and long-term judicial procedure that are very burdensome for most CSOs. The unexplained cases of deaths of two young men in 2016 and 2018 triggered **significant civil movements in Sarajevo and Banja Luka in 2018** that brought together large numbers of citizens, including the support of more than 200.000 people on social networks. Since 2014, this was the first time that Bosnia and Herzegovina has seen massive public mobilizations. At the end of 2018, police engaged in violent measures—including beatings, arrests, and detentions—to prevent protesters from gathering daily in Banja Luka’s central square.

With regards to the freedom of expression, there have been **positive legal changes** introduced. The High Judicial and Prosecutorial Council adopted the Rulebook on the Automatic Case Management System in the Prosecutor’s Offices (TCMS)¹. According to the Rulebook, defendants and claimants in defamation acts will be registered in the CMS system in the future, which will increase transparency in these cases. Although **freedom of expression** is guaranteed both in the Constitution and the international conventions on human rights and freedoms, there were some **violations in practice**, including political pressure and intimidation of journalists.

The policies and legal environment for volunteering **differ** at different levels of governance. On the **state level**, there is still **no regulation** on volunteering. The last step forward at the Federation Bosnia and Herzegovina level has been made in 2012, when the Law on Voluntarism was adopted², providing legal solution according to which volunteering is recognized as work experience. CSOs generally questioned the justification of this rule, since it interferes with the regulation in the field of labour relations. **In Republika Srpska** there were no changes since the **adoption of the Law on Volunteering** in 2013. Also, **in 2018, the Law on Volunteering** was adopted in **Brčko District**³. In practice, the implementation of the laws faces more or less the same obstacles as **volunteers**

¹ Official Gazette Bosnia and Herzegovina 04/16, 37/16, 84/16 i 40/17. Available at: https://www.pravosudje.ba/vstv/faces/docservlet?p_id_doc=27187

² Official Gazette. The Federation of Bosnia and Herzegovina, number 110/12

³ Official Gazette of Brčko District 2/10. Available at: <https://skupstinabd.ba/3-zakon/ba/Zakon%20o%20volontiranju/001%2034-18%20Zakon%20o%20volontiranju.pdf>

do not sign the contract and do not insist on signing the practice **volunteer's booklet**. With regards to **labour legislation**, for CSO registered at the state level, the same legislation as for public institutions is applied, although founders of the association are not public institutions but rather individuals. In addition, **at the entities' level**, labour relations are regulated by the Entity Labour Laws and applied to all legal entities.

Grassroot organizations are considered small organizations based in certain **local communities** that work with the community and manage small amounts of funds. Grassroots mainly operate at local or canton level, and most of these organizations are dedicated to providing **social services**. Civil society representatives share perception that the operation of the grassroots, which is not enough visible in the public, in some cases places them in a **marginalized position**, as they are not able to enjoy full access to donor funding, advocacy with policy-makers, take part in consultations, undertake legal action, etc..

The financial environment deteriorated as funding for CSOs continued to **decrease**, with international rather than local organizations receiving most direct donor funds. International organizations and agencies still receive funds directly from donors and then disburse part of it to local CSOs. Their fees consume a large part of the total funding, and their involvement reduces the sense of ownership among local CSOs. Donors such as the USAID, EU, and Sida continue to engage domestic CSOs to manage foreign funded projects that include **sub-grant schemes**, which is a positive trend. An association and a foundation may undertake **economic activities**, which are not directly related to the achievement of its goals only by establishing a separate commercial legal entity. The only current tax benefit used is **income tax exemption** on donations, under both entities laws. Second are **donor deductions** that are not directly targeted at CSOs. CSOs are exempt from charging **VAT**. In addition, there are tax relief measures for individual and corporate giving.

The situation with public funding for CSOs in general is downward trend. The last elections had impact on the access of CSOs to state funds. The election winners did not succeed to form a government, while in Mostar elections have not been held yet. This situation has significant impact on the ability of registered CSOs to carry out planned and budgeted activities and projects, as the ministries are not operating fully. A major step forward is adoption of the **Rulebook** on financing and co-financing projects of public interest of associations and foundations at the state-level. The data on **public funding** to CSOs are not accurate, but based on what is available the general assumption is that compared to 2012 when there were some data available on this subject, the situation has **worsened** since.

Although there are positive examples of Involvement of CSOs in public consultation processes, in general, organizations have insignificant influence on public policy making. According to focus groups' participants, CSOs are rarely invited to participate in the process of drafting, adopting and implementing laws and policies. Social service contracts concluded between public institutions and CSOs at local and cantonal level are seen as a positive example of cooperation. With the establishment of the e-consultation platform⁴ in 2017, the mechanism has been raised to a higher level as it is now mandatory for all state-level institutions to consult CSOs. In practice, however, cooperation between public institutions and CSOs at the state level remains quite limited. Although the state-level Council of Ministers in 2012 adopted the Rules on Consultations⁵, their implementation is weak. In Republika Srpska, the legislative framework for engagement of citizens in decision-making process has been set up in form of Guidelines on participation of the

⁴ Platform is available at the link: <https://ekonsultacije.gov.ba/>

⁵ http://www.ads.gov.ba/v2/attachments/4257_PravilaKonsultacije.pdf

public and consultation in drafting laws and it is being implemented to a certain extent.

With regards to structures and mechanisms for dialogue and cooperation between civil society and public institutions, the greatest change in state-level cooperation with CSOs is the **adoption of the Agreement on Cooperation** between the Council of Ministers of Bosnia and Herzegovina and the Non-Governmental Sector in Bosnia and Herzegovina, which was signed in late 2017⁶. While the Agreement has been an achievement of the EU CBGI project and has in formal terms illustrated to international community that the country is fulfilling its task in the EU accession process, the implementation of the Agreement has not brought about actual changes in terms of improved dialogue between institutions and civil society. The main challenge remains the preparation of the Strategy for civil society in BiH, whose preparation is to be led by the Council of Ministers. While it was expected that the Agreement with the Council of Ministers would instigate lower levels of public administration to follow with same steps, at both entities and Canton levels, the lack of interest for any improvements in relations with civil society still persists.

The **data on the capacity of CSOs** show that there exists a limited number of capable, transparent and accountable CSOs. The effectiveness of CSOs is greatly influenced by the legislative framework of Bosnia and Herzegovina and its entities. According to the information from the EU-funded Capacity Building of Government Institutions (CBGI) project, in January 2020 there were **27.263 registered associations and foundations** in the collective register of CSOs maintained by Bosnia and Herzegovina's Ministry of Justice. This number includes CSOs that are registered at multiple levels of government, as well as a significant, but unknown, number of inactive CSOs. The collective register is a positive step forward. However, CSOs suggest that the register should also include information about CSOs' missions in order to provide more useful and detailed information about the sector.

The internal governance systems and capacities of CSOs are **moderate**. The legislation provides minimal requirements for CSOs with regards to internal governance structures. The majority of CSOs tend to have in place an Assembly and legal representative. The internal procedures and systems are not fully followed in the everyday practice of CSOs. Smaller organizations tend to **limit their development** in internal structuring while, on the other side, the donor rules as well as administrative burden for grants management always push these limits towards development of **reliable internal systems** for administration and financial management. As an example of a good practice, civil society representatives, in 2017 prepared and began promoting the **CSO Code of Ethics**, which defines CSO standards of behaviour based on the principles of transparency, openness, cooperation, mutual respect, and partnership.

The communication of the results and programme activities of CSOs remains a challenge. CSOs are generally slow in adapting to the new trends and concepts in communication. In most cases, CSOs use traditional channels to communicate their activities with the public, although there are recent trends of use of social media and data visualisation concepts as well. As a result of the unstructured communication, lack of skills and focus on CSOs, the citizens question the effects of work of CSOs. Bigger organizations invest in staff who work on communication of their results with the public. However, for small organizations, employing of **staff** that will work on communication of CSO' results **remain a challenge**, due to the lack of financial support for human resources engagement. The relationship between CSOs and media in Bosnia and Herzegovina is especially complex and represents a real challenge. CSOs' representatives are aware that they do not have the knowledge or capacities to deal with the media in a proper way, while also media participants

⁶Original text of the Agreement is available at the official web page of the Ministry of Justice of Bosnia and Herzegovina: <http://www.mpr.gov.ba/NVO/default.aspx?id=7076&langTag=bs-BA>

in the focus groups recognised that their approach towards CSOs could be more professional.

There is worrying trend in transparency of the programme activities and financial management of CSOs, where 45% of CSOs report avoiding legal obligations and do not submit their annual financial report to responsible public institution⁷. Similar is the situation with publishing annual reports of CSOs, since majority of CSOs (i.e. even some of the large ones) do not observe basic aspects of transparency. Even when annual reports are published, they are often presented without a financial report. There is a **lack of substantial engagement of CSOs** in monitoring and evaluating their work. The CSOs predominantly establish M&E practices on project level as a response to donor request.

There is an existing lack of strategic orientation and approach and project-to-project logic of CSOs. CSOs mainly orient their strategic planning to donor priorities in order to be eligible for funding. Strategic planning is still not widely used by CSOs, i.e. it is rather a small percentage of well-developed organizations, which have strategic approach to their operations. With regards to the evidence-based advocacy, CSOs have **limited knowledge** about the quantitative and qualitative research methods and are not familiar with methodology for developing policy studies or policy analysis. There is a presence of foreign donor funded think-tanks and research centres, which have major impact in the country's decision-making processes. Despite the existing achievements, most **CSOs feel discouraged** by their limited successes and the extended length of advocacy campaigns. The advocacy efforts of CSOs increasingly take form of networking and coalition building and, in many cases, resulting with success in their influence on public policies. However, the challenge remains of networks that tend to **cease** after their funding is over.

The CSOs in Bosnia and Herzegovina usually do not apply strategic orientation towards funding priorities, particularly smaller organizations. CSOs are responsive mostly to donor calls for project support and usually a small group of CSOs is included in programming of donor funds. The establishment of a diverse funding base is especially challenging for CSOs, since they have to acquire new skills for this. In most cases, main sources of funds are foreign donors and the state funds, i.e. at national and local level. CSOs rarely use new fundraising techniques such as crowdfunding. In the last few years, there has been an increase in the number of CSOs, which implement **income generation activities**. A limited number of CSOs have the capacity to apply and manage EU funds, while most of them partner with bigger organizations on EU calls.

In general, the sector has made progress with regards to the increase of the awareness on gender mainstreaming. On the other hand, examples show that CSOs in general do not have internal policies dealing with gender mainstreaming in place. Women's organizations consider themselves positioned and capable of serving as **experts and advisors** in gender sensitive policy, gender responsive budgeting etc., but this is not recognized widely. Agency for Gender Equality of Bosnia and Herzegovina has the main coordination role in the area of gender equality, together with the Gender Centre of the Federation of Bosnia and Herzegovina and the Gender Centre of the Republika Srpska.

Capacity building of CSOs should follow the global development of society, especially in area of soft skills, IT competences and media literacy. The sector requires substantive capacity building programmes in basic skills such as organizational management, technical and administrative management, project proposal writing and project implementation. Trainings are still considered the best way for capacity building of larger number of people. In addition to this, CSOs point out mentoring, practical trainings and workshops, online tutorials, and webinars as further useful tool to improve their capacities.

⁷Opstanak OCD u Bosnia and Herzegovina, CPCD, 2018

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