

Monitoring Matrix on Enabling Environment for Civil Society Development

Country Report:
Bosnia and Herzegovina
2021





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Country Brief for Bosnia and Herzegovina 2021

March 2022



Executive summary

Civil Society Overview

	2021
Number of registered organizations	25,646
Main civil society laws	The Law on Association and Foundation at levels of BiH, FBiH, RS and DB
Relevant changes in legal framework	The Law on Peaceful Assembly fully EU standardized in the Brcko District of BiH
State funding (for the previous year)	n/a
Human resources (employees and volunteers)	n/a
CSO-Government Cooperation (body/ consultation mechanism)	Advisory Board of the Council of Minister BiH (7 members)
Other key challenges	Existence of the legal framework used to ensure legal compliance without actual substantial forms of democratic decision-making.

Key findings

Key findings of the report	
1	COVID-19 consequences have contributed to the reduction or reallocation of funds from public budgets intended for CSOs, which has further hampered the existence of grass root organizations that depend on public budgets. Most CSOs could not apply for local economic recovery measures, such as in the private sector. No specific mechanisms were observed in providing support to vulnerable groups during the COVID-19 pandemic from the government side, nor civil society organizations that continued to work on their own initiative and adapt their programs to the needs of society.
2	The Law on Peaceful Assembly is unanimously adopted by the Assembly of the Brcko District of BiH and is fully EU standardized; Working Groups in the governments of Federation of BiH and RS work on amendments to the law to improve the protection of fundamental rights and freedoms of its inhabitants
3	Due to increase of hate speech, a Member of the Parliament of BiH, submitted to the parliamentary procedure a proposal to amend the BiH Criminal Code to expand the punishment of hate speech, so that it is not, as before, only because of national, racial, or religious hatred or intolerance, but to be any form of hatred that contaminates the public space of BiH for years.
4	No progress was made on guaranteeing freedom of expression and of the media, on protecting journalists and activists against threats and violence by ensuring an appropriate judicial follow-up, nor on ensuring the financial sustainability of the public broadcasting system, while new pressures from entrepreneurs and investors in the construction of small hydropower plants were recorded specifically on environmental activists
5	The Law on Freedom of Access to Information at the state level, which has regulated the issue of access to information for two decades, still points to the need for its harmonization with international standards and elimination of shortcomings arising from its practical application.
6	CSOs were targeted in the investigation of corrupt practices and abuse of position, suspected of "laundering" hundreds of thousands of KM, while the Administration for Indirect Taxation of BiH (AIT) attempted to collect VAT on all grants of CSOs.
7	The Audit Office of the Institutions of BiH (Office), based on the Law on Audit of Institutions of BiH, prepared a report on its activities for the past year and started a new Office's Strategic Development Plan 2021-2025 which includes an annual performance audit plan and identification of socially significant issues facing CSOs.

Key recommendations

Key recommendations of the report	
1	Additional mechanisms are needed to strengthen CSOs in overcoming the consequences of COVID-19, such as tax exemptions, refunds of deprived funds for CSOs during 2020 and 2021, development of a strategic plan for the sustainability of civil society organizations in situations such as the COVID-19 pandemic.
2	CSOs need to work closely with the Ministry of Justice BiH to finalize the Draft Law on Freedom of Access to Information at the Level of BiH Institutions, which transposes the provisions of Directive (EU) 2019/1024 of the European Parliament and of the Council on open data and re-use of public sector documents to be adopted by the Council of Ministries of BiH in 2022.
3	CSOs need to prepare initiative for amendment to the Law on Value added tax of BiH, VAT exemptions Article 24 to be added that besides religious, sport and cultural institutions, associations and foundations are vat exemptions, as new and aggressive audits are announced for 2022 by Administration for Indirect Taxation of BiH (AIT) to collect VAT on all grants of CSOs.
4	Public institutions need to create mechanisms for greater protection of environment activists who have been evidently exposed by threats, pressure and violence of politicians and entrepreneurs.
5	CSOs should answer to all calls on cooperation with the Audit Office of the Institutions of BiH (Office), their preparation of strategic plans and activities they seek to consider in 2022 on socially significant issues facing CSOs.
6	Strengthen the networking, cooperation and joint action between CSOs, media and independent trade unions.

Findings

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1. Freedom of association

1.1.1. Establishment of and Participation in CSOs

Four laws governing freedom of association, including state-level on Associations and Foundations, Brčko District, and laws in Federation BiH and RS, remained unchanged during 2021.

E-Register of Associations and Foundations of Bosnia and Herzegovina is updated by the Ministry of Justice at the state level. Insufficiency in providing additional basic information about the associations and foundations results data collection process still longer lasting. Lack of updates of the site and the display of active and inactive associations and foundations additionally makes the collection of adequate information more difficult. On one hand, the E-Register is a result of a project that ended without providing a program for sustainability in maintenance of the website in future, while on another hand, the CSOs do not regularly submit their data with all required information to be complete. This poses a risk for the Register to become useless very soon, after only two years of its creation, even though it is the only reliable source of CSO data in BiH at the state-level. To uphold the CSO status, organizations are obliged to annually submit their financial statements to the entity tax department office, and those registered on the state level to additionally submit a copy of their financial and performance report to the state Ministry of Justice, which publishes this information on its website. This obligation was adopted in 2016 as part of international anti-money laundering and counterterrorism measures. However, an additional challenge in defining the status of CSOs is their failure to comply with the legal obligation and to submit a financial statement to the authorities, or to submit the copy to the Ministry of Justice at the state level, which further makes it difficult to monitor the work of CSOs.

In 2021, according to the online Unified E-Register of Associations and Foundations of Bosnia and Herzegovina, currently there are 25,646 active CSOs which are registered, with 578 CSOs in the process of termination of their registration, and 1,763 CSOs which have been deleted from registers in the country.

1.1.2. State Interference

Registered organizations may engage in any legitimate activity as long as it is not aimed at undermining the constitutional order of Bosnia and Herzegovina and its entities, violating guaranteed human rights or inciting and inciting inequality, hatred and intolerance based on race, nationality, religion or any other affiliation. However, although the law does not allow activities such as campaigning or fundraising for political candidates or parties, the practice speaks of an increasing number of organizations that are considered so-called GONGO or PONGO, Government or Political organized non-governmental organizations. Their activities are

not completely transparent, which makes it difficult to see the real mission of these organizations, but during 2021, it has been noted a need to work more on monitoring the work of individual organizations whose activities are reminiscent of pro-government or political organizations. In addition to their activities related to the promotion of government or political entities, they are significant threats to civil society organizations due to illegal actions between governments and political governing structures and non-transparently direct funds to these organizations. Insufficient transparency in the allocation of public funds, public calls which are not opened or redirection of funds from public budgets intended for civil society organizations also indicate the misuse of public funds. Although public bodies do not interfere directly in the work of CSOs, during 2021, pressure on CSOs was observed by public officials or business entities.

The Ministry of Justice of BiH is obliged to collect financial reports of CSOs registered at the state level according to the Law on Associations and Foundations from 2016 and in accordance with the requirements and recommendations of the Committee of Experts for Evaluation of Measures against Money Laundering and Terrorist Financing (MONEYVAL) and the Financial Action Task Force. (FATF). However, concerns were expressed about the inability of the Ministry of Justice to adequately report on this issue because lower-level laws are not in line with the same requirements and recommendations of MONEYVAL and FATF, and therefore the FIA and APIF are not linked to the Ministry of Justice. forwarded the obligatory financial reports, nor were the civil society organizations adequately informed about the obligation to, in addition to submitting the financial report prepared by the certified public accountant to the competent tax authority, submit a copy to the Ministry of Justice of BiH.

1.1.3. Securing Financial Resources

CSOs were not protected or supported by the government to face adequately the consequences of the COVID-19 crisis, as the ban and restriction of movement affected the implementation of their activities (project implementation, service provision, product sales), while costs were still present (staff salaries, running costs, etc.). In addition, they continued to face the negative consequences that have accompanied them since 2020. Uncertainty in the recovery of adequate economic resources for the future and the enormous impact that the pandemic has had on CSO elements can jeopardize hundreds of jobs and acquired skills, creating tensions within organizations (both personal and working group, and even beneficiaries and the local community). Certainly, the impact on human resources of CSOs is strictly related to the inability of CSOs to receive assistance from local authorities. During 2021, in addition to several regulations at the entity and cantonal level on providing support to certain sectors, such as the Regulation on intervention measures to support aggravated sectors of the economy¹, or the Decision on exemption from calculation and payment of indirect taxes and refund of already paid indirect taxes on equipment and funds donated by domestic and international entities for the prevention, control and elimination of the epidemic caused by the coronavirus (Covid-19)², no specific mechanisms were observed in providing support to vulnerable groups during the COVID-19 pandemic, nor civil society organizations that continued to work on their own initiative and adapt

¹ [Uredba o interventnim mjerama za podršku ugroženim sektorima privrede Federacije Bosne i Hercegovine u okolnostima pandemije COVID-19 - Paragraf Lex BA](#)

² [Odluka o oslobođanju od obračuna i plaćanja indirektnih poreza i povratu već plaćenih indirektnih poreza na opremu i sredstva donirana od strane domaćih i međunarodnih subjekata za potrebe prevencije, suzbijanja i otklanjanja epidemije prouzrokovane korona virusom \(KOVID-19\) - Paragraf Lex BA](#)

their programs to the needs of society. In BiH, most CSOs could not apply for local economic recovery measures, such as in the private sector. These elements soon caused an urgent need for proper governance of organizations, and CSOs began to seek financial and material support from local authorities in their countries and communities, as well as from national and international donors. As a result, CSOs have largely continued to seek non-governmental and international resources to obtain the financial and material support needed in the “emergency” phases of work, as was the case in 2020. At the same time, there are very few open calls for project proposals in this regard.

Alternative sources of funding are still underdeveloped, and the CSOs need to adopt strategies or methods on how to approach these. Crowdfunding or kick-starter as a way of raising funds is one of the activities with high potential for effectively raising funds for CSOs. Now, crowdfunding online campaigns are mostly addressing the needs of vulnerable groups and their needs within local organizations which is a useful source for their funding.

Sub-area 1.2. Related Freedoms

1.2.1. Freedom of Peaceful Assembly

Limited progress was made in addressing the Opinion key priority on ensuring an enabling environment for civil society, notably by adopting a new law on freedom of assembly in the Brcko District³, broadly in line with EU standards.

Intensive work is being done with the Working Groups in the governments of the Federation of BiH and RS on amendments to the law to improve the protection of fundamental rights and freedoms of its inhabitants, bearing in mind that relevant international standards of human rights are incorporated into the law.⁴⁵ The Brcko Parliament is at the forefront in BiH when it comes to improving the work of assemblies in the context of adjusting and adopting legislation with that within the European Union. In this context, at the final conference in Sarajevo, attended by representatives of the state and entity parliaments, the District was rated as the most successful.⁶

Entity-level, Brcko District, and state-level governments, following epidemiological patterns, issued recommendations and measures that inevitably affected basic right to free movements. On several occasions, measures were issued to regulate the movements, such as those issued before the holidays to prevent the gathering of a larger number of citizens. In the RS, for example, based on the Conclusion on the implementation of measures to respond to the occurrence of

³ [International Community representatives commend the adoption of the Law on Peaceful Assembly by the Brcko District Assembly | OSCE](#)

⁴ [Microsoft Word - 67a2-23f0-809c-7b60.doc \(skupstinabd.ba\)](#)

⁵ [Predstavnicima međunarodne zajednice pozdravljaju usvajanje Zakona o mirnom okupljanju u Brčko distriktu BiH | OSCE](#)

⁶ [Na završnoj Konferenciji Tvinig projekta Brčko distrikt ocijenjen najuspješnijim – RNU "Radio Brčko" Brčko distrikt BiH \(radiobrcko.ba\)](#)

diseases caused by the new crown virus (Covid-19), Republika Srpska, number: 105-1 / 21 of 16.12.2021.⁷ issued the measures ordering prohibition of all public gatherings in groups of more than 120 persons, all private gatherings that are not held in a public place in groups of more than 70 people. Besides entity level restrictions, measures were also issued at the cantonal levels where in the spring 2021 it was forbidden to move from one canton to another: Conclusion prohibiting the movement of the population in the Sarajevo Canton, number: 02-04-10017-26 / 21 of 3/18/2021⁸ stated that the measures included prohibition on the movement of the population in Sarajevo Canton.

Freedom of assembly and expression remain restricted in Republika Srpska entity, where members of the 'Justice for David' movement have been subject to intimidation and judicial prosecution, and where a new crime of offense to the reputation of the Republika Srpska entity and its peoples was introduced in August 2021. The year 2021 is followed by many media and public appearances as well as organized peaceful protests by activists and the Memić family, who, like activists and the Dragičević family, have stated on several occasions that they are under political and mafia pressure to fight for justice of young men.

1.2.2. Freedom of Expression

Censorship, self-censorship, contactless work, blackmail, pressure on the family, challenging basic human rights, financial depletion is just some of the ways in which political powerbrokers and advertisers try to bring the media under their control. Journalists sought protection and public support in cases of physical attacks and death threats, illegal police interrogation, attempts to discover sources of information, confiscation of TV equipment, denial of information, boycott of journalists and employees, irregular payment of salaries. Bosnia and Herzegovina is a signatory to all UN conventions and resolutions on human rights and freedoms that protect freedom of expression and opinion. In the digital age, threats are mostly reduced from fake social media profiles. It is mostly about vulgar insults, attempts at degradation, mentioning the family. Politicians are more skilled than them and they realize their "threats" through public services - state, federal, cantonal or city, abusing their position and time, i.e., privatizing that space without the possibility of expressing opinions and comments of the other party, i.e., journalists⁹. According to the Helpline for Journalists only from January to June 2021, BH journalists recorded 35 cases of violations of journalists' rights by threats, online attacks, pressure, censorship, denial of access to information, defamation lawsuits, labor disputes and other forms of pressure on media work¹⁰. Hate speech and violence against journalists in the online space is significantly increasing and deepening. Gender-based violence in the online world accounts for over 53%, of which only two-thirds of journalists report online violence to management over the past three years, over 40% of journalists have been attacked or threatened, and 75% have experienced it from a politician or public official¹¹. In the spring of 2021, Denis Zvizdić, Member of the Parliament of Bosnia and Herzegovina, submitted to the parliamentary procedure a proposal to amend the

⁷ ZAKLJUČAK O SPROVOĐENJU MJERA ZA REAGOVANJE NA POJAVU BOLESTI IZAZVANE NOVIM VIRUSOM KORONA (COVID-19) U REPUBLICI SRPSKOJ, BROJ: 105-1/21 OD 16.12.2021. GODINE - Paragraf Lex BA

⁸ <https://www.paragraf.ba/propisi/kantona-sarajevo/zakljucak-kojim-se-zabranjuje-kretanje-stanovnika-na-podrucju-kantona-sarajevo.html>

⁹ Posao medijskih radnika u BiH teži tokom pandemije (slobodnaevropa.org)

¹⁰ Analiza-govor-mrznje-FINAL.pdf (bhnovinari.ba)

¹¹ Konferencija BH novinara: Mediji imaju ključnu ulogu u podizanju svijesti o rodno zasnovanom nasilju - BH novinari

BiH Criminal Code¹² to expand the punishment of hate speech, so that it is not, as before, only because of national, racial, or religious hatred or intolerance, but to be any form of hatred that contaminates the public space of Bosnia and Herzegovina for years.

As regards to the fundamental rights, while the legislative and institutional framework is largely in place, Bosnia and Herzegovina has yet to adopt a comprehensive strategic framework. No progress was made on guaranteeing freedom of expression and of the media, on protecting journalists against threats and violence by ensuring an appropriate judicial follow-up, nor on ensuring the financial sustainability of the public broadcasting system. Challenges persist as regards the freedom of assembly, particularly in the Republika Srpska entity, where activists have been subjected to intimidation and judicial prosecution¹³. During 2021, there were cases of violence, threats and threats to security and freedom of expression of activists of associations and foundations. Political pressures as well as pressures from entrepreneurs and investors in the construction of small hydropower plants were recorded on environmental activists. Many civil society organizations strongly condemned the sexist insults and the attack on the director of the Aarhus Center, Emina Veljović, during a public debate in Mostar¹⁴. Aarhus Center and environmental activists are key partners in important discussions on the environmental impact of small hydropower plants. Public debate in Mostar on Draft Law on Amendments to the Law on Electricity in the Federation of BiH was interrupted by insulting activist and lawyer from Aarhus Center in Bosnia and Herzegovina, when a representative of investors and owner of a small hydropower plant insulted activist removed from public debate.

1.2.3. Access to Information

The Law on Freedom of Access to Information at the state level, which has regulated the issue of access to information for two decades, still points to the need for its harmonization with international standards and elimination of shortcomings arising from its practical application. The importance of these laws is confirmed by numerous discoveries of abuses and illegalities in the work of institutions and public officials that resulted from information obtained based on the law on freedom of access to information, but also numerous initiatives to improve the legislative framework. The current Law on Freedom of Access to Information in Bosnia and Herzegovina has several shortcomings, such as the lack of proactive disclosure of information, shortcomings in appeals, undefined ways to conduct public interest tests, inconsistencies with other laws restricting the right to access information and the like¹⁵. During 2021, organizations working on research stated that institutions have not sufficiently strengthened their capacities, so the practice of accessing information is uneven. Applicants, who in most cases are media and news agencies and civil society organizations, face unfounded denial of access to information, silence of the administration, violation of deadlines for deciding on requests, which ultimately leads to information of public interest remaining hidden¹⁶.

¹² [Dr Denis Zvizdić on Twitter: "Danas sam uputio u parlamentarnu proceduru Prijedlog izmjene Krivičnog zakona BiH sa ciljem proširenja kažnjavanja govora mržnje, na način da to ne bude, kao do sada, samo "nacionalna, rasna ili vjerska mržnja ili netrpeljivost", već da to bude svaki oblik mržnje koji godinama.... https://t.co/VH7p2FUxfe" / Twitter](#)

¹³ [Bosnia and Herzegovina Report 2021 \(europa.eu\)](#)

¹⁴ [BUKA Magazin - OŠTRE OSUDE NAPADA NA EKOLOŠKE AKTIVISTE: Investitori su sve nervozniji \(gyka.com\)](#)

¹⁵ [Analiza_ZoSPI-FINAL.pdf \(bhnovinari.ba\)](#)

¹⁶ [Analiza_ZoSPI-FINAL.pdf \(bhnovinari.ba\)](#)

Area 2: Framework for CSO Financial Viability and Sustainability

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

2.1.1. Tax Benefits

CSOs can request return of VAT on goods and services they paid on projects that were funded by the US Government and the EU Instrument for Pre-Accession (IPA) programs. However, such benefits are limited to these programs. Humanitarian, charitable, disability and similar organizations do not have pay VAT on services and goods they provide to their members for membership fees. Despite this, after the first case in 2020 when the Administration for Indirect Taxation of BiH (AIT) attempted to collect VAT on all grants of Association Nahla that were implemented in the past five years, another case is recorded in Institute of Youth KULT. Thanks to the prompt reaction of the wider civil society and hired lawyers, the AIT abandoned its intention, but the situation has not been legally completed from NAHLA. However, in case of KULT, the process is still ongoing, and this incident showcases how public authorities interpret subjectively the law, which creates legal uncertainty and can be a potential major threat to the sector.

Bosnia and Herzegovina is at an early stage / has some level of preparation in the prevention and fight against corruption and organized crime. No progress was made during 2021; urgent action is required to adopt pending legislation on public procurement and conflict of interest. During the pandemic, the negative effects of widespread corruption and signs of political capture continued to manifest strongly during the pandemic, directly affecting the wellbeing of citizens. The selective and non-transparent prosecution and judicial follow-up of corruption cases is a cause for concern. CSOs were also targeted in the investigation of corrupt practices and abuse of position, where there were cases in which directors and employees of civil society organizations in RS and FBiH were suspected of "laundering" hundreds of thousands of KM. Also, the Tax Administration of FBiH published an overview of taxpayers with the amount of debt based on taxes, contributions, fees, and other charges over 25,000.00 EUR, according to the records of cantonal tax offices, on 31.12.2021. years. Of the 4,405 legal entities on that list, only 33 are associations, while the rest are sports clubs / associations)¹⁷. This additionally speaks of the need to separate associations and foundations according to their primary activities, which would further help in obtaining accurate data concerning associations and foundations that are not characterized as sports, veterans, etc.

2.1.2. Incentives for Individual/Corporate Giving

No changes have been noted regarding the legal framework on individual or corporate giving. Legal entities, in particular companies, registered in both entities can receive a tax-deductible expense up to 3% of total their profit for donations they made for humanitarian, cultural, educational, scientific, and sport purposes. For sponsorships, legal entities can receive a tax-deductible expense up to 3% in FBiH and up to 2% in Republika Srpska for their expenditures that

¹⁷ PUFBiH

support social events or projects that are not directly related to their business activities, with or without reciprocity in advertising. In FBiH, individuals who are self-employed are eligible for a tax-deductible expenditure only up to 0.5% of their income in the previous year for donations given for cultural, educational, scientific, health, humanitarian, sports, and religious purposes to specially registered associations and other legal entities. In Republika Srpska, the tax-deductible expenditure amounts to 2% of a person's income. In this entity, any form of social and humanitarian aid is exempt from the tax payment obligation, while in FBiH such exemption is only possible for social assistance and on donations for health treatments that are not covered by the public health insurance. This means that individuals cannot receive non-taxable donations in cash or goods unless they are registered in centers for social work. Scholarships are not taxable up to 75% of the average net salary.

Donors and receiving organizations are not obliged to pay VAT taxes on donations in money but are obliged to pay VAT (and customs) on donations in goods and services. Donation recipient is obliged to pay VAT if such donation is made from outside the country, while donor has to pay the VAT in case the donation is made within the country and donor is not exempt from paying VAT. Exemption to this rule are goods and services directly related to services provided by political, trade union, humanitarian, charitable, disability and similar organizations to their members for membership fees, in accordance with the regulations governing these activities. Many organizations complain that such regulation hinders philanthropy and humanitarian action in the country. Namely, taxes (and customs in case donations are made from abroad) are to be paid on food, water, medical equipment, medicine, and other similar donations even during a natural disaster, such as floods that occurred in 2014. However, during the COVID epidemic, the national government adopted special regulation lifting this rule for medical equipment and medicine that was donated to public institutions for the purpose of addressing the epidemic. This rule does not apply for donations to the civil society organizations.

In 2021, an initiative was launched to establish a Philanthropic Forum that would bring together philanthropists throughout BiH and beyond but would also intensify the process of regulating the law on philanthropy in BiH and thus stimulate giving, volunteering, humanitarian actions and promoting positive values in society. promotion of science, culture and education. Around 500 tons of products from the food industry are being destroyed in BiH, because their expiration date has passed.¹⁸ In the case of a donation of food products before the deadline, companies would have to pay 17% VAT on the value of those goods. The goal of the initiative is to change the law so that companies can donate food without paying VAT.

To prevent the consequences from COVID-19, as well as people's reactions since the pandemic's outbreak, regarding the value of donations, from the beginning of the crisis to 31 July 2021, according to Catalyst Balkans in Bosnia and Herzegovina, the institutions were the most supported recipients of donations.¹⁹

¹⁸ [Unaprijedimo pravni okvir za filantropiju u BiH - YouTube](#)

¹⁹ [Giving Balkans: Philanthropy's Response to COVID-19, July 2021 \(balkancsd.net\)](#)

Sub-area 2.2. State support

2.2.1. Public Funding Availability

All levels of government provide and allocate public funding to CSOs. Although legal frameworks, including bylaws, are adopted for such purpose, their application is rather formal than substantial. This means that public authorities formally respect procedures, open public calls and similar, but make decisions on distribution of these funds rather informally. In fact, majority of public funds allocated for the civil society ends up in hands of affiliates of the ruling political parties.²⁰ Moreover, oftentimes division of funds is beforehand agreed between public officials, politicians and CSOs. These funds are not negligible, having in mind that public institutions, particularly cities and municipalities, are the largest CSO donors in the country.

The adoption of a framework for the transparent funding of civil society organizations remains outstanding. There has been a reduction and redirection of public funds intended for civil society organizations during the pandemic in 2020, and this trend continued in 2021. At least 25% of government bodies do not publish public calls (although calls are in the form of “public”) for allocating funds to associations and foundations from the budget, and almost 30% of government bodies do not have defined procedures for conducting public calls, while COVID- 19 pandemics in a significant number of cases per year (mis) used for the purpose of irresponsible and non-transparent funding processes by the authorities²¹. Amendments to the Program of Ministries at the Entity and Cantonal Levels in 2020 and 2021 have mostly reallocated funds to other items due to restrictions and cancellations of numerous events and project activities of CSOs due to the COVID-19 pandemic. There are different procedures (especially in administrative organizations, funds, etc.) for the allocation of funds to CSOs, ie, procedures for allocating funds still differ in the segment related to the regulation of the allocation procedure by creating application forms, applicants' rights during and after the allocation procedure, method of evaluation of applications, etc. In other words, the prescribed procedures for allocating funds still differ in type from the aspect of transparency, from allocation through a public call to allocation based on the submitted request. Untimely publication of the call for allocation of funds, delay in the allocation of funds or allocation of funds after the end of the year or the deadline defined by the grant agreement is very present in the administrative bodies. Substantial analyzes and monitoring of submitted reports on the implementation of certain grant award or allocated funds are not performed to collect the necessary data to review the situation in a particular area to find the best possible solutions or strategies for future activities. In most cases, the award of grants from the current reserve is still without a previously publicly announced call.

2.2.2. Public Funding Distribution

CSOs plan minimal funding for government funding²² and there is a relatively low level of preparedness in BiH associations and foundations to withdraw funds approved by the authorities

²⁰ <https://www.slobodnaevropa.org/a/boracka-udruzenja-budzet-bih-borci/29359517.html>

²¹ Impact of COVID-19 on civil society during 2020, Center for the Promotion of Civil Society, Sarajevo, 2021

²² This information should be taken with caution, given that a large number of CSOs do not have a fundraising strategy or strategic approach to the development of the organization, the conclusion was based on research on the impact of COVID-19 on civil society, 2021, Center for Civil Society Promotion Sarajevo

due to insufficient quality projects, reduced number of applications, failure to meet the requirements of the public call and failure to submit a report on the intended use of funds. A survey conducted by the Center for the Promotion of Civil Society - CPCD on the impact of COVID-19²³ on civil society shows over 61% (61.5%) of CSOs believe that government bodies do not allocate transparent public funds to associations and foundations, while 30.8% believe that transparency is partial and 3.5% almost non-transparent. Only 3.5% of CSOs believe that the allocation of funds is transparent - which is a very low level of CSO trust in government. About 94% of the authorities do not have goals to be achieved by allocating funds, allocating activities, result indicators and sources of verification. For most institutions at the state level, the basis for planning and awarding grants are competencies established by law and strategies adopted for a specific area. Most of the surveyed authorities and CSOs agree in considering that certain associations and foundations should have continuous funding from public funds, and that a clear participatory distinction needs to be made between project based CSOs from those of a typical nature. 60% of CSOs surveyed view the availability of information for funding only as an approach to public calls, but not as an approach to planning and creating policies to support CSOs by the authorities. The greatest burden of the COVID-19 pandemic, i.e., the reallocation of funds initially intended for CSOs, was observed at the local level during 2020 and beginning of 2021.

2.2.3. Accountability, Monitoring and Evaluation of Public Funding

The Audit Office of the Institutions of Bosnia and Herzegovina (Office), based on the Law on Audit of Institutions of Bosnia and Herzegovina, prepared a report on its activities for the past year.²⁴ In 2021, the Office started a new strategic period documented through the Office's Strategic Development Plan 2021-2025. This strategic plan includes an annual performance audit plan and identification of socially significant issues facing civil society organizations. The first year of the new development chapter was completed in accordance with the strategic commitments and related operational programs. The annual financial and performance audit plans have been fully implemented, together with other activities important for fulfilling the legal role and mandate of the Office.²⁵

The Audit Office of the Institutions of Bosnia and Herzegovina monitored the implementation of recommendations for the audit of the performance of Grant Management in the Institutions of Bosnia and Herzegovina. In relation to the monitoring of the implementation of performance audit recommendations from 2020, in 2021 a weaker level of implementation of performance audit recommendations was determined.

The monitoring results indicate that 9% of the recommendations were fully implemented, 48% of the recommendations were partially implemented, for 39% of the recommendations the competent institutions undertook initial activities, and for 4% of the recommendations no activities were undertaken. However, although planning has improved, some institutions still do not have the described performance indicators and units of measure and target values that are clear and measurable.²⁶

The situation is unchanged in the grant award procedures. Award procedures still differ in the

²³ Uticaj COVID-19 na civilno društvo tokom 2020. godine, Centar za promociju civilnog društva, Sarajevo, 2021. godina

²⁴ Izvještaj revizije učinka: Praćenje realizacije preporuka (revizija.gov.ba)

²⁵ IZVJEŠTAJ O AKTIVNOSTIMA UREDA ZA REVIZIJU INSTITUCIJA BIH ZA 2021. GODINU (revizija.gov.ba)

²⁶ Infografika Praćenje 2021 za web BOS (revizija.gov.ba)

segment related to the orderliness of procedures by creating application forms, the rights of applicants during and after the award procedure, the method of evaluation of applications and the like. The allocation of grant funds from the current reserve is still without a previously publicly announced call that would clearly define the criteria, deadlines, and conditions for the allocation of these funds. Namely, from the budget reserve, grant funds were approved to individuals and organizations in 2019 based on individual contracts concluded with users by the BiH Ministry of Civil Affairs and the BiH Ministry of Foreign Trade and Economic Relations, without a previously publicly announced call clearly defining criteria, terms and conditions for the allocation of these funds. This was particularly pronounced in 2019, when, due to temporary funding, there were no grants awarded through public calls. Also, the Annual Audit Report on the Execution of the Budget of BiH Institutions for 2019 recorded the problem of approving grants from the budget reserve.

In addition, the analysis of the budget requests of the institutions from the sample showed that the institutions still do not explain the ways in which they determined the amount of requested funds. It was noticed that there are still cases where the ways of proving the fulfillment of the conditions for participation in the public call for awards are not precisely defined grant funds. However, some institutions have improved the transparency of grant allocation by creating unified application forms for so too for reporting. Rare are the beneficiaries who received the funds they requested, regardless of how the project was evaluated by the commission. The way the funds were distributed by beneficiaries is still not prescribed. For example, users with the highest number of points received the highest amounts, users with the same number of points received the same amounts, but it is not clear based on which these amounts were determined.

2.2.4. Non-Financial Support

Support that is not primarily financial for CSOs is visible in the long-standing practice of local levels of government through the allocation of space for offices or event halls planned by CSOs. This type of support is especially noticeable in municipalities and small local organizations. In the case of the need for a space that is not intended for free allocation for use, municipalities usually meet by renting space CSOs for a very symbolic monthly amount. Unfortunately, there are fewer cases where municipalities cover utilities costs. Meetings, networking, cooperation, and strategic work with organizations are not specifically defined, so programs to empower CSOs in local communities by local levels of government are lacking.

Sub-area 2.3. Human resources

2.3.1. Employment in CSOs

Employment regulation treats all legal entities in the same manner, including associations and foundations. This means that workers' rights of persons employed by CSOs are regulated by entity Labor Codes, which have been subject to complete revision and adoption in 2015-2016. These revisions entailed greater labor liberalization and more flexibility. Although these Labor Codes, alongside other legislation (on health insurance and social welfare), stipulate various forms of protections available to workers their enforcement is weak. In fact, workers in Bosnia and Herzegovina have been subjected to various forms of labor misuse and discrimination, particularly mobbing, informal employment without proper contracts, and unfair compensation and dismissals. Although these practices have been noted in the CSO sector as well, they are not severe as such as in the commercial sector. Particularly CSOs that receive foreign funding adhere to better working standards and conditions for their staff.

The civil society in BiH is dominated by small grass root organizations without full time employees that operate locally with an aim of protection of interests and gained social rights of specific social or interest groups. When it comes to the number of civil society organization that have full time employees and the total number of employees in the non-profit sector in BiH, there are certain problems with determining the exact number of civil society organizations that have full time employees and the total number of the employees due to different methodology of data gathering applied by the entity statistics bureaus and the responsible tax offices.

The size, economic strength, and number of employees in the civil society in a country largely depends on the role of civil society in the social protection system and the willingness of the state to involve CSOs in the systems of social protection, education, and health. As for the gross earnings of full-time employees in the civil society sector, the statistics show that the average gross salary of employees in the civil society is very close to the average gross salary in BiH.

2.3.2. Volunteering in CSOs

Organizations that want to hire volunteers should register with the FBiH Ministry of Justice or the RS Volunteer Service as a volunteer point; afterwards they need to register their volunteers at the same institutions. These institutions issue volunteer cards for registered volunteers and, according to them, reports must be submitted on volunteering hours and type of work done. New volunteers must get registered and those who are no longer engaged must be deregistered. Through volunteering contracts, a small fee can be provided for volunteers, which is non-taxable to cover their basic costs (transportation, food, telephone, etc.). The entity laws on volunteering aim to protect volunteers by defining what volunteering entails, who and under what conditions is engaged, etc. For this reason, volunteering excludes work in the business sector.

CSOs report that they are not clear when contracts on volunteering should be signed in cases when they are hiring young people. In practice, they sign scholarship or short-term work contracts more often as these provide better benefits to the persons they hire, and they know

better how to administratively handle other contracts compared to contracts on volunteering. The Law on Volunteering in the Federation of BiH was not functional for a long period of time, but the organization KULT worked and advocated for changes and better implementation of the Law during 2020. However, not much development in this sense has been captured during 2021. A volunteer experience does not count as official working experience, only as informal working experience if a volunteer worked minimum of 250 working days. Yet, the results of the only comprehensive survey on the position and needs of young people conducted in the last 13 years, conducted by the Institute²⁷, show that every third young person in BiH is involved in volunteering activities and that young people see volunteering as an effective tool for achieving positive social change.

The volunteering has been significantly promoted during 2020 and continued in 2021, especially due to many people in need. Additionally, 2021 marks economic crises due to which CSOs and volunteers additionally worked on providing aid in food and other necessities of life.

Organizations that work with youth and religious charities oftentimes attract large numbers of youth that volunteers usually for humanitarian, educative or other socially beneficial purposes. However, these initiatives are not fully formalized, i.e., they do not entail signing of volunteering contracts and recording of volunteering hours in cards. In terms of actual support to volunteering through public programs, Republika Srpska has made significant efforts in this instance through its Volunteering Service attracting 10.000 members, mostly high schoolers, and students. However, formalized volunteering has not taken up.

This form of formalized volunteering does not hinder existence of spontaneous volunteer work. Individuals volunteer often but majority of this work remains invisible and not widely recognized. Nevertheless, the culture values volunteering, such as helping neighbors in need, taking care of the elderly, the poor, and the abandoned animals. In fact, during humanitarian crises, CSOs and people tend to self-organize and quickly aid those in needs. While such actions have become more visible thanks to social media, they still lack large social visibility and greater recognition.

2.3.3. Non-Formal Education

Legislators have partially approached the regulation of adult education in different ways. One reason for such solutions lies in the possible lack of institutional coherence and cooperation in drafting regulations of all participants in the field of adult education. Spotted is that the legislator has put the focus on formal education through regulations, of which there are many issues related to non-formal education programs remained open. This is particularly noticeable in RS regulations; it does not define the conditions that must be met by the organizers of non-formal adult education. The situation is similar in the cantons in FBiH in which the area of non-formal adult education is flat and insufficiently covered. Within this regard, it follows that it would be justified to amend or amend the regulations so that it is clearly understood whether and to what extent the conditions in the field of non-formal education are prescribed, starting from the conditions which the organizers of non-formal adult education must fulfill through implementation to supervision and control. Otherwise, it is possible in the given circumstances to

²⁷ [Volontiranje ostavilo snažan dojam na polaznike UMiD-a 17 - Institut za razvoj mladih KULT](#)

conclude that certain the requirements also apply to non-formal education, which is probably not the intention of the legislator.

According to a deep survey on Informal education in BiH, obtained in 2021²⁸, there was a vague definition of the way the fulfillment of the conditions for the work of the educational institutions is checked, as well as the question of whether these activities are carried out by the same expert commissions as during determining the fulfillment of conditions for conducting educational programs.

When it comes to cantonal legal framework and practices, only in KS is an external assessment of the quality of work of education organizers adults, assessing the quality of adult education organizers as well as programs which it implements, and confirms that they meet pre-established criteria and standards for the performance of activities and the implementation of a particular program. These activities are carried out by an independent accreditation body. Given that accreditation is not implemented in other cantons, this finding points to the necessary examination of the need to introduce this procedure in others administrative units. In this regard, it is also necessary to determine whether accreditation means checking the fulfillment of the conditions for the work of education organizers, which is provided by the regulations.

Many CSOs, religious communities and political parties offer many non-formal and informal learning opportunities in forms of workshops, trainings, academies, etc. that foster civic engagement. However, in those instances, a validation of the learning outcomes is rarely included, still, and certificates are rarely given out. Therefore, qualifications or credits are not awarded at the end of the learning period. That would require official registration of the education provider through the law. Also, lecturers would need to be validated in some way as well. Nevertheless, value of these non-formal education opportunities is immense, especially for the youth.

²⁸ [Fondacija-Helvetas-Pravna-Analiza-A4-BiH.pdf \(mojabuducnost.ba\)](#)

Area 3: Government-CSO Relationship

Sub-area 3.1. Framework and practices for cooperation

3.1.1. State Policies and Strategies for Development of and Cooperation with Civil Society

During 2021, the Advisory Body of the Council of Ministers of BiH for Cooperation with NGOs held two working and several informal sessions with civil society organizations, at which, among other things, it was agreed to initiate activities to develop a strategy to create an enabling environment for civil society development. The Advisory Body prepared an overview of the basic problems of civil society and draws up a plan for the development of the future Strategy. As part of the Program for Strengthening Public Institutions in BiH implemented by the German GIZ on behalf of the governments of the United Kingdom and Germany, the Public Administration Reform Coordinator's Office coordinated activities in 2021 and in cooperation with the General Secretariat of the Government of the Federation of Bosnia and Herzegovina. The purpose of the assessment is to assist the FBiH Government and FBiH institutions in identifying potential future open data initiatives that involve more than just opening data and creating an open data portal. In other words, all future initiatives should include analysis of data supply and reuse, as well as the development of skills for data analysis and use, funding of open data programs and targeted funding of open data-related innovations.

3.1.2. Institutions and Mechanisms for Development and Cooperation with Civil Society

At its 30th session held on March 17, 2021, the Council of Ministers of BiH adopted the Report on the Implementation of the Action Plan of the CoM of BiH for the Implementation of the "Partnership for Open Government" initiative for the period 2019-2021. To implement the measures from the Action Plan, and due to the current epidemiological circumstances caused by the Covid-19 pandemic, March 24, 25, 2021 and April 28, 2021. year, the Ministry of Justice of BiH, in cooperation with the Center for the Promotion of Civil Society (CPCD), for interested individuals and representatives of civil society organizations, held online presentations on participation in consultations through the web platform eConsultation.

The Action Plan of the Council of Ministers of BiH for the implementation of the initiative "Partnership for Open Government" for the period 2021 - 2023, which was submitted to the Council of Ministers of BiH in January 2022 for adoption. The Action Plan was prepared in accordance with the principles of the Open Government Partnership and is the result of joint efforts of civil society organizations and public administration bodies in the process of defining priority areas and creating measures to improve the accountability of administrative bodies to citizens. During 2021, the OGP website <http://ogp.ba/> was taken over, where all important documents related to the implementation of the "Partnership for Open Government" initiative will be published in the future.

In cooperation with the Civil Service Agency of BiH, trainings were held for consultation coordinators, deputy coordinators and consultation leaders. So far, over 220 civil servants from various BiH institutions and over 200 representatives of civil society organizations have

participated in the mentioned presentations and trainings.

Based on the Framework Agreement on General Principles of Participation in EU Programs, Bosnia and Herzegovina, with the implementation of the standard procedure for negotiating and concluding the Accession Agreement, has the opportunity to continue participating in the Europe for Citizens program., Equality, Rights and Values 2021-2027 (CERV) "(Citizens, Equality, Rights and Values - CERV).

In accordance with the established procedure for joining the CERV program, the Ministry of Justice of BiH sent a Letter of Intent to the European Commission - Directorate General for Justice and Consumers (DG Justice) for BiH's participation in the CERV program. In response to the Letter of Intent, the BiH Ministry of Justice was informed that it would be informed when the negotiation procedure on the Agreement on BiH's accession to the CERV program was formally opened. The accession procedure as well as other planned activities will be possible to realize only after the European Commission - Directorate General for Justice and Consumers (DG Justice) has resolved the necessary prerequisites.

Sub-area 3.2. Involvement in policy- and decision-making process

3.2.1. Standards for CSO Involvement

All levels of government have developed rulebooks for involvement of CSOs and the public in their decision-making processes. These rulebooks define procedures, deadlines, and modes of public consultations and other forms of civic participation in policy- and decision-making processes. These documents, as well as other legislation, list issues of public interest when the civil society and experts must be engaged in the policymaking. Despite the legal framework, actual involvement of CSOs in policy preparation and development remains sporadic, inconsistent, and not substantial. Reasons behind this lack of involvement vary from jurisdiction to jurisdiction, but in general these factors mainly contribute to the existing situation: 1) BiH has a large number of institutions, decision-making bodies, strategies, and policies for a fairly very small population that makes substantial and long-term involvement for CSOs and citizens an almost impossible task; 2) Earlier involvement of CSOs has not been taken into serious consideration by governments and assemblies, since oftentimes their comments and feedback on laws was not included in legislative revisions, and therefore CSOs perceive these processes as formal, time-consuming and not beneficial; 3) Serious policy decision making processes in BiH take place through rather informal communication between political parties that provide the input and positions the public authorities will take. After such decisions are made it is a difficult and lengthy process to make a meaningful change to the proposed policy.

3.2.2. Public Access to Draft Policies and Laws

Progress in the work of institutions has been recorded through the development of digital public services in support of administrative capacity and achieving contactless access to services. In addition, Bosnia and Herzegovina is at an early stage of preparation with public administration reform (PAR); some progress was made by adopting the action plan on public administration

3.3.2. State Funding for CSO-Provided Services

In practice, Republika Srpska Government and 10 cantonal governments in Federation of BiH provide such public interests status and financial benefits to organizations that work on: 1) protection of rights of war veterans and civilian victims of war, 2) social services for people with disabilities, women and children who are victims of domestic violence (safe houses), and 3) occasionally to organizations that represent youth, elderly and some other larger membership-based association. Provision of services by CSOs in these areas is stipulated by relevant legislation (such as laws on protection of families and children, laws on vocational rehabilitation, training and employment of the disabled, etc.). Each year the Ministry of Administration and Local Self-Government of Republika Srpska issues a call for associations to apply for the public interest status, based on which the RS Government issues a decision on their financing and allocates them funds.

3.3.3. Procedures for Contracting Services

For provision of social services that fall under the scope of work of associations with public interest status, the Republika Srpska Government, Brcko District Government, as well as cantonal governments in the Federation of BiH usually publish open calls and allocate financial resources from the public budget to associations with status of public interest, which in return provide social services. The type of organizations that get the status and funding is very similar to those in Republika Srpska given above. In case of public tenders, CSOs can compete following the procedures for public procurement. The Agency for Public Procurement of BiH has developed a unified online public procurement platform³¹ that is to be used by all public bodies in the country for tender calls, selection, and publishing of results of bids. Although CSOs can in principle apply for tenders, their actual participation is rare.

3.3.4. Accountability, Monitoring and Evaluation of Service Provision

The practice of open calls for public interest status and funding for provision of social services by CSOs are still sporadic. In principle, majority of associations that receive funding through this scheme have been closely affiliated to the ruling political parties. Reports on implemented activities should be submitted by CSOs to the relevant ministry, but even when prepared these reports describe activities in general and cannot be regarded as a proper accountability and evaluation instrument. In terms of public procurement, despite the large investments by the international community and substantial reforms in this area, it remains to be a weak point in institutional management. According to the current practice, procurements handled through direct contracts, which are contracts of low financial value below 6,000.00 KM (3,000.00 EUR), are not managed through the e-platform. However, based on some estimates, direct contracts take up to 40% of the entire public procurement in BiH and have been used for fraud schemes. In 2020, the new Law on public procurement was proposed and adopted by the Council of Ministers and the Parliamentary Assembly. Although initially the proposed changes in the new Law aimed to include stronger inspectorate and prosecution measures, they were deleted when the newly appointed national government took office.

³¹ [e-Procurement \(ejn.gov.ba\)](http://e-Procurement(ejn.gov.ba))

Annex 1

Background & methodology

This report is part of a series of country reports covering six countries in the Western Balkans: Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Montenegro, Serbia and Turkey. A Regional Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country.

The Monitoring Matrix, developed in 2013 by BCSDN, with the support of its members and partners, sets the main principles and standards crucial for the legal environment to be considered supportive both for the operations and for development of CSOs. The Monitoring Matrix is organized around three main 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 areas are elaborated by standards, which are further specified through legal and practice indicators. The legal indicators are measured by coding the presence or absence of rules, costs, procedures, and obligations enshrined in legal regulation (primary and secondary) and policy frameworks enacted in the respective countries. To assure standardization and comparability of the data gathering process regarding the practice indicators, country researchers follow a methodology plan in which each of the 80 indicators are further operationalized in concrete mandatory and additional data types (i.e. operationalized dimensions of a practice indicator) to be reported across the countries.

The principles, standards, and indicators rely on internationally guaranteed freedoms and rights and best regulatory practices at the EU level and in European countries. The Matrix aims to define the optimum situation for effective operation and development of civil society, as well as set a realistic framework that can be implemented by public authorities. Having in mind that the main challenges lay in implementation, the indicators have been defined to monitor the situation by taking into consideration both the legal framework and its practical use.

The research undertaken aims to provide evidence on the enabling environment for civil society development and to influence the support of governments, the European Union and other donors towards more sustainable and strategic development of the sector.

To analyse and interpret the data, country researchers use a unified data collection template which provides the indicators description and five category descriptions ranging from fully enabling to fully disabling environment provided under each indicator. The five category descriptions are specified for each legal and practice indicator in the Monitoring Matrix Toolkit, to enable researchers – based on the reported data – to choose one code (score) which most accurately summarizes the state of enabling environment concerning the respective indicator. In a first step, the researcher reports the required data types collected through different sources in the template box. In a second step, they choose one of five category descriptions specified for the respective indicator which best illustrates the reported data. The categories enable unified comparison of findings on the level of indicators across all country reports.

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