

Bosnia and Herzegovina



2015.

Monitoring Matrix on Enabling Environment for Civil Society Development in BiH



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

**Monitoring Matrix on Enabling Environment for
Civil Society Development**

COUNTRY REPORT FOR BOSNIA AND HERZEGOVINA 2015



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List of Abbreviations

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

I. Executive Summary

1. Civil Society and Civil Society Development in Bosnia and Herzegovina

The year 2015 was marked by very few developments that contributed to the creation of an enabling environment for the civil society development in Bosnia and Herzegovina (BiH). With the legislative framework and its implementation remaining stable, steps towards developing more supportive and enabling environment for civil society development are of critical importance so as to enhance CSOs capacities, and empower them to continuously articulate, promote, and act according to the needs and interests of the citizens.

The area of **basic legal guarantees of freedoms** remained unchanged. In spite of the existence of a legal framework, in practice, its practical implementation continued to be on an unsatisfactory level. The disparities are especially evident between the legislative framework regarding associations and foundations¹ which mainly provides enabling environment for civil society development, and its implementation, with the result being an unequal treatment of civil society organizations (CSOs) within the administrative level at which they are registered. With regards to freedom of assembly, the protests of 2014 were followed by increased attention to the police and the security agencies with the aim to prevent from violence of public order. Simultaneously, while cases of investigations against media and journalists have been on the rise, there has been lack of adequate reaction on cases in which freedom of expression of LGBT representatives has been breached.

The state of the **financial viability and sustainability** of CSOs did not undergo changes during 2015. Entity tax laws still provide different legislative solutions for the same issue in certain areas, and are not harmonized with laws on associations and foundations. Tax exemptions for CSOs and incentives for charitable donations remain insufficient, and therefore insignificant, whereas social responsibility of businesses is still not encouraged. State funding of CSOs though being considerable, is still focused on supporting as much number of CSOs as possible rather than allocating funds for CSOs programs. State financial support to CSOs is additionally thwarted with the non-transparent and unfair distribution mechanisms, but also the deficiency of regular monitoring and evaluation procedures of the funded CSOs. More so, state funding to CSOs has become of immense importance recently particularly because of the decrease of foreign funding to CSOs in BiH what has led numerous CSOs to request and rely on state financial support. Finally, issues related to volunteering have still not been resolved with the recommendations regarding harmonization of laws being still salient.

The area of **state – CSOs relationship** has also not been subject to changes during 2015. Insufficient communication and lack of constructive cooperation remains to be the rule, rather than the exception. The 2007 Cooperation Agreement² between the BiH Council of Ministers and

¹ State and entity laws on associations and foundations, [Zakonom o udruženjima i fondacijama Bosne i Hercegovine](#) ("Službeni glasnik BiH", br. 32/01), [Zakonom o izmjeni Zakona o udruženjima i fondacijama Bosne i Hercegovine](#) ("Službeni glasnik BiH" br. 42/03), [Zakonom o izmjenama i dopunama Zakona o udruženjima i fondacijama Bosne i Hercegovine](#) ("Službeni glasnik BiH", br. 63/08) i [Zakonom o izmjenama i dopunama Zakona o udruženjima i fondacijama Bosne i Hercegovine](#) ("Službeni glasnik BiH", br. 76/11), te u skladu sa [Pravilnikom o načinu vođenja registra udruženja i fondacija Bosne i Hercegovine i stranih i međunarodnih udruženja i fondacija i drugih neprofitnih organizacija](#) ("Službeni glasnik BiH", broj: 44/10); <http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=4d2f2d862>; http://www.fbihvlada.gov.ba/bosanski/zakoni/2002/zakoni/47_bos.htm; <http://www.skupstinabd.ba/zakoni/152/b/Zakon%20o%20udruzenjima%20i%20fondacijama-lokalna%20verzija-B.pdf>

² The Agreement on Cooperation between the Council of Ministers of BH and the Non-Governmental Sector in Bosnia and Herzegovina, 2007, available at: http://civilnodrustvo.ba/files/docs/Agreement_on_cooperation.pdf?phpMyAdmin=4dbc505c79a6t34771d80r81d7&phpMyAdmin=687c50a0fa0ct42d51eb1r81d7

the CSOs in BiH has still not contributed to the improvement of the situation. The Strategy for Creation of an Enabling Environment for the Development of a Sustainable Civil Society has not been developed yet. The non-existence of proper and necessary legal and institutional mechanisms for the implementation of inter-sectoral partnership and civil dialogue both at state and entity levels further hampers the establishment of a healthy state – CSOs relationship. The Rules on Consultations on Legislative Drafting in BiH³ and other standards on the involvement of CSOs in policy- and decision-making processes remain to be clearly defined, yet their implementation happens sporadically only. Finally, when it comes to service provision, CSOs remain to be predominantly active in providing social services. That notwithstanding, the state institutions have still not acknowledged CSOs as being valuable state partners, nor have they fully supported CSOs through funding incentives and licensing.

2. Key Findings

The environment for civil society development in BiH remains to be partially enabling, with the legislation satisfying the monitoring matrix standards to a certain extent, and the practice still facing obstacles in CSOs operation. In the area of basic legal guarantees of freedoms, there have been improvements regarding the Law on Associations and Foundations as the public consultations have already started with the aim to contribute to the better regulation of financial control and flow, simplification of the process for voluntary CSO termination and enhancement of the freedom of expression. Deficiencies however regarding lack of transparency regarding statistical data on CSOs have not been overcome. With respect to CSOs financial viability and sustainability, efficient mechanism for distribution of public funds has not yet been developed. The mechanisms depend on the level of authority and the particular institution, which leads to significant differences in procedures, while lack of transparency being salient. When it comes to state – CSOs cooperation, and albeit 8 years having passed since the signing of the Cooperation Agreement between BiH Council of Ministers and CSOs, there are still no mechanisms for their cooperation. The Rules on Consultations in Legislative Drafting of the Council of Ministers of BiH⁴ lack proper implementation, and most Ministries do not regularly comply with the mandatory Rules of Consultation, whereas the Ministry of Human Rights and Refugees ignores them entirely. Finally, although the government included in its 2015-2018 plan the steps it will make so as to make positive changes, improvement in the area of social service provision and the creation of a standardized social care system over the entire territory of BiH is necessary.

No	Top 6 findings from the report	Reference to the Monitoring Matrix		Reference to EU CS Guidelines
		Area		
1	The Consultation regarding improvements to the Law on Associations and Foundations started. The main improvements will be focused at better control of money flow, simplifying the process of closing of organization, and enhance the freedom of expression.	Area	1	Area No. 1
		Sub-Area	1.1	Result No. 1.1.b
2	Data on the number of CSOs in the country remains to be issue which leads to a lack of transparency and allows space for misuse and undermining of the civil society's contribution and relevance.	Area	1	Area No. 1
		Sub-Area	1.1	Result No. 1.1.a.
3	There is no standardized mechanism for allocation of public funds to CSOs – current mechanisms depend on the level of authority and the institution allocating funds. Procedures can vary significantly in terms of clarity and CSO participation in all phases of the funding cycle. State funding is still insufficiently transparent.	Area	2	Area No. 2
		Sub-Area	2.2	Result No. 2.4.b

³http://www.mpr.gov.ba/web_dokumenti/Pravilnik%20za%20konzultacije%20sa%20javnoscu.pdf

⁴<http://www.mpr.gov.ba/aktuelnosti/propisi/konzultacije/default.aspx?id=2444&langTag=en-US>

4	The Cooperation Agreement between the BiH Council of Ministers and the NGO Sector in BiH, signed in 2007, has established a general institutional framework for cooperation and dialogue between the state and CSOs, but its implementation failed to occur. There is no functional institutional mechanism for cooperation between the state and civil society.	Area	3	Area No. 3
		Sub-Area	3.1	Result No. 3.1.b
5	The Rules on Consultations in Legislative Drafting of the Council of Ministers of BiH are still not fully implemented. The most of the Ministries are not regularly using the Rules of Consultation while the Ministry of Human Rights and Refugees is ignoring it at all.	Area	3	Area No. 3
		Sub-Area	3.2	Result No. 3.1.b
6	There is lack of efficient social care system in Federation BiH. The FBiH Government work plan stipulates establishment of unique social care minimum at the whole territory of Federation BiH.	Area	3	N/A
		Sub-Area	3.3	N/A

3. Key Policy Recommendations

The key recommendations have been derived from the most pressing issues that need to be addressed currently. To begin with, amendments and harmonization of the laws on associations and foundations at the levels of State, Entities and District Brčko is of crucial importance and it is necessary to be dealt with in the nearest future. Efforts need to be made in enhancing control of the flow of money within the sector, simplifying procedures for CSOs termination, improving freedom of expression and decreasing the minimal assets that foundations are required to have, through amendments to the State Law on Associations and Foundations. Transparency of state funding to CSOs at all level of authorities has to be established through the incorporation of rules at the required stages of the award cycle into administrative by-laws (award requirements, monitoring, reporting forms, evaluations, audit reports). Furthermore, functional institutional mechanism that is accordance with the Cooperation Agreement, hence Office for Cooperation with the Non-Governmental Sector, within the Council of Ministers for cooperation with civil society also needs to be established, while at the same time the Strategy for the Development of Civil Society in BiH needs to be developed. Efforts in creating CSOs statistics, their number, structure and other relevant details have to be put. The Rules on Consultations in Legislative Drafting of the Council of Ministers of BiH, need to be enforced particularly because the laws bind each Ministries to provide consultations in order to enable citizens and CSOs to directly participate in legislative drafting through an online platform, and without which any legislative draft cannot be placed at Parliamentary agenda. Finally, a unique and minimum social care systems in BiH has to be introduced along with the limitations for assessment of the real social needs.

No	Top 6 recommendations for reform	Reference to the Monitoring Matrix		Reference to EU CS Guidelines
1	Change and harmonize Law on Associations and Foundations at the levels of State, Entities and District Brčko.	Area	1	Area No. 1
		Sub-Area	1.1	Result No. 1.1.b
2	Amendment of the Law on Associations and Foundations in order to enhance control of the flow of money within the sector, to simplify procedures for closing CSOs, to enhance the freedom of expression and decrease the minimal assets that foundations are required to have.	Area	1	Area No. 1
		Sub-Area	1.1	Result No. 1.1.a
3	Establish mechanisms for transparent state funding of CSOs	Area	2	Area No. 2

	at all levels of authorities that would incorporate rules on the required stages of the award cycle into administrative by-laws (award requirements, monitoring, reporting forms, evaluations, audit reports).	Sub-Area	2.2	Result No. 2.4.b
4	Establishment of a functional institutional mechanism (Office for Cooperation with the Non-governmental Sector) within the Council of Ministers for its cooperation with civil society, in accordance with the Cooperation Agreement, as well as development of the Strategy for development of civil society in BiH. Establish a unique register to provide information on CSOs in BiH and establishing statistics of the number, structure and all other relevant details of CSOs.	Area	3	Area No. 3
		Sub-Area	3.1	Result No. 3.1.b
5	Enforce the implementation of the Rules on Consultations in Legislative Drafting of the Council of Ministers of BiH, since they stipulate and bind each of the Ministries to provide consultation in order to enable citizens and CSOs to directly participate in legislative drafting through an online platform, and without which any legislative draft cannot be placed at Parliamentary agenda.	Area	3	Area No. 3
		Sub-Area	3.2	Result No. 3.1.a
6	Establish unique social care minimum for the BiH Federation as well as introduce the appropriate procedures for the assessment of the real social need.	Area	3	N/A
		Sub-Area	3.3	N/A

4. About the project and the Matrix

This Monitoring Report is part of the activities of the “Balkan Civil Society Acquis-Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs” project funded by the EU and the Balkan Trust for Democracy (BTD). This Monitoring Report is the first of this kind to be published on a yearly basis for at least the 48-month duration of the project. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev) developed by BCSDN and ECNL. It is part of a series of country reports covering 7 countries in the Western Balkans and Turkey⁵. A region Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area at www.monitoringmatrix.net.

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

⁵ Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

II. Introduction

1. About the Monitoring Report

The aim of the Monitoring Report is to provide a qualitative overview of the enabling environment for civil society development in Bosnia and Herzegovina for 2015, reflecting both the legislative framework as well as its implementation. In doing so, the report puts an emphasis on the key findings as well as key recommendations for improvement of the state at play.

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

The overall objective of the project is to strengthen the foundations for monitoring and advocacy on issues related to enabling environment and sustainability of civil society at regional and country level and to strengthen structures for CSO integration and participation in EU policy and accession process on European and country level.¹

This Monitoring Report is part of the activities of the “Balkan Civil Society Acquis - Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs” project funded by the EU and the Balkan Trust for Democracy (BTD). This Monitoring Report is the first of this kind to be published on a yearly basis for at least the 48-month duration of the project. The monitoring is based on the Monitoring Matrix on Enabling Environment for Civil Society Development (CSDev). It is part of a series of country reports covering 7 countries in the Western Balkans and Turkey⁶. A regional Monitoring Report is also available summarizing findings and recommendations for all countries and a web platform offering access to monitoring data per country and sub-area at www.monitoringmatrix.net.

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

This Matrix does not aim to embrace all enabling environment issues, rather it highlights those that the experts have found to be most important for the countries which they operate in. Therefore, the standards and indicators have been formulated with consideration of the current state of development of and diversity in the countries of the Western Balkans and Turkey. They have been drawn from the experiences of the CSOs in the countries in terms of the legal environment as well as the practice and challenges with its implementation. The development of the principles, standards and indicators have been done with consideration of the internationally guaranteed freedoms and rights and best regulatory practices at the European Union level and in European countries.

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

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

The areas are defined by key principles which are further elaborated by specific standards. In order to enable local CSOs, donors or other interested parties to review and monitor the legal

⁶ Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, Serbia and Turkey.

environment and practices of its application, the standards are further explained through indicators. The full Matrix is available at www.monitoringmatrix.net.

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

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

The year 2015 was marked by political instability in BiH. The transfer of powers following the general elections in October 2014 was delayed. The new Government of RS was established in December 2014, while the new Council of Ministers of BiH and the new Government of the Federation of BiH were only confirmed in late March 2015. Cantonal governments, including those in the Central Bosnian Canton and the Herzegovina-Neretva Canton, were also formed late. In addition, the dissolution of the political coalition at the BiH Federation level resulted in the government operating since June without four ministers, two of which are critical for CSOs: the Ministry of Labor and Social Policy and the Ministry of Environment and Tourism.

Political activists that emerged during the February 2014 protests remained active at the local level in 2015 and attempted to establish networks across the country to address pressing socioeconomic issues. One of the most successful examples of civic activism in 2015 was activity of association “Akcija”, accompanied by numerous citizens and distinguished persons of the public life, which successfully campaigned to open the National Museum of BiH after it had been shut for three years. Some CSOs strived to increase their capacity to monitor the EU integration process and enter into dialogue on the Reform Agenda with the EU and BiH authorities. However, CSOs at the grassroots level continued to have limited capacity to participate in policy dialogue or find solutions to mitigate the effects of the devastating floods in BiH in 2014 which are still visible at the site and during 2015 and even in 2016 need certain efforts of the civil society activists. Such situation additionally highlighted need for work at capacity building of the grassroots organizations.

Despite insufficient funding from foreign and national sources, CSOs increasingly identify and respond to the needs of their target groups, providing services such as public kitchens, safe houses, and day care centers for children with special needs. CSO infrastructure improved as a result of increased network building by CSOs. In 2015, CSO networks played key roles in the fight against corruption, provision of legal aid, and monitoring the post-election process. Public image deteriorated slightly as the public expected CSOs to address more efficiently the issues raised by demonstrations. According to the BiH Ministry of Justice, there are approximately 22,000 CSOs included in the eighteen distinct registries at the entity, cantonal, and state levels. However, this number includes some organizations registered in multiple locales, in accordance

with the law. The last methodologically relevant analysis⁷ showed that there were 12,189 CSOs in BiH. However, this number cannot be considered accurate, as it is likely that duplication occurred between the different levels of registration, and also because there are doubts regarding the number of CSOs that were actually active.

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

Notwithstanding the lack of substantial changes in most of the Monitoring Matrix segments during 2015 in BiH, it is evident that MM is unique tool for creation of evidence-based foundation for the development of advocacy campaigns concerning issues related to enabling environment for civil society development. The data collection as well as existence of them is the main challenge in applying the Monitoring Matrix in Bosnia and Herzegovina. The additional challenge is capacity of the people who want to use the MM findings, regardless if they are from the civil or state sector. The findings give a lot of information and elaboration of the problems that are enough to enter in searching for solutions, but there is not adequate response at the both sides.

Thankfully, CCSP had the support of a wide range of partners and network members who provided information in MM preparation, as well as the TACSO Resource Center help desk data base.

5. Acknowledgement

The Monitoring Report on Enabling Environment for CSDev in BiH was produced with the joint efforts of Civil Society Promotion Center (CSPC) and expert CSOs and individuals, in particular for 2015 with pro bono inputs of Mrs. Ranka Papić Ninković, Ms.Borka Rudić, Mrs. Snježana Ninković-Ivandić from the Association for Democratic Initiatives, Mr. Ante Jurić Marijanović from the Youth Communication Center (OKC Banja Luka), and Mr. Slaviša Prorok from the CSPC.

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

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

⁷ Žeravčić, G., and Bišćević, E., "Analysis of the Civil Sector Situation in BiH: Contributions to the Development of the Strategy on Establishment of an Enabling Environment for Civil Society Development in BiH", HTSPE Ltd. UK and Kronauer Consulting, Sarajevo, 2009.

III. Methodology

1. Overview of the methodological approach

The MM exercise for 2015 in BiH has been carried out slightly differently than the previous two years. Taking into consideration the different methods utilized during data collection in 2013, namely, questionnaire, interviews and meetings onto which a notable lack of CSOs interest has been noted, as well as the insignificantly small number of changes made in 2015 with effect on CSOs, CCSP decided to update the data collected from 2013 and 2014 by employing methodological tools proposed by CCSP researchers. Suggestions were made that data is collected based on direct contacts with relevant stakeholders – CSOs and BiH institutions representatives, international and domestic consultants, as well as representatives of EU Capacity Building of Government Institutions Project (CBGI) “Strengthening Capacities of Government Institutions for Participation in Political Dialogue with Civil Society”. During the research, laws and regulations adopted in 2015 were analyzed. The research team participated at events focused on issues related to areas covered with the MM, as well as it had direct contact with distinguished individuals in both sectors. All the relevant online sources of information, namely, websites, portals and blogs have been used for collecting data so as to create an estimation of the state at play for CSOs in 2015.

In line with the former MM surveys, CCSP initiated four advocacy campaigns, that is:

- Advocacy campaign for establishing functional mechanisms for cooperation between the governments at different levels and CSOs in BiH;
- Advocacy campaign for the creation of transparent system of public financing for CSOs in BiH;
- Advocacy campaign on the tax framework for strengthening individual and corporate philanthropy; and
- Promotion and establishment of Ethical Code for CSOs in BiH.

Beside the abovementioned, two additional campaigns were implemented in 2015 regarding Agreement for Cooperation between Governments and CSOs at the entities level.

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

2. Participation of the CSO community

CSPC had poor experience with the Questionnaire when preparing the 2013 Monitoring Report for BiH⁸, when CSPC staff and researchers directly contacted more than 30 distinguished CSOs representatives, so as to check possible changes and differences in practice. For that matter, in 2015, the Questionnaire was used as an appropriate base in preparing individual interviews and focus groups. CCSP organized one expert focus group, two roundtables as well as direct interviews with 30 persons from civil society in order collect the most relevant information regarding the changes in 2015.

⁸ The total number of distributed questionnaires was 1500; whereas the number of responses obtained for all treated sub areas is 35, i.e. to less than 3% of total number of questionnaires.

3. Lessons-learnt

The Monitoring Matrix confirmed to be an excellent and comprehensive tool for monitoring the state of the enabling environment for CSO development, as it considers critical indicators organized around three areas. Its methodological relevance has been noted by interested CSOs, as well as experts conducting the survey. Nonetheless, the applications of the Matrix, with the specific administrative structure of BiH in mind, should be further reviewed in order to meet the specific constitutional arrangements of BiH (its political-administrative structure). This particularly applies to competencies and responsibilities of lower levels of the state government, regarding the promotion and development of civil society.

The selection and inclusion of participants should be more focused at the issues but complete CSO environment has to be more mature in order to use the Matrix as a base for their advocacy campaigns. The CSOs' experts, as long-term partners of CCSP, also gave their contribution in the acquisition of data and information. Greater participation of CSOs and government institutions is vital to the production of an effective report, in terms of exact findings and salient recommendations, as well as awareness-raising regarding potential improvements to the enabling environment for CSO development. Having in mind the lack of improvements in 2013, 2014 and 2015 CCSP expects associations, institutions and individuals to use the Report findings as the strongest advocacy tool.

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

IV. Findings and Recommendations

Area 1: Basic Legal Guarantees of Freedoms

Sub-area 1.1.: Freedom of association

The Constitution of BiH, provides the general legal framework for the protection of human rights, and directly applies the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, with supremacy over all other laws in BiH. Article 11 of the ECHR stipulates that “Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of their interests”.

Freedom of association continues to be guaranteed with the Constitution of BiH (Annex IV of the Dayton Agreement), the constitutions of the BiH entities and the Brčko District (BD) Statute, with further development and functionality being provided through the state and entity laws on associations and foundations⁹, and by the Law on Associations and Foundations in BD. According to the laws, any person or legal entity enjoys the freedom to establish and join associations and foundations. The endowments as such, are not legally regulated in BiH, nonetheless, according to the Law on Association and Foundation at the levels of BiH, FBiH, RS and relevant Laws at Brčko District, endowments may be established within foundations. In that event, endowments are considered foundations’ property and are managed in accordance with the procedures applicable to foundations. In addition to associations and foundations, humanitarian organizations in FBiH also function in accordance to the Law on Humanitarian Agencies and Humanitarian Organizations.¹⁰ In September 2015, the Law on Humanitarian Organizations at the state level was passed after a consultation process and will be in parliamentary procedure in 2016. In RS and at state level there are no laws regulating the status of humanitarian organizations.¹¹ There is no discrimination against any group or CSO intended to work in accordance to the positive legislation and procedures. The objectives of registered CSOs cannot include engagement or funding of political parties or pre-election campaign candidates, nor fundraising on their behalf. The freedom of association through internet is allowed and initiatives sometimes get the public verification. The laws allow CSOs in BiH to establish networks or other forms of collaboration in-country and abroad so as to promote the same rights and interests without any prior notification needed.

Registration of CSOs is not mandatory but voluntary, e.g. if citizens, as unformal groups, want to act as ad hoc initiative. When it comes to the registration process, the procedure for acquiring legal status is clearly prescribed with the laws. Associations can be established by at least three physical persons of Bosnian decent or with declared residence in BiH, or three legal entities. Foundations can be established by at least one physical person of Bosnian decent, or one legal entity, whereas, the Executive Board of a foundation must have at least three members. For the establishment of a

⁹ Law on Association of Citizens and Foundations (Official Gazette of BiH, 32/01), Law on Associations and Foundations (Official Gazette of RS, No. 52/01), Law on Association of Citizens and Foundations in the FBiH (Official Gazette of FBiH, 43/02), Law on Association of Citizens and Foundations of BD, BiH (Official Gazette of BD, BiH, No.12/02).

¹⁰ The Law on Association and Foundations in FBiH (2001) has put the Law on Humanitarian Agencies and Organizations out of force (Official Gazette of FBiH, 35/98), except for Articles 2, 5, 11, 12, 22 (2), 26, 27, 29 (2), 30 (1), 34, and 35. It is stipulated that humanitarian organizations shall be established to pursue humanitarian actions in the capacity of legal entity, established as non-governmental organizations pursuing their activities based on the principles of humanity, impartiality, independence and voluntariness.

¹¹ Pursuant to the RS Law on Income Tax, humanitarian organizations shall be exempted from income taxation, although there is no law specifically defining the status of humanitarian organization.

foundation at state level or in FBiH, the initial capital for registration is 2000 BAM (1000 EUR), while in RS the initial capital is not legally predetermined, rather a foundation must hold certain financial assets or ownership of property. The registration costs 200BAM (100EUR) and is being completed within the prescribed 30 days, after which CSOs acquire a status of legal entity. Still, the option of online registration does not exist at any level.

Registered CSOs have the opportunity to gain the public benefit status (PBO) to serve a purpose of public interest. In spite of this possibility, the discrepancy between lists of permitted activities on state and entity levels still remain unadjusted and harmonization of the regulation is more the necessary.¹² More so, not only is the process for obtaining PBO status varying between several levels in BiH, resulting into small number of CSOs deciding to pursue it, but also the decision on granting PBO status in FBiH is absolutely at the discretionary power of the Government. At the level of Republika Srpska, application for PBO status is conducted through public call. CSOs unsatisfied from the decisions of the relevant authorities regarding the registration procedures have the right to appeal to the court and claim for Ministry procedure.

In practice, CSOs registered in one entity can freely function in the other, but they can also function freely on the entire territory of BiH. The issues arise when it comes to the fact that there is still no unique register of CSOs. Associations and foundations are entered into the relevant registers at state, entity or cantonal level, classified by the scope of their activities as provided by the statute.¹³ The registries are public and some of them are accessible online¹⁴. That notwithstanding, the data in registries are covering only name, address, and authorized person but no other relevant information which could be used for various purposes. The lack of a single registry or database is a serious shortcoming in the overall legislative framework, allowing space for the misuse and constant undermining of the civil society sector's contribution and relevance. According to the BiH Ministry of Justice, there are approximately 22,000 CSOs as of 2015, included in the eighteen (18) distinct registries at the entity, cantonal, and state levels, but this number also includes CSOs that are registered multiple times at different levels, in accordance with the law. Having in mind that there are not accurate data it could be count that approximately 1.200 new CSOs in 2015 were registered at all levels of registration. There is not sanction in positive legal regulation for not registering civil activists which are dealing with the societal problems.

Generally, registration is truly accessible within the legally prescribed deadlines, while the authorities decide on cases in non-subjective and apolitical manner. That notwithstanding, there have been cases where the registration procedure was extremely prolonged, and citizens continued with their activities as informal associations. Furthermore, there were also a vast number of CSOs that faced different restrictions during the registration process, as additional requirements, name changes and different interpretations of the law. There are cases however when authorities employ arbitrary decision-making due to hidden agenda. For instance, a CSO register at the level of FBiH was rejected by the Ministry of Justice to make changes in the registration for 2011, without being provided arguments for the rejection. It appears that the rejections was politically motivated as the case went to a Court procedure and ended up finally in 2015. In the entire period, the CSOs was at the edge of destruction and termination because the Ministry of Justice issued certain documents to members of a political party to which the then Minister was member of, and who wanted to take over the CSO. With regards to the registration as such, CSOs generally find it to be simple, but also expensive and

¹² Conclusions from the workshop organized by CSPC on 15 January 2014

¹³ Registers are administered by authorized ministries, specifically the BiH Ministry of Justice, the FBiH Ministry of Justice, the RS Ministry of Administration and Local Self-Administration, and cantonal ministries of justice.

¹⁴ http://www.mpr.gov.ba/organizacija_nadleznosti/uprava/registracije/udruzenja/RU_06_01_15.pdf

non-affordable as compared to BiH standards. More so, there are additional costs to those of the registration fee and they vary significantly.

Networking among CSOs in BiH is highly frequent, with more than 50 networks and coalitions of different size operating in BiH. To illustrate, Agreement is very large and active network of more than 300 members, Union for Sustainable Return and Integration has more than 100 members, and Network for Justice has more than 60 members. Apart from in-country networks and coalitions, there are also international ones with which BiH CSOs cooperate as the Balkan Civil Society Development Network is. There are not restricted networking cases registered.

The legal framework provides guarantees against state interference in the internal matters of associations and foundations. State interference is mandated to a competent administrative body, and involves monitoring the situation as it relates to association or foundation activities. Protection from interference by third parties when exercising freedom of association however is not regulated within the legal framework.

Registered CSOs are obliged to comply with entity laws and regulations on accounting, as prescribed by the International Accounting Standards, and are required to send annual financial reports in standardized forms to the entity level Agencies for Finance and Informatics Services. The forms vary between entities however any information that is requested has to be provided in the standardized format. The specific nature of CSOs in the process of reporting is taken into consideration. Most CSOs are categorized as small legal entities, and thus are not subject to the statutory audit of financial statements. The most of the registered associations and foundations do not provide their yearly financial reports to the state agencies APIF and AFIP, which creates confusion for any serious research attempt. The sanctions for breaching legal requirements are based on applicable legislation and they are following the principle of proportionality. Association and foundations can be terminated voluntary, or by the force of the laws.

The Ministry of Justice (MoJ) initiated and the Council of Ministers of BiH approved amendments to the Law on Association and Foundations in 2015 with the aim to enhance control of the flow of money within the sector in order to prevent money laundering and the possible financing of terrorist activities¹⁵; more flexible procedures for closing CSOs and enhance the freedom of expression. After a public consultation and advocacy from CSOs against the amendments as there were some that referred to the possibility for the public legal entities to establish associations and foundations, the amendments were not adopted and put again on the agenda of the Parliament for 2016.

The State interference (e.g. frequent and unusual inspections) and safeguard of state to third party interference was not been registered in 2015. The legal framework provides guarantees against state interference in the internal matters of associations and foundations. State interference is mandated to a competent administrative body, and involves monitoring the situation as it relates to association or foundation activities. There is not information about practices of invasive oversight which imposes burdensome reporting requirements or applied proportional sanctions in rare/extreme cases, which have been subject to a judicial review.

The Government of the RS attempted to adopt the Law on Transparency of Non-Profit Organizations in May 2015. This law foresaw strict control of CSOs, even allowing politically-controlled entities to close CSOs down. In addition, it contained several unclear provisions left open to different interpretations. CSOs were not involved in the development of this law however due to the

¹⁵ Instruction of the Council of Europe Moneyval

considerable opposition from CSOs of this initiative, as well as the public and certain political structures, it was ultimately withdrawn from legislative procedures.

CSOs in BiH may carry out economic activities only if the primary purpose of such activities is achieving the goals established by statute. Regarding funding, CSOs are allowed to secure funds from membership fees, public funds private and public sponsorships, grants in money or in kind, interests, dividends and other investment revenues, as well as from selling of services and products, and all of these may be either domestic or foreign. More so, in RS,¹⁶ they may also acquire funding from real estate revenues, and asset sales or transfers, excluding assets that are or were used for conducting for-profit activities.

In practice, there are a lot of CSOs engaged in self-financing (economic) activities particularly so as to obtain additional funds for their main activities. To illustrate, "Okusi Hercegovinu"¹⁷ is a coalition of CSOs registered as the first association established in 2006 with the aim to valorize typical and traditional products of BiH and to promotion a regional approach in developing a culinary tourism. Similarly, "BH Rukotvorine"¹⁸ is a CSO that unites creative humanitarian business and personal development elements in a balanced and successful manner by producing handmade clothing and decorative items by women from BiH. Finally, there are many other CSOs oriented towards event organization and providing training services. The legislation is not burdensome for the CSOs and is regularly implemented. There is no information regarding restrictions (e.g. administrative or financial burden, preapprovals, or channeling such funds via specific bodies) on CSOs to receive foreign funding. Receipt of funding from individuals, corporations and other sources is generally easy, effective and without any unnecessary cost or administrative burden. There is no information regarding negative cases.

Main recommendations for action:

- Establish a unique CSO registry to provide information on CSOs in BiH, and enable free and easy access to the basic data on CSOs such as exact number of registered organizations, structure and relevant details of CSOs.
- Adopt the legislation which would regulate the status of humanitarian organizations, at both state and entity levels in 2016.
- Unify and shorten registration procedures and lower related expenses of associations and foundations at all levels of government for all CSOs in BiH.

Sub area 1.1., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020¹⁹

1.1.a. Quality assessment of existing legislation and policy framework

- Legislative framework for activities of non-governmental organizations in BiH is defined by the state and entity laws on associations and foundations;
- All gaps in the national legislation and policy framework with regards to registration of CSOs are identified (being registered at the several levels at the same time creates confusion and cause certain problems, fairly high taxes of 200 BAM (100 EUR) for registration and reregistration, the procedures can be more simply and motivated.
- The procedures for registration are not harmonized and there are several levels for registration -

¹⁶ In FBiH property tax is under the control of cantonal jurisdiction, resulting in divergent legislative solutions.

¹⁷ The translated name of "Okusi Hercegovinu" is Taste Herzegovina. The link to the website is [here](#).

¹⁸ The translated name of "BH Rukotvorine" is BHCrafts. A link to the website is [here](#).

¹⁹ http://ec.europa.eu/enlargement/pdf/civil_society/doc_guidelines_cs_support.pdf

state, entities and cantons. Length of registration processes is within 30 days

- Unique register of CSOs is not established

1.1.b. Progress with the adoption and implementation of relevant legislation

- Ministry of Justice (MoJ) initiated and Council of Ministers of BiH approved favorable amendments to the Law on Association and Foundations in 2015

1.3.a. Quality of the enabling environment for grass-roots organizations

- Grass-roots organizations are also affected by the gaps and improvements in legal framework on enabling environment for CSOs and they are not recognized in legislation as separate entity.

2.1.a CSOs' perception of the ease and effectiveness of financial rules and reporting requirements (disaggregated by type / size of CSO)

- Registered CSOs are obliged to comply with entity laws and regulations on accounting, as prescribed by the International Accounting Standards, and are required to send annual financial reports in standardized forms to the entity level Agencies for Finance and Informatics Services. The most of organization are aware of their obligations and haven't problems with financial aspect of their functioning.

2.1.b. Quality assessment of financial rules (with the focus on built-in mechanisms that financial rules and obligations change as the turn-over and non-commercial activities change)

- The reporting forms for vary between entities, regarding which aspects of the specific nature of CSOs are taken into consideration but all of organization have to provide requested information at the same format. The most of the registered associations and foundations do not provide their yearly financial reports to the state agencies APIF and AFIP, without any sanctions. Most CSOs are categorized as small legal entities, and thus are not subject to the statutory audit of financial statements. The financial and tax regulations are stable and clear.

Sub-area 1.2.: Related-freedoms

Freedom of peaceful assembly in BiH is guaranteed by the constitution and laws on assemblies. A public assembly of citizens is defined as any organized assembly of citizens, including foreigners, taking place at an appropriate place, whose number and identity is not determined in advance and which does not endanger: the rights of others; public morality; security of people and property; the health of persons involved or implicated; or obstruction of public traffic. Pursuant to the RS Law on Public Assembly, a space appropriate for public assemblies is an accessible public space, adequate for the gathering of people. It is defined as such in the Law, as well as in the official documents of local self-governments and municipalities.²⁰ The provision stipulating that peaceful assemblies cannot be held "in the vicinity of specially secured facilities, to a distance of at least 50 meters" gives rise to the possibility of misuse. More strikingly, according to decisions by local self-government units in RS,

²⁰ Except for spaces determined in the official acts of the city and municipality, peaceful assemblies may not be held in the vicinity of: hospitals; kindergartens and primary schools; national parks and protected national parks; or cultural monuments. They are also prohibited, on main, regional and local roads if they endanger traffic safety, or within 50 meters of specially protected facilities.

associations are obliged to pay a fee for using a public space, even though the laws prescribe fees when public space is used for economic gain only.

Freedom of peaceful assembly however is restricted by the RS Law on Public Assembly (2008), the cantonal Laws on Public Assembly in FBiH, and the Law on Public Assembly of BD (2012). Furthermore, albeit generally in line with international standards, the laws tend to overregulate conditions for exercising the constitutionally guaranteed right of assembly. For instance, even after the recommendations provided in the Joint Opinion on the Act on Public Assembly of the Sarajevo Canton by the Venice Commission and OSCE/ODIHR (2010), which emphasizes that “This Act should also regulate in less detail the conditions for exercising the constitutionally guaranteed right of assembly, especially where its exercise would pose no threat to public order and where necessity does not in fact demand state intervention,”²¹ the recommendations remained on paper only.

The Laws recognize and do not restrict spontaneous, simultaneous and counter-assemblies. However, the laws on assemblies in BiH still do not contain presumptions in favor of holding assemblies. Strikingly, organizers, i.e. representatives of peaceful assemblies are obliged to submit an application to hold assemblies at least 5 days before the scheduled beginning of the assembly. According to RS Law on Public Assembly, a peaceful assembly may be prohibited if it is not duly reported to the authorities within the stipulated time-frame. Finally, the organizers of peaceful assembly may file complaints against a decision prohibiting a peaceful assembly.²²

The most common type of public assembly is that of peaceful assembly and public protest, although other types like any spontaneous and simultaneous gathering are also covered with the term “freedom of assembly”. There have been no cases during 2015 of restrictions to the freedom of assembly and no registered cases of freedom assembly practiced by CSOs without prior authorization during 2015. The prior notification in written form is formal, submitted to the police station. Authority, by the law, does not issue the authorization for public or private assembling. No excessive use of force is exercised by law enforcement bodies, including pre-emptive detentions of organizers and participants during 2015. Certain limitations in practice are present in Republic of Srpska since assembling focused on protests is allowed in strictly determined site (the park) and freedom of expression is limited. The media should have as much access to the assemblies as possible and as they need it and is not reported as a problem.

The situation in BiH after the protests in 2014 as well as all the other activities that followed like Public forums, Court trials for protesters, etc. have finished, could be seen as apathetic and depressive. The results of protests were misused and politically capitalized so even some of governments were dismissed, like that ones in Tuzla, Bihac and Zenica, situation went worse, and problems were not solved. In any case such momentum and energy for protest were missed and

One of the most significant examples in 2015 is Konjuh workers’ protest. The workers asked for the rights of regular retirement but reflections of criminal privatization made that request impossible. The workers are not ready to give up but the circumstances and lack of political will to solve situation is going in course of finishing the story in unpredictable manner even it was noticed that errors were made in the process of privatization. The Government in Tuzla are making efforts to solve the problem.

²¹ Venice Commission and OSCE/ODIHR, Joint Opinion on the Act on Public Assembly of the Sarajevo Canton (BiH), **CDLAD(2010)036**, Venice, June 2010, p.3.

²² The authorized body is obliged to forward the complaint and attached documentation to the Ministry of Internal Affairs. The decision on the complaint must be issued and delivered to the organizer within 24 hours of the receipt of the complaint. Immediately upon the receipt of the decision prohibiting public assembly, the organizer shall inform the public accordingly, and if possible remove publicly propounded notifications about the peaceful assembly. It is permitted to appeal this decision before the competent court.

practically the bad message was sent in public that the replacements at political levels did not mean improvements. It is evident that CSOs' activists did not have enough self-confidence and support from the academy and experts in order to adequately finish the protest once that happened.

Main recommendations for action:

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

The right to **freedom of expression** – collection and distribution of information, is guaranteed by the Constitution, ECHR (Article 10), laws, and international documents recognized by BiH. While the legislative framework prohibits hate speech²³, it does not categorically or comprehensively define it, or the means of protection against it. Existing criminal laws do not encompass the positive obligations of Article 10 of the ECHR, and are not in compliance with international standards. There is no definition of hate crime as a criminal offence²⁴, and therefore denial of genocide, war crimes or the Holocaust, among other offences, is not punished. BiH was the first Western Balkans country to decriminalize slander, resulting in the elimination of possible criminal sanctions against individuals for publicly expressed opinions, and encouragement of the professional activities of journalists and CSOs. CSO representatives, especially those from human rights and watch dog organizations enjoy the right to freedom of expression on matters they support and they are critical of.

The national journalists' association recorded more than 50 violations of freedom of expression from the September 2014 up to the end of 2015 including 2 attempts of SIPA, as state security agency, to enter in media premises, 10 violations with political background, 2 court bans on distribution of information before the trials finished.

There are many cases²⁵ in which representatives of CSO organizations were victims of hate speech, as well as verbal and other types of attacks. It also highlighted that members of CSOs dealing with human rights and protection of returnees, LGBT population, women and supporters of sports teams were particularly exposed to these forms of violence.²⁶ Key human rights organizations (CCI, Transparency international) organize press conferences, critic the government, and freely express the findings and obtained data.

The existing legal framework guarantees the freedom of access to information to everybody, that is, the freedom to receive, collect and distribute information. According to state and entity laws on freedom of access to information, disclosure is the rule, and non-disclosure is its exception.

²³ The Law on Prohibition of Discrimination (2009) prohibits any advocacy of national, racial or religious hatred (Article 4, Paragraph 6). It remains unclear how this ban can be implemented in practice.

²⁴ The authorities in FBiH and RS did not express a readiness to accept amendments to criminal laws for the definition of hate crimes, as proposed by the Coalition for Combatting Hate Speech.

²⁵ In the case publicly known as "Queer Festival", there was no reaction from any institution regarding violence against the visitors of a 2008 festival, and no steps were taken towards criminal prosecution of the attackers. An appeal filed with the Constitutional Court of BiH in 2011 is still pending. In 2015 there are several cases like the verbal attack of Mr. Milorad Dodik, president of Republic Srpska against journalist Mrs. Gordana Katana but finished without any reaction of relevant bodies, defamation of NGO "Lasta" Drvar by local authorities regarding manipulations, blasphemy, corruption, - the process at court started in august 2015 and expect decision is anticipated in May, 2016

²⁶ <http://lgbt.ba/sarajevo-napad-na-goste-u-kinu-kriterion/>

Furthermore, the legal framework prohibits unjustified monitoring of communication channels, including Internet and ICT, or collecting users' information by the authorities. The criteria on which communication channels may be subjected to special surveillance by police and security-intelligence agencies in BiH are regulated by law.

Albeit the well-established legal framework on state level, entity laws are not in compliance with them regarding sanctions. According to the actual assessable information, violations as impossibility to determine accountability of public officials and the lack of adequate sanctions for withholding information were recorded. All these underline the necessity for harmonizing entity and state laws.²⁷ With respect to intervention/interference from public authorities²⁸, current practice still shows inconsistencies between laws at different authority levels.

Pluralism is exercised through the ownership and interpretation of media in BiH, as there are approximately 250 media outlets and 2.18 million internet users. This influences the strengthening of pluralism of information and opinion, and the diversification of citizens' information sources. There is not, however, distinctive or sustained presentation and promotion of CSOs' results, nor is there appropriate public evaluation of their actions, through the media and other public communication channels which would enhanced the role of CSOs in public life and their efforts of problems solving.

Internet access is cheap and technically available for all. According to the report of the Communication Regulatory Agency, in 2015, there was 73% coverage of BiH households²⁹. Thanks to traditional media, online portals and Facebook, the "monitoring, eavesdropping and summoning for informative talks" of civil society activists, citizens and journalists in Sarajevo and Banja Luka³⁰ were revealed to the wider public, at which point it remained unclear whether or not these measures were taken in accordance with existing laws. Alongside the legal framework (which is formally based on international standards), there needs to be a greater presence of "civilian control" over intelligence-security agencies and/or police, in order to prevent unnecessary invasion of privacy. This should extend to activities of media and CSO activists, in order to keep their right to freedom of expression intact. There are no cases of police harassment of members of social network groups in 2015.

Main recommendations for action:

- Establish a CSO cross-sectorial lobby group for the protection and public defense of the right to freedom of expression³¹.

²⁷ The cases of NGO "Kvart" Prijedor in 2015 illustrate problems regarding free access to information (more than 15 requests sent to local administration and police were ignored), local administration kept them from participation at the sessions of local commission for public order with trivial reason and explanations, they are very negative highlighted based at their activities in local community. They are exposed to the hate speech regarding their initiative to build monument for the children killed in Prijedor during period 1992 -95.

²⁸ For example, the Court of BiH's Rulebook on Access to Information, which has made all court judgments anonymous, deprives the right to the public of consistent monitoring of the Court's work. This is particularly true for those cases of war crimes and crimes against humanity which are of essential importance for the reconciliation process in BiH, and for the peace of mind of war victims and their families. The Rulebook is consistent with the Law on Protection of Personal Information, which is not harmonized with Law on Freedom of Access to Information.

²⁹ <http://rak.ba/bos/index.php?uid=1272548129>

³⁰ In Sarajevo, during 2012 and 2013, under police action "Patriot" FTV journalists were wiretapped and distributed to interested parties in the case and under action "Lutka" warrant for wiretapping was asked for newsroom of Oslobođenje and Dani magazine (www.bhnovinari.ba). The process "Lutka" is still active. Association of BH journalists and FMHL asked for investigation of the case KLIX and approval of Cantonal court Sarajevo to BiH Intelligence-Security Agency to enter in their premises and take out the computers, materials, etc. In 2015 Association of BH journalists and FMHL asked for investigation of the case KLIX and approval of Cantonal court Sarajevo to BiH Intelligence-Security Agency to enter in their premises and take out the computers, materials, etc.

³¹ Within the „Civil society sustainability project“ (2013-18) 12 sector networks are established and will be supported by the project

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

Sub area 1.2., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.

1.1.a. Quality assessment of existing legislation and policy framework

- Freedom of peaceful assembly is guaranteed by the Constitution and positive regulations, both in accordance with international documents. However, it is restricted by the RS Law on Public Assembly (2008), the cantonal Laws on Public Assembly in FBiH, and the Law on Public Assembly of BD (2012). The legislation requires the prior notification and approval for exercising the freedom of assembly, but it also depends on relevant level. There are also imposed restrictions regarding determined places disposed for such gatherings.
- The freedom of speech is guaranteed by Constitution, Art.2

1.1.b. Progress with the adoption and implementation of relevant legislation

- The Personal Data Protection Agency in BiH initiated in 2015 changes in the Law on Free Access to Information, based at the conclusion of the BiH Council of Ministers and in accordance to the Law on Personal Data Protection but it was stopped due to the sharp reaction of CSOs and media. The harmonized reaction against the proposed changes was based at the fact that it were more restrictive in access to information than previous.
- There are numerous cases of violations of these freedoms reported by CSOs like attacks at journalists like cases of Gordana Katana and KLIX, CSO "Lasta" and "Kvart" regarding defamation, manipulation, blasphemy speech and rejecting of free access to information, LGBT gatherings and individual violence acts at the several locations).

Area 2: Framework for CSO Financial Viability and Sustainability

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

The financial aspects of CSOs' operations are regulated with the entity laws in BiH. The entity laws provide associations and foundations that perform the non-profit activities for which they were established to be exempted from profit and income taxes. Upon a campaign led by CCSP, the Profit Tax Law in RS was amended. With the changes, associations and foundations no longer have to pay income tax on donations received from public funds, sponsorship, or donations in cash or kind. Previously, humanitarian organizations were eligible for such benefits only. The CSOs are paying taxing at the funds coming from the foreign sources except IPA funds excluded from VAT and some other sources like USAID funds with procedure of VAT return.

The law provides CSOs to generate income through economic activities. CSOs are exempt from paying VAT on income earned through the provision of services, up to 50,000 BAM (25.564 EUR). Associations and foundations can undertake economic activities that are not directly related to the achievement of their goals only by establishing separate commercial legal entities. In that case, the total profit from unrelated activities must not exceed one-third of the CSOs' total annual budget, or

10,000 BAM (5.112 EUR), whichever is higher. Profit generated from unrelated economic activities can only be used to further CSOs' stated purpose.

CSOs are not required to pay VAT on goods or services received in this manner, nor do they pay VAT on their further management.³² Donations from government institutions to CSOs are also non-taxable. The law does not explicitly state the time limit for utilization of such grants, nor does it stipulate the percentage of the share of such grants that may be applied for covering administrative costs. The VAT exemptions on EU grants are well regulated, with a clear and simple procedure. In practice, issues arise when it comes to small suppliers, as they do not have an established adequate system of fiscal bills with exempted VAT to which they are obliged to.

When it comes to tax treatment of donors, the Profit Tax Law in RS provides them with deductions up to 3% of their total income for donations to organizations offering humanitarian, cultural, sports, and social service activities, and 2% for sponsorship expenses. According to the Income Tax Law in the Federation of BiH, in-kind, material, and financial donations for cultural, educational, scientific, health, humanitarian, sports, and religious purposes are tax-deductible up to 0.5 percent of income earned in the previous year, but only if natural person is self-employed. The same treatment is for BiH citizens and foreigners too.

The Strategy for Strategic and Sustainable Development 2020 suggests social entrepreneurship to be defined as priority that is to be implemented through awareness rising, promotions, involvement in education curricula, interdisciplinary research, and other activities. That notwithstanding, social entrepreneurship is mainly underdeveloped and under-regulated within BiH legal framework, whereas state policies do not include it in their programs. It remains highly necessary for social entrepreneurship to be promoted, public servants to obtain educational sources and training on it. The Strategy for Development of Social Entrepreneurship should be prepared as well as the relevant legislative framework for FBiH and RS. The centers for development and basic financial support for startups should be established while partnership between CSOs and social entrepreneurs should be created.

Regarding CSR, the public and private enterprises do provide some funds nevertheless most BiH companies and businesses do not see CSR as their interest or as favorable to the public. Despite the inadequate regulation of CSR, there are some examples of very positive practice by CSOs as with Foundation Mozaik, Foundation USPON, and BOSPO³³, and companies as Telekom BiH, Elektroprivreda, but also private like ASA Prevent, Bekto Preciza DM, Coca-Cola, Philip Morris who deal with CSR issues as their regular practice, acting as promoters and implementers of good practice of social entrepreneurship in BiH. To exemplify, Foundation Mozaik developed a program – "DOBRO"³⁴ with the aim to select the best companies of the particular year in practicing CSR and connect them with CSOs that are working on issues of the companies' interests.

Endowments as such, are not legally regulated in BiH, nonetheless, according to the Law on Association and Foundation at the levels of BiH, FBiH, RS and relevant Laws at Brčko District, endowments may be established within foundations. In that event, endowments are considered foundations' property and are managed in accordance with the procedures applicable to foundations. Similarly, passive investments are planned and managed within foundations, as well as controlled

³² Apart for exceptional cases, when CSOs should also register for VAT. Even in this case, such a requirement would still exist if the CSO's taxable turnover, conducted as a business activity and in competition with the private sector, would exceed 50,000 BAM (25.565 EUR) annually.

³³ <http://mozaik.ba/en/>; <http://fprzoi.ba/>; <http://www.bospo.ba/english/index.html>

³⁴ <http://dobro.mozaik.ba/>

and regulated with the foundations' statutes and internal acts. In practice, passive investments are utilized by CSOs and no sanctions are applied in doing so.

The CSOs working in the main areas of public interest, including human rights and watchdog organizations, effectively enjoy tax deductible donations as all others. In practice, there is no direct or indirect (hidden) tax on grants reported as well as tax benefits for economic activities of CSOs are relatively effective and supportive.

Main recommendations for action:

- Entity laws on income tax and profit tax for legal persons should be revised regarding benefits for donated amount and harmonized among themselves. The Laws on activities on public benefits should be determined at level of FBiH ³⁵
- Harmonization of the treatment of tax deductions for donations to CSOs from physical persons who gain income from independent economic activities (Law on Income Tax of RS, FBiH, BD).
- Legal determination on whether tax deductions for donations from legal persons (taxpayers) are related to institutional grants (donations) for CSOs (which act for general public benefit purposes as defined by the Law), and to determine whether such donations must be used in the calendar year in which they are received, as well as the limit up to which a donation can be used as an administrative expense.

Sub area 2.1., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.

2.2.a. Quality and applicability/practice of the legal framework for individual and corporate Giving

- According to the Profit Tax Law in RS and FBiH, associations and foundations no longer have to pay income tax on donations received from public funds, sponsorship, or donations in cash or kind. Previously, only humanitarian organizations were eligible for such benefits.

- According to the Income Tax Law in the Federation of BiH, in-kind, material, and financial donations for cultural, educational, scientific, health, humanitarian, sports, and religious purposes are tax-deductible up to 0.5 percent of income earned in the previous year, but only if natural person is self-employed. The Profit Tax Law in RS provides donors with deductions up to 3 percent of their total income for donations to organizations offering humanitarian, cultural, sports, and social service activities, and 2 percent for sponsorship expenses.

2.3.a. Quality of the system of tax benefits for the CSOs' operational and economic activities

- CSOs are exempt from paying VAT on income earned through the provision of services, up to 50,000 BAM (25.564 EUR).

- Associations and foundations can undertake economic activities that are not directly related to the achievement of their goals only by establishing separate commercial legal entities. In that case, the total profit from unrelated activities must not exceed one-third of the organization's total annual budget, or 10,000 BAM (5.112 EUR), whichever is higher. Profit generated from unrelated economic activities can only be used to further the organization's stated purpose.

³⁵ Within the „Civil society sustainability project“ (2013-18) campaigns for the entity laws on income tax and profit tax for legal persons will be conducted

Sub-area 2.2.: State support

Financial support of the state of BiH is regulated with the laws on budgets created at entity levels as well as for each separate municipality and canton. The laws regulate state support for institutional development for CSOs, project support and co-financing of EU funded projects. In BiH, there is a national level mechanism for distribution of public funds to CSOs. It is decentralized and the distribution depends on the level of authority and on the particular institution allocating public funds. Hence, Ministries and Mayors are mandated for the distribution of public funds. In a similar vein, the amount of public funding planned to be allocated for distribution to CSOs is done on the levels of authority. The part of funds collected by lotteries is distributed to humanitarian purposes. The procedures for CSOs' participation in all phases of the public funding cycle are not clear, transparent and are implemented sporadically.

The financial support from the state of BiH has been decreasing over the course of the last several years and the trend is on its way to reach the lowest level ever. In 2012 the, state funding reached 100,006,470.48 BAM (51,132.496,20 EUR)³⁷ with allocation in percentages per levels 51% local, 25% entities, 23% cantons, 1% state level. For 2013, 2014 and 2015 there are no official figures, rather approximations by Dr. Žarko Papić who estimates 80,000.000 BAM (40.903.350,50 EUR) in 2015. The reasons for the decrease is partly a result of the bad economic situation, but also due to the governments' orientation towards cutting the budget lines in its own interest. At the same time, international donors too have been decreasing the amounts of funding of programs in BiH. While some have ended their financing programs, others are close to ending them or making them part of the regional strategic support mechanism – EU Instrument for Pre-Accession Assistance (IPA) 2014-2020. To illustrate, the UK's Department for International Development (DFID) has ended its programs, and the British Aid is being channeled through the EU. Thereafter, state support, which is increasingly sought for³⁸, is more than necessary in the appropriate amount.

There is a decreasing trend of BiH governments' support to the non-government sector from 2006, whereas an estimate is that in 2015 there was about 80. KM support from the public funds³⁶.

The funding are not predictable and a key shortcoming with the distribution of public funds lies in the distribution of funds by sector and the domains of work and activities of CSOs that the funding is targeted to. Most calls for funding proposals lack a clear field and type of focus activity, resulting in numerous applications from diverse CSOs, making it hard to establish and apply unified project evaluation criteria. This leads to the awarding of small sums to a large number of CSOs, usually insufficient for adequate implementation of projects and program activities. Another issue arising from distribution of public funds is that the public calls seldom reflect the needs of civil society. This means that there is not a clear understanding or assessment of needs to serve as the basis for development of these calls.

³⁶ Prof. Dr Žarko Papić researcher and co-author of the 'Heads-or-Tails: Government Sector Allocations for the Non-Governmental Sector in BiH for 2012' confirms that approximation for 2015 is about 80,000.000 KM

³⁷ The data obtained through research implemented by the Foundation for Social Inclusion in BiH in cooperation with the CSPC in 2012, are published in the publication 'Heads-or-Tails: Government Sector Allocations for the Non-Governmental Sector in BiH for 2012'. Of 309 governmental institutions, 303 participated in the survey, which made it possible to obtain a clear picture and accurate data on: government support for CSO activities by levels of government; CSO sectors and activities; funding mechanisms; and the transparency of the entire process.

³⁸ Mladen Ostojic, Prof. Dr Adam Fagan, "Donor strategies and practices for supporting civil society in the Western Balkans", Balkan Civil Society Development Network, 2014, p.41-47, http://www.balkanicsd.net/images/stories/Balkan_Civic_Practices_11_Donor_Strategies.pdf

There are government bodies with a clear mandate for distribution and/or monitoring of the distribution of state funding while the CSOs participation in the public funding cycle is sporadic and not enough transparent and meaningful. The procedures for distribution of public funds are partially transparent and legally binding while it depends from level to level, as well as from the particular local community or canton. It is also related to the criteria for selection, to be clear and published in advance, and procedures that addressing issues of conflict of interest in decision-making.³⁹

Government institutions' support funds for CSOs are most often awarded through public calls for funding proposals, inclusion in regular budgets or through public procurements. The application requirements for the public/budgetary funds, if exists and implemented, are not too burdensome for CSOs. The procedures in the most cases have clear measures for accountability, monitoring and evaluation. There are also cases of direct funding the activities of CSOs without calls for proposals particularly for CSOs of demobilized soldiers who are still entities with a special status in BiH. Generally, institutions involved in the process of funding CSOs make the calls and the selected CSOs public. However, there is no access to the process of project proposal selection, and specific reasons and explanations as to why certain projects have been selected or rejected. Whereas there are institutions that follow the procedures for public funds distribution in a harmonized way, there are also institutions which do not follow the procedures. There are a lot different approaches in distribution and decision making for allocation while the sanctions for misuse or conflict of interest in decision making on allocation of funds are not recognized in practice so far.

Monitoring is mainly performed through submission of CSO narratives and/or financial reports to the institutions allocating the funds. Nevertheless, it is not known if monitoring is performed constantly and in accordance with previously defined objective and measurable indicators. Similarly, it is not known for whether state bodies perform evaluation of public fund effects/influences Information on effects/influences is not made public.

The law allows state authorities to grant CSOs non-financial support, such as state assets, the renting of space without financial compensation (to a certain limit), free training, consultation and other resources. Generally, CSOs use non-financial state support at a local level. The most common non-financial support that CSOs use, are the workspaces or premises for the organization of particular events which are provided to CSOs for free. When receiving non-financial support, CSOs do not have equal treatment neither among themselves, nor with public institutions, as the allocation is based on personal connections and acquaintances. To illustrate, there is a favorable and preferential treatment of certain groups as veterans' CSOs and CSOs of civilian victims of war that make up a significant part of the electorate. For that very reason, a large number of CSOs receive non-financial support based on political affiliation and loyalty.

Main recommendations for action:

- Harmonize mechanisms and establish the transparent funding of CSO programs and projects from the state budget, which would incorporate rules on the required stages of the award cycle into administrative by-laws (award requirements, monitoring, reporting forms, evaluations, audit reports).

³⁹ Pursuant to the state and entity laws on Freedom of Access to Information, the BiH Law on Public Procurement, and the state and entity laws on Conflict of Interest in Government Institutions.

- Introduce a public and electronically accessible register of CSOs in BiH, which would combine all data about these CSOs, and give clear information on: date and place of registration; registration level; implemented projects; donors; and annual and financial reports.
- Harmonize the laws on conflict of interest, with increase of the sanctions and supervision of the parliamentary assemblies on its implementation.

Sub area 2.2., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.

2.4.a. Increase of public funding for CSOs

- There is a decreasing trend of BiH governments' support to the non-government sector from 2006, whereas an estimate is that in 2015 there was approx. 80.000.000 BAM (40.000.000 EUR) support from the public funds. The last exact figure is dated in 2012 and amount to 100,006,470.48 BAM (51,132.496,20 EUR)
- There is not information regarding percentage of state funding for implementation of the public policies for which the CSOs are identifies as key actor

2.4.b. Quality of state funding frameworks for civil society organizations (focusing on procedural document)

- Perception of CSOs is that public funding cycle is not transparent and that public funding is mainly under control of political parties relevant to certain funding level. There are a lot different approaches in distribution and decision making for allocation while the sanctions for misuse or conflict of interest in decision making on allocation of funds are not recognized in practice so far.
- The legal framework for public funding includes provisions for inclusion of beneficiaries in programing of the tenders, clear criteria published in advance, deadlines for decision, merit decision with arguments, monitoring and evaluation

Sub-area 2.3.: Human resources

Throughout BiH, CSOs are treated equally to other employers by law and policies. Special provisions apply only to the associations of employers and unions. There is no employment incentives related to CSOs specifically.

Entity Employment Services do not keep records on numbers of CSO employees. This information can be obtained from the entity Agencies for Financial, Information, and Intermediary services (AFIP) however it is not free of charge. According to information obtained from the RS Tax Administration Office,⁴⁰ 395 persons were employed within 220 membership-based CSOs.

Volunteering is regulated by the RS Law on Volunteering (2008) and by the FBiH Law on Volunteering (2012)⁴¹, which define basic terms and principles of volunteering, contractual relationships, rights and obligations of volunteers and organizers of volunteer work, as well as overseeing applications. The volunteer engagement can take place in any form and there is no information about complaints of restrictions on volunteering. The spontaneous volunteering practices are registered only in cases of natural disasters, like floods and land-slides in 2014, but incentives and state supported programs for development and promotion of volunteering do not exist. Problematic remain the contractual relationships, the obligation for signing contracts with volunteers

⁴⁰ This information was obtained in February 2015.

⁴¹ The Brčko District does not have a law specifically applicable to the area of volunteering.

was not abolished completely, it remained in the cases where the beneficiaries of the volunteering are special categories of beneficiaries, i.e. children, persons with disabilities, the elderly, people with special needs, people fully or partially deprived of working capacities, and if a volunteer has engaged into volunteering without signing a contract, fines apply. Simultaneously, organizers of volunteering are obliged to submit reports on realization of volunteering activities to the competent ministry.

The application of the laws regulating volunteering is still not at a satisfactory level. Practice shows that the laws are largely unknown to CSOs, which do not see their significance due to insufficient implementation on the ground. Moreover, albeit the procedures for registering volunteering being clear, CSOs find it easier to sign regular service contracts with volunteers than to respect all the taxes anticipated by the law. When it comes to incentives and programs promoting volunteering, CSOs are almost united in their assessment that the situation is poor regarding transparency in giving encouragement to volunteers. The position of 'volunteer-intern' is defined in the Labor Laws of both entities and in BD legislation, but refers to volunteering as *de facto* unpaid work, rather than socially useful employment. The misuse of the notion of volunteering in this context has caused huge damage to volunteering engagements throughout BiH, due to incorrect interpretations by the media, institutions, and the public. Furthermore, in practice, approval of voluntary working hours as verified service length is not recognized besides stipulations in the Law on Volunteering of FBiH⁴². Finally, there are not sanctions against CSOs for non-implementing regulations.

The non-formal education is promoted through policy/strategy/ laws. In 2015 several BiH cantons – Sarajevo⁴³, Bosansko-Podrinjski⁴⁴, Zapadno-Hercegovački⁴⁵ and Tuzla⁴⁶, adopted the Laws on Education of elderly people in order to harmonize labor market needs with disposed human resources as well as to adjust education system with EU standards. The adopted laws would enable CSOs to be involved in the process of non-formal education for elderly people in its better adaptation at the labor market.

The civil society related subjects in schools are implemented by Civitas⁴⁷ program and comprise education from primary schools to university as well as non-formal education for elderly population. Within the curricula for primary schools there is one hour in a week of civic education for the pupils in 9th class. The educational system includes possibilities for civic engagement in CSOs and provision of non-formal education by CSOs is recognized but the process is at the stage of designing of bylaw which will enable to CSOs to be recognized as a subject for non-formal as well formal education. There are examples of CSOs like Nahla in Sarajevo with large variety of education programs, Kult Sarajevo with education program for children, as well as some CSOs dealing with programs for foreign languages, etc.

Main recommendations for action:

- Request the introduction of CSOs as a special category by competent institutes for statistics, which would regularly collect data on employee numbers and salary rates in CSOs.
- Improve and harmonize the implementation of existing laws on volunteering, in the both entities, by CSOs and relevant institutions and pass a Law on Volunteering in BD.

⁴² <http://www.scribd.com/doc/118216561/Zakon-o-Volontiranju-FBiH-SI-novine-Br-110-12#scribd>

⁴³ <http://www.klix.ba/vijesti/bih/skupstina-ks-usvojila-zakon-o-obrazovanju-odraslih/151007113>

⁴⁴ <http://www.bpkg.gov.ba/vijesti/44240/usvojeni-prijedlozi-zakona-o-obrazovanju-odraslih-i-strategije-razvoja-sporta>

⁴⁵ http://www.aldi.ba/index.php?option=com_content&view=article&id=458:zakon-o-obrazovanju-odraslih-usvojen-na-9-redovnoj-sjednici-skuptine&catid=45:ta-radimo&Itemid=27

⁴⁶ <http://www.rtvslon.ba/skupstina-tk-usvojila-zakon-o-obrazovanju-odraslih/>

⁴⁷ <http://civitas.ba/>

- Introduce effective legal solutions for recognizing non-formal education in those parts of BiH currently lacking such provisions, and promotion of existing solutions. (Adopt the Strategy for Adult Education and relevant laws in all cantons).

Sub area 2.3., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.

1.2.a. Number of employees in CSO (permanent and part-time)

- The Entity Employment Services do not keep records on numbers of CSO employees. This information can be partly obtained from the entity Agencies for Financial, Information, and Intermediary services (AFIP), but is not free of charge as well as the data are not complete and comparable among each other. So, the total number of employees that work within the sector is not known precisely.

1.2.b. Number of volunteers in CSOs per type of CSO / sector

- There are no official data of the volunteers number engaged in CSOs' activities and therefore the contribution of volunteers to GDP in % cannot be established.
 - The Law on Volunteering in the Brcko district has not yet been passed

1.2.c. Quality of legislative framework

- Throughout BiH, CSOs have the same legally regulated treatment as other employers. Labor laws of RS, FBiH and BD do not contain specific provisions in respect to CSOs. The laws on associations and foundations do not contain any specific provisions related to the employment of individuals in CSOs, specific procedures for employment, nor specific rights for CSO workers.
 - There are no discriminative articles for CSOs in labor legislation.
 - The legislation does not enable tax-free reimbursement of travel expenses and per diems to volunteers.

Area 3: Government-CSO Relationship

Sub-area 3.1.: Framework and practices for cooperation

With an agreement signed in 2007, big steps towards furthering state-CSOs cooperation have been laid down. Among other things, the agreement stipulated the adoption of a Strategy for Creation of Enabling Environment for Civil Society Development. The development and adoption of the Strategy as well as the corresponding action plan was initiated by the BiH MoJ in 2011 nonetheless the process has been halted due to different approaches of FBiH and RS to the issue. During the process participation of CSOs was not appropriate because the process was led by professional consultant and not CSOs' representatives itself.

The cooperation between government and CSOs depends to particular municipality, canton, or other state level itself and not based only at strategic documents but also through office of cooperation, foundation, or ad-hoc cooperation. The strategic document regarding cooperation of government and CSOs are rare, and not monitored, evaluated and revised periodically. More so, state policies for cooperation between state and CSOs and civil society development are not based on reliable data collected by the national statistics, taking into consideration the diversity of the sector, but on political will and readiness to improve such relationship.

The agreement of 2007 also envisioned the establishment of an Office for Cooperation with Civil Society Sector as a specialized and advisory body of the BiH Council of Ministers, creation of a Civil Society Council in BiH composed of government and civil society representatives; creation of the Civil Society Board on behalf of CSO representatives, as well as adoption of the Strategy for Creation of Enabling Environment for Civil Society Development. Due date however these were not implemented as envisioned. In place of the Office for Cooperation with Civil Society, a Sector for Civil Society was established within the BiH MoJ in 2008. Due to the staff not being competent in adequately implementing the assigned activities⁴⁸, it was transformed into the Sector for Legal Aid⁴⁹ of the BiH MoJ. In fact, upon the Council of Ministers 94th Session on May 9th, 2014 which concluded that a working group shall be established with representatives of Council of Ministers Chair office, MoJ, Government of RS, Government of Federation BiH, and Government of BD, and after the general elections 2014, the working group was not completed with the new members, and therefore is still inactive. As 2015 was passing without any significant activity regarding the establishment of a functional institutional mechanism for state-CSO cooperation, CCSP held a conference with the aim to aid the state in building momentum as it is focused on implementation of the Stabilization and Association Agreement (SAA) reforms, and asked BiH state institutions to involve CSOs in this process. More specifically, it aimed at exerting well-articulated pressure on the Council of Ministers of BiH to urgently undertake all necessary steps and measures which will allow proper implementation of existing policy and legal framework for the development of functional dialogue and cooperation between Council of Ministers of BiH and CSOs. The main result of the Conference is the Initiative for the urgent establishment of institutional dialogue and cooperation mechanism between Council of Ministers BiH and civil society⁵⁰. Additionally, when it comes to institutions mandated for state – CSOs cooperation on entity levels, it is the FBiH MoJ and the Ministry of Public Administration and Local Self-Government in RS, being entrusted to do so what is expected during 2016. The national level institution or mechanisms have no sufficient resources and mandate for facilitating CSO-government dialogue, discussing the challenges and proposing the main policies for the development of civil society.

CSOs are occasionally and selectively consulted and included in decision-making processes on behalf of institutions. The good and rare example is participation of CSO 'Vaša prava' BiH in working group that was preparing creation of fourth Draft Law on Free Legal Aid. It appears that, amid the recognition as a good mechanism for cooperation among state authorities and civil society, the Cooperation Agreement between the BiH Council of Ministers and CSOs in BiH did not give the envisioned results, not even 8 years after its signing. As highlighted in 2014, it is more than necessary that a study for its current operation to be conducted with the aim to define a new approach for its planning and practical application.

⁴⁸ Although the Sector for Civil Society was conferred broad competences, the documents that should have resulted from exercising such competences were not prepared nor made available to the general public. According to the MoJ official website, the Sector had, among others, the competence to: prepare any developmental and strategic documents for the CSOs in BiH; facilitate and promote participation of CSOs in consultations of the legislative drafting process; monitor cooperation of CSOs with the lower levels of government in BiH; and monitor and prepare an annual overview of the implementation of the Cooperation Agreement between the BiH Council of Ministers and the Non-Governmental Sector in BiH. See more at: <http://www.mpr.gov.ba/ministarstvo/organizacija/default.aspx?id=436&langTag=bs-BA>.

⁴⁹ The Sector for Legal Aid still has a Section for Legal Aid to CSOs. For more information on the competencies of the Sector for Legal Aid, please see the Mid-term Strategic Plan of the BiH MoJ, 2012-2014, revised in January 2014.

⁵⁰ http://cpcd.ba/files/Inicijativa_za_hitnu_uspostavu_institucionalnog_mehanizma_dijaloga_i_saradnje_Vijeca_ministara_BiH_sa_civilnim_društvom1.pdf

Main recommendations for action:

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

Sub area 3.1., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.

3.1.b. Quality of structures and mechanisms in place for dialogue and cooperation between CSOs and public institutions in terms of: - CSO representation in general, - representation of smaller/weaker CSOs, - its visibility and availability, - government perception of quality of structures and mechanisms, - CSOs perception of structures and mechanisms

- The Cooperation Agreement between the BiH Council of Ministers and the Non-Governmental Sector in BiH signed in 2007 and hasn't brought the intended results, not even 8 years after its signing. The Council of Ministers concluded at its 94th Session on May 9th, 2014 the process of Cooperation Agreement redefinition would start by establishing working group but situation with its' improvements is still unsolved
- The Strategy and Action Plan for Creation of Enabling Environment for Civil Society Development, both initiated in 2011, are still at halt.
- The various legislative frameworks on state, entity and BD levels further affect relationships between CSOs and the government. On entity level, relations with CSOs are entrusted to the FBiH MoJ and the Ministry of Public Administration and Local Self-Government in RS, respectively.
- There is no adequate system of communication and cooperation with CSOs, nor is there regular reporting or monitoring on the situation of civil society in BiH.
- CSOs are occasionally and selectively consulted and included in decision-making processes on behalf of institutions.
- A national level institution mandate to facilitate cooperation with CSOs is the Sector for Legal Aid at the BiH MoJ, whereas institutions mandated for state – CSOs cooperation on entity levels are the MoJ and the Ministry of Public Administration FBiH and Local Self-Government in RS.
- About 40% of ministries have contact points and regularly fulfill their obligations regarding minimum consultations regarding legislation of particular importance to the public, that is, Ministry of Communication and Transport, Ministry of Foreign Affairs, Ministry of Foreign Trade and Economic Relations, Ministry of Justice and Ministry of Security.

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

The Rules of Consultation as an obligatory document provide CSOs with the possibility for participation in the preparation of a legal document from the earliest stages through comments submitted in the consultation process. One of the improvements is that consultations at state level are

obligatory for all ministries (minimum consultations) and that will be established web platform for online consultation. The Rules of Consultation stipulate that government institutions at the state level must keep a current list of stakeholders and persons or institutions interested or affected by its legislation. The institution must conduct minimum consultations on all draft legislation. In 2015, the MoJ of BiH began implementing the Rules on Consultations in Legislative Drafting of the Council of Ministers of BiH, enabling citizens and CSOs to directly participate in legislative drafting through an online platform. The issues however arise in that the rules differ between the entities and need to be harmonized with the state level ones. Additionally, deadlines for submission of comments are 21 days after the original posting, which does not always allow enough time to write qualitative comments for further analysis.

Furthermore, at the level of the FBiH, *Regulation on rules for participation of interested public in process of creation of federal legal and other acts* has been adopted⁵¹. In comparison with year 2012-2014, there is a progress in implementation of the Rules by certain number of federal ministries which provide the proper consultation with interested public in preparation of the documents.⁵² The Government of the RS has in similar way by its *Guidelines for republic organs of self-governance on public participation and consultations in creation of laws*⁵³ defined under which conditions, when and who is making consultations with the public, how comments are collected and processed, and how explanation are created on whether comments are accepted or not. Coordinator is named for every specific law separately. Guidelines are obligatory and all those included in creation of the law are obliged to follow them.⁵⁴ At cantonal level there are no Rules on Consultation but certain number of cantons⁵⁵ same as BD are implementing consultations.⁵⁶ At the level of Canton Sarajevo document "Regulation of procedures and methodology in preparation, designing and delivering of legal acts" stipulates necessary consultations with civil society representatives.

Existing educational and training programs are not harmonized with the needs of civil servants to actively involve civil society organizations in the decision-making process. On the basis of the training programs of the Agency for Civil Service for 2015, there is no specific training program for civil servants on the participation of CSOs in the work of public institutions. Such situation is bad, not acceptable and anticipates low level of mutual recognition of both sides of interests. In addition, the Strategy for Improvement of FBiH Civil Servants does not recognize this subject in its Action Plan.

The Rules for Consultation in Legislative Drafting in BiH institutions, and the Guidelines for Actions of Republic's Administrative Bodies on Public Participation in Legislative Drafting require the appointment of a coordinator to invite CSOs to participate in the consultation process. Despite the well-established legal framework, the situation is substantially different in practice. In addition the problem with unacceptable number of draft Laws which are passing the adoption stage at different levels under urgent procedure, even there are not emergency cases. The number of adopted laws at

⁵¹ Based on article 19. subpart 1. of Law on the Government of the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of BiH", no. 1/94, 8/95, 58/02, 19/03, 2/06, 7/06), the Government of the Federation of Bosnia and Herzegovina, at its 53rd session held on June 4, 2012.

⁵² Federal Ministry of Trade, Federal Ministry of Energy, Mining and Industries, Federal Ministry of Agriculture, water management and Forestry

⁵³ "Official Gazette of Republika Srpska" no. 123/08 i 73/12

⁵⁴ The Government of the RS and all contributors to the law are indeed following the Guidelines and laws are passing process of consultation with public, according to an interview with representative of Republic's Secretariat for legislation (example, Ministry of Industry, Energy and Mining, <http://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/mper/Pages/default.aspx>).

⁵⁵ Ministry of Justice of Una –Sana Canton, Ministry of Justice, Governance and local self-governance of HNK

⁵⁶ Public Consultation of Justice Commission of District Brcko, "Draft of Rules and regulations on type and conditions to execute criminal sanctions of work for public good while on freedom" 24/3/2011.

the state level in regular procedure during 2015 is 15, within those laws 4 were adopted in urgent procedure. Such practice with urgent procedure exists much more at the lower levels, entities and cantons.

Ministry of Justice of BiH is still the exception, and it has mostly fulfilled its obligations arising from the Rules of Consultations. Example of the Ministry of Justice of BiH should serve to other BiH institutions as initiative for establishing a dialogue with citizens and CSO. Ministries however that do not have cooperation with CSOs are Ministry of Defense, Ministry of Finance and Treasury, Ministry of Foreign Affairs, and Ministry of Human Rights and Refugees. When it comes to positive practices in adoption of documents, the best example for 2015 is the process of consultations to the draft Law on Associations and Foundation BiH. The numerous amendments were placed and the consultation process was finalized by withdraw of the document from the Parliamentary procedure.

In 2015, the problems related to collection and processing of comments remain present. When it comes to providing feedback, positive improvements were made by certain number of state agencies⁵⁷ who started to apply the Rules. But still, most of the ministries and agencies have not adopted Rules on Public Consultation that would clearly define and arrange methodology to collect and process the comments⁵⁸. The requirements envisaged for minimal consultation⁵⁹ are observed by four ministries, while only three⁶⁰ have appointed public consultation coordinators, and compiled lists of CSOs and individuals who receive information related to the public consultation process.⁶¹ Finally, coordinators rarely inform CSOs of whether their comments were accepted, abridged or rejected. The persistent absence of feedback demotivates CSOs from active participation in future public consultation processes. Finally, on municipal level, municipalities themselves enable insight into draft documents concerning the organization of assemblies of citizens.

Most civil servants are still not aware and do not accept the Rules as binding therefore, educating civil servants is crucial for implementation of the Rules, which raises concerns about them not being aware about its goal, implications, necessity and additional education is necessary⁶². More so, in the current practice, no sanctions apply for violations during consultation process.

The Rules for Consultation in Legislative Drafting in BiH institutions, and the Guidelines for Actions of the Republic's Administrative Bodies on Public Participation in Legislative Drafting envisage obligatory publication of draft documents on the website of the institution involved. The legislation provides clear rules on the obligation of the state authorities to provide information based on requests. In 2015, the

⁵⁷ Regulatory Agency for Communications of BiH, Agency for Food Safety of BiH, Agency for Development of Higher Education and Quality Assurance and Civil Service Agency of BiH on their web pages are regularly publishing legal acts and inviting interested public to send their comments, full filing in that way a minimum of obligations on public consultation.

⁵⁸ It is of special importance that institutions in their rules and regulations on internal systematization of work places define a position of coordinator for public consultation. With this we would avoid previous practice of formal naming of a person that does not have needed knowledge, nor time to deal in systematic way with collection and processing of comments, and sending feedback to those who made the comments as defined by the Rules. No-existence of feedback by institutions, which usually happens with comments sent by citizens and CSOs in process of consultation, represents demotivating factor for future consultation.

⁵⁹ Ministries are required to upload a preliminary draft of the legislation on their website, and provide an option for submission of comments. **They should then invite these comments** by informing CSOs on the Consultation List of the given institution, with provision of information on accessing copies of the draft legislation. The timeframe for submitting comments is 21 days.

⁶⁰ This data was acquired by the analysis of questionnaires from state ministries in October 2013. and situation is not changed in 2014 and 2015.

⁶¹ Of these, two ministries failed to conduct transparent listing of CSOs in databases, and there are no official criteria for selection of these organizations.

⁶² Good indicator is information that the Council of Ministers for period of seven years has never refused to put certain acts on its agenda even it didn't have public consultation on it.

Personal Data Protection Agency initiated changes to the Law on Free Access to Information, based on the conclusions of the BiH Council of Ministers, and prepared the analyses and opinions along with other institutions, among which the Institution of Human Rights Ombudsman/Ombudsmen of BiH and the Ministry of Justice BiH. These changes were not adopted as result of CSOs reaction because they implied restrictions to the access to information. At the other levels, namely F BiH, RS and BD, the legislation remained the same. There are clearly prescribed sanctions for civil servants for breaching the legal requirements on access to public information.

The Council of Ministries BiH published draft and adopted laws and policies according to the Report⁶³, unless they are subject to legally prescribed exceptions. Documents are rarely posted at the entities' and the most of cantonal and municipality websites, as well as that of the Government of BD. On a municipality level, the municipalities themselves enable insight into draft documents concerning the organization of assemblies of citizens.

The public institutions do not answer all of the requests for free access to public information within the deadline prescribed by law particularly if the request can result with wider research of breaching procedures or unregularly of its work. The latest information on free access to information of public character dates back in 2015⁶⁴. Although there is no official information on the total number of requests sent to the institutions, the 218 appeals sent to the Ombudsman indicates that there are still a lot of issues in the application of the law on free access to information in practice. Out of these 223 appeals, 48 refer to failure to provide information within the legally prescribed time-frame, 41 complaints refer to denial of access to information, 6 refer to the right to appeal, whereas the remaining 128 cover all the other situations as unacceptable and unfounded appeals, decisions made by information holders in a non-lawfully prescribed form, decisions without explanations and decisions without legal remedies.

There were cases of violations registered in 2015. CSO "KVART" reported violation on the freedom of access to information, more than 15 requests were placed to local and police administration were ignored without any sanctions against public servants.

Participation of CSO representatives in working groups for legislative drafting is still not covered by any regulation and therefore, there are no clear guidelines on how to ensure appropriate representation from civil society, based on transparent and predetermined criteria. Even though it is not regulated within the legislative framework, there have been cases of CSOs being directly involved in working groups for the development of given regulations/document.⁶⁵ CSO representatives involved in the area of legislative drafting had opportunities to present their views through providing comments to proposed draft regulations, rather than participating in their creation. The CSO representatives rarely participate in such bodies and consequently are not selected through selection processes which are considered fair and transparent. Such inadequate participation in these bodies does not prevent CSOs from using alternative ways of advocacy or promoting alternative standpoints which are not in line with the position of the respective body.

⁶³ http://www.mpr.gov.ba/organizacija_nadleznosti/planiranja_koordinacija/strateska_planiranja/strategija/20%201%20Izvjestaj%20o%20provodjenju%20Pravila%20za%20konsultacije%20-%20BJ.pdf

⁶⁴ http://www.ombudsmen.gov.ba/documents/obmudsmen_doc2016041515322172bos.pdf

⁶⁵ One of examples of good practice is inclusion of CSOs in work of working groups for creation of law is participation of NGO 'Vaša prava' BiH in work of working group that was preparing creation of fourth Draft Law on Free Legal Aid.

Main recommendations for action:

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

Sub area 3.2., reflects also the assessment of the following indicators of the EU CS Guidelines 2014-2020.

3.1.a. Percentage of law/bylaws, strategies and policy reforms effectively consulted with CSOs in terms of: - adequate access to information; - sufficient time to comment; - selection and representativeness / diversity of working groups; - acknowledgement of input; - degree to which input is taken into account; - feedback / publication of consultation results.

- The Personal Data Protection Agency in BiH initiated in 2015 changes in the Law on Free Access to Information, based at the conclusion of the BiH Council of Ministers and in accordance to the Law on Personal Data Protection.
- In 2015, the MoJ of BiH began implementing the Rules on Consultations in Legislative Drafting of the Council of Ministers of BiH, enabling citizens and CSOs to directly participate in legislative drafting through an online platform.
- The most of state institutions employees do not consider the Rules obligatory therefore, educating civil servants is crucial for implementation of the Rules. The current practices don't recognized any sanctions for non-implementation of consultation process
- Unacceptable number of draft Laws are passing the adoption process as urgent procedure, without obligatory consultation, even there are not emergency cases.
- Existing educational and training programs are not harmonized with the needs of civil servants to actively involve civil society organizations in the decision-making process.
- At the level of the Federation, *Regulation on rules for participation of interested public in process of creation of federal legal and other acts* has been adopted. In comparison with years 2012-2014, there is a progress in implementation of the Rules by certain number of federal ministries which provide the proper consultation with interested public in preparation of the documents
- The Government of the RS has its *Guidelines for republic organs of self-governance on public participation and consultations in creation of laws* defined under which conditions, when and who is making consultations with the public, how comments are collected and processed, and how explanation are created on whether comments are accepted or not.
- The Governments coordinators rarely inform CSOs of whether their comments were accepted, abridged or rejected.
- Participation of CSO representatives in working groups for legislative drafting is not covered by any regulation, but there have been sporadic cases of CSOs being directly involved in working groups for the development of given regulations/document. The exception is participation of the representatives of CSO "Vaša prava" involvement in the area of legislative drafting the Law on free legal aid.
- Drafting process of the Law on Associations and Foundation BiH provides numerous amendments and finalized by withdraw of the document from the Parliamentary procedure.
- There is no exact information about % of laws/ bylaws, strategies and policy reforms have been effectively consulted with CSOs.

Sub-area 3.3.: Collaboration in social provision

Service provision by CSOs in BiH mostly revolves around the area of social services. The legal framework for service provision in the field of social protection is regulated with BD law, as well as entity⁶⁶ and cantonal laws in FBiH. Article 4 of the FBiH Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children, allows humanitarian organizations, CSOs, religious communities and organizations established by individuals or legal entities, to perform activities pertaining to these areas, alongside existing social institutions. Contrary to the laws in RS, those in FBiH do not offer incentive mechanisms for making of service providers.⁶⁷ Article 8 of the RS Law on Social Protection (2012) stipulates the right to social protection provided by: a social welfare institution; a CSO; a religious community; or any other person who meets the requirements provided in the Law. In RS, obligations of social protection are allocated to the entity government and local self-governments (municipalities). To obtain the status of “institution”, certain legal conditions must be fulfilled. Once this has taken place, the new institution is entered into the Register of Institutions for Social Protection. Conditions for providing these social services and procedures are prescribed in bylaws (rules for regulations, decisions and instructions). CSOs are not included in all stages of developing and providing services (needs assessment, determining the services that best address the needs, monitoring and evaluation).

Services that fall outside CSOs’ registered activities, and whose main objective is financial profit, can be provided only through a separate legal entity. There are no obstacles for health and educational institutions that provide services related to their primary activities. Operation of CSOs is equivalent to that of other legal entities. It is important to emphasize that in line with the principle of equal opportunity, and in order to reduce social exclusion, entity laws on professional rehabilitation, training and employment of persons with disabilities have been passed.⁶⁸ The social services can include daily centers, safe houses, SOS/counseling telephone line for children, psychological support, etc. When prior registration/licensing is required, the procedure for obtaining that is not overly burdensome, however the problem arises in that the competition with the public providers is not fair.

Despite the procedural transparency provided for by the law, the government generally funds CSO service provision through regular budget allocations, or public calls for funding proposals.⁶⁹ Predominant types of contract for which CSOs are commissioned for service provision are short and mid-term contracts.⁷⁰ Contracts with duration over 3 years, i.e. long term contracts, entail implementation of mapping of the needs of social services and relocation of funds according to priorities.

⁶⁶ The Law on Social Protection, Protection of Civilian Victims of War, and Protection of Families with Children (Official Gazette FBiH 36/99,54/04,39/06, 14/09), The RS Law on Social Protection (RS Official Gazette 37/12), The RS Law on the Protection of Children (RS Official Gazette 4/02, 17/08, 1/09).

⁶⁷ SeCOs, Comparative Analysis on Role of CSOs in Social Provision in WB countries, Belgrade: November 2013, available at: http://www.slideshare.net/saskazek/baseline-study-csf-eng?from_search=1

⁶⁸ The Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities (Official Gazette FBiH 2/10), The Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities (Official Gazette RS 59/09-revised text).

⁶⁹ “Heads-or-Tails: Government Sector Allocations for the Non-Governmental Sector in BiH for 2012”, FSI in BiH and CSPC, Sarajevo, February 2013.

⁷⁰ Among other reasons, contracts are conditioned by the annual adoption of the budget, and procurement procedure must be completed with additional time for the planning and realization of contracts.

Procedures for service provision contracts, and those for obtaining licenses or work permits, remain complicated and time-consuming.⁷¹ The cost of the service is important as resources are limited, and are determined by public funds and institutions. In BiH, service provision by CSOs still has a complementary character; if government institutions lack the capacity or resources to implement certain activities or provide particular services, they then employ CSOs or the private sector, which receive funding to implement the activities or services in question. CSOs generally provide auxiliary or supplementary assistance in the provision of services usually supplied by the state. Alternatively, they provide services for which the state does not have the capacity or interest to supply itself. There are no known cases of multi-year funding.

State financing of services provided by CSOs is mainly based on the allocation of funds through projects. CSOs do not receive sufficient funding from the state to cover their basic service costs. State funding is most often combined with much higher funding from foreign donors. CSOs are not able to cover proportional overhead costs with funds allocated to them by the state. The payment dynamics largely depend on the competent institution by which funds are awarded.

Contracts for service provision are awarded in accordance with the BiH Law on Public Procurement, or administrative procedures prescribed by bylaws. The Public Procurement Law has largely been adapted to EU standards, and provides the basic principles of fair competition, transparency and equal treatment. Its prescribed legal solutions ensure the protection of bidders and providers. In addition there are no procedures in place to prevent conflicts of interest. There is a right to appeal against competition results.

CSOs provide various services, mainly to marginalized groups, youth, and rural communities.⁷² CSOs fill an important role, particularly regarding the provision of basic social services, including soup kitchens, home care, and informal education. The government sector has been slow in recognizing the value of CSOs as service providers and offer its full support, whether through funding incentives or certification, which would permit CSOs to increase the quality and quantity of the services they provide. Strikingly, it is believed that open competitions are unfair in many cases, because applicants have no access to feedback, or the reasons and criteria according to which certain contracts were awarded.

The cost of the service is important as resources are limited, and are determined by public funds and institutions. The price is a criterion that separates public and private sector services, but there is no indication that a higher price guarantees higher quality and transparency of processes is mainly provided through application of the Law on Public Procurement, and by public calls for the financing of projects, which may include the provision of certain services by CSOs.

State officials have sufficient capacity to organize the procedures. Control and evaluation of services provided by CSOs is covered by legislative framework and there are clear quality standards and monitoring procedures for services. Practice shows that periodical reporting to competent institutions

⁷¹ A frequently cited example is the opening of a safe house, which is a complex and long-term process, but mostly because the CSOs are not fulfilling the legal requirements for such activity. In cases that preconditions are fulfilled the main problem arise in financing of activity. Another example concerns the education sector, where one CSO implements a program of gender equality in elementary and secondary schools, requiring the approval of the Cantonal Ministry of Education and the Institute of Pedagogy.

⁷² Most issues addressed by CSOs are effectively a reflection of the current trends and requirements of the European Union, and do not necessarily reflect the real needs and priorities of the local population.

is still the main form of assessment of the provision of these services.⁷³ CSOs are not subject to excessive control however there are very often delays in payment. The information about the services provided by CSOs is rarely available to the public and in the most cases, there is no regular monitoring or evaluation of the quality and effects of services provided. Finally, in accordance to the work-plans of FBiH Government the social care system in Federation BiH should become more efficient by establishing the unique social minimum as well as to introduce the appropriate limit for real social need assessment. In addition, it is necessary to develop clear vision of social care models by development of the existing networks and creating the new ones.

Main recommendations for action:

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

⁷³ For instance, in the case of CSOs that run safe houses, narrative, financial and audit reports must be submitted to the competent ministry. In the case of therapeutic communities, such communities are subject to all the same controls as other legal persons.

V. Used Resources and Useful Links

List of laws analyzed

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

- Law on Prohibition of Defamation (Official Gazette of RS, 37/01)
- Law on Prohibition of Defamation (Official Gazette of BD, 0-02-022-213/03)
- Law on Public Broadcasting Service of BiH (Official Gazette of BiH, 78/05)
- Law on Public Broadcasting Service of FBiH (Official Gazette of FBiH, 48/08)
- Law on Public Broadcasting Service of RS (Official Gazette of RS, 49/06)
- Law on Public Broadcasting System (Official Gazette of BiH, 37/03)
- Law on Public Enterprises of RS (Official Gazette of RS, 78/11)
- Law on Public Enterprises of BiH (Official Gazette of BiH, 92/05)
- Law on Public Enterprises of FBiH (Official Gazette of FBiH, 8/05, 81/08, 22/09, 109/12) Law on Social Protection RS (Official Gazette RS br. 37/12)
- Law on Social Protection, Protection of Civilian Victims of War and Protection of Families with Children (Official Gazette of FBiH, 36/99, 54/04, 39/06, 14/09)
- Law on the State Investigation and Protection Agency (SIPA) (Official Gazette of BiH, 27/04, 63/04, 35/05, 49/09, 40/12)
<<http://www.msb.gov.ba/PDF/Zakon%20o%20SIPA-i%20integralni%20tekst.pdf>>
- Law on Strikes (Official Gazette of FBiH, 14/00)
- Law on Strikes (Official Gazette of RS, 111/08)
- Law on Volunteering (Official Gazette of RS, 73/08)
- Law on Volunteering (Official Gazette of FBiH, 110/12)
- Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities (Official Gazette of FBiH, 2/10)
- Law on Professional Rehabilitation, Training and Employment of Persons with Disabilities (Official Gazette of RS, 59/09-revised text)
- Law on Protection of Personal Data (Official Gazette of BiH, 49/06) <<http://www.azlp.gov.ba>>
- Law on tax payment and partial writing off a debts for sport clubs in Federation BiH Official gazette of FBiH, **45/14** /6.6.2014./

Annex I

List of persons and organizations that participated in research update

List of interviewed persons

- Mr. Goran Kučera – Ministry of Justice BiH
- Mr. Goran Bubalo – Network for Building Peace
- Mr. Emsad Dizdarević – Transparency International
- Mr. Tomislav Majić – NGO “LINK” Mostar
- Mr. Milan Mirić – NGO “ICVA” Sarajevo
- Mr. Dario Jovanović – NGO “CCI” Sarajevo
- Mr. Boris Brkan – NGO “Zašto Ne” Sarajevo
- Mr. Edin Mujačić – NGO “COR” Brčko
- Mr. Nedžad Jusić – NGO “EUROROM” Tuzla
- Mr. Jugoslav Jevdjić – NGO “OKC” Banja Luka
- Mr. Darko Vučenović – Ministry of local government and self-government RS
- Ms. Milosava Jakovljević, NGO “Association of Consumers RS” Banja Luka
- Mr. Marko Vujić, Transparency International, Banja Luka
- Mr. Krsto Jandrić, Member of Parliament RS
- Ms. Milena Obradović, Association of disabled persons RS
- Ms. Lana Matić, City of Banja Luka
- Ms. Tanja Milinković, NGO “NEW IDEAS” Banja Luka
- Mr. Ermin Karić, NGO “For better Sanski Most”
- Mr. Vehid Šehić, NGO “Forum of citizens Tuzla”, Tuzla
- Mr. Emir Hrustanović, FBiH Government, Office for European Integration
- Ms. Šefika Muratagić, NGO “Key for Future”, Ključ
- Mr. Ervin Turić, NGO “New Vision”, Travnik
- Mr. Goran Žeravčić, Kronauer Consulting, Sarajevo
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