

BCSDN Online Discussion: Defending Civic Space in the Balkans

9 November 2023, Zoom platform

MEETING REPORT

The Purpose of the Event

In response to recent civic space threats in Republika Srpska, Bosnia and Herzegovina (BiH), including amendments re-criminalizing defamation and the adoption of the draft 'foreign agents' law,' the Balkan Civil Society Development Network (BCSDN) conducted the online discussion titled 'Defending Civic Space in the Balkans' on November 9, 2023. Around 50 people, representatives of local, regional and international CSO and of the international community, including donors and intergovernmental agencies, participated at the online event.

Facilitated by Ms. Biljana Spasovska, BCSDN Executive Director, the event emphasized the challenging civil society situation in Republika Srpska and highlighted the implications for democracy and fundamental rights in the region. BCSDN actively monitors such challenges, strives to strengthen regional solidarity, and advocates towards the national authorities and the international community to establish a more supportive legal framework that facilitates unrestricted civil society operations. The discussion centered on strategies to counter harmful legislation and practices targeting civil society, drawing insights from examples in Europe and beyond. The event goals were to:

- Create space for dialogue and exchange of information;
- Learn from examples from the region and beyond;
- Improve coordination of responses and encourage further political buy-in; and
- Explore collaborative solutions to minimize the corrosive effects of harmful legal provisions.

A restricted civic space in Bosnia and Herzegovina: with or without the law on foreign agents

The discussion on the state of civil society in BiH was opened by Ms. Aida Daguda, Executive Director of the Center for Civil Society Promotion (CPCD). Ms. Daguda highlighted ongoing challenges, such as inadequate cooperation between CSOs and the government, attacks on activists, as well as lack of solidarity and public trust in civil society. She emphasized the need for CSOs to focus on building better connections with its constituencies and to better communicate and promote the values of civil society, in order to gain stronger support by citizens and society as a whole. To improve the environment for civil society, apart from preventing harmful legislation, she highlighted the need for meaningful consultations between CSOs and the government, as well as establishment of transparent funding mechanisms. Ms. Daguda also called for bolder political support by the EU than the one expressed in the EC report on BiH published just the day before.

Zooming in to the situation on the ground, Mr. Aleksandar Zolja from Helsinki Citizen's Assembly opened the discussion with concerns about the very restricted space in which CSOs already work in Republika Srpska, even before or without the eventual adoption on the law on foreign agents, especially having in

mind the newly introduced criminal offence for defamation. Despite the numerous reactions that came from local CSOs and the international community, according to Mr. Zolja, the “foreign agents” law had been coming for years and it is likely to be adopted in Parliament, although the more advanced version of the draft law is not yet known to the public and even its implementation on a technical level could be problematic. Most problematic, however, is the draft law’s vague definition of political activity, which could lead to banning and penalizing all advocacy activities of CSOs, as well as the obvious discrimination and pressure over those CSOs and media who criticize the government. Additionally, there are different mechanisms envisaged in this law, including frequent inspections, reporting mechanisms, and an obligation for each CSO document to have the stigmatizing mark that it is “produced and owned by an agent of foreign influence”.

Mr. Zolja also mentioned the lack of support by wider CSOs and media in protesting the draft law, linking it with the reluctance of people and organizations to speak up for fear of being targeted. This was seconded by the other participants representing CSOs from Republika Srpska, who went so far by saying that independent civil society struggles to even exist in Republika Srpska due to the constant undermining, pressure, and obstructions. Several factors were pointed to have contributed to the weakening of the civil sector in RS, such as the brain-drain caused by migration, donors focusing their support on bigger organizations and leaving smaller, local CSOs behind, as well as the increased Russian influence in RS politics and the politicians’ narratives of “foreign agents” and “traitors” largely tainting the public opinion of CSOs.

The peculiar challenges of the environmental organizations in BiH were also pointed out that are related to the declining support even from the international and the traditional donor community considering the new global competition for resources needed for realization of the new green agenda of the West.

Trending: Foreign agent laws

Focusing on the “foreign agents’ law”, Mr. Luben Panov, Senior Program Advisor at ECNL, pointed out three major problems with the publicly available version on the draft law in Republika Srpska and foreign agent laws in general: the false association of foreign funding with foreign influence (but also only when it comes to CSOs and not, for example, when governments are taking foreign loans); the lack of real problems or threats that would provide for an argument to introduce laws that restrict fundamental rights; and the fact that instead of targeting foreign influence, it is targeting CSOs by regulating or limiting their operations, as well as directly stigmatizing CSOs and undermining their image, which leads to further lowering of public support for civil society.

Adopting the foreign agents’ law may additionally open the door to further restrictions, as it has happened in countries with similar laws and a closed civic space. As noted by Mr. Panov, this could be, for example, needing government approval to access foreign funding (which is the case in Azerbaijan), foreign funds being prohibited unless related to specific government-approved objectives or entities (in Belarus), or even the government creating a list of undesirable organizations (in Russia). The discussion also covered the successful prevention of a similar law in Georgia. The key success factor in this case was the extensive mobilization of public support against the law by framing the discussion around it within the broader narrative of support for a democratic EU future and opposition to initiatives rooted in autocratic Russian practices.

Ms. Tara Petrovic from CIVICUS further noted that adopting foreign agent laws, all similar to each other, is one of the major negative trends emerging in the past year in Europe and Central Asia, even in countries at

different stages of democracy. Barring the [EU foreign interference law](#), it is mostly countries in Central and Eastern Europe, post-Soviet countries, which have attempted to pass this sort of legislation, but this trend has not gotten past even EU member states, as it has been noted in Bulgaria, Poland, and Slovakia, among others. Even without formal adoption, in many of these countries, foreign agent laws have been used as a threat to the operations and even existence of independent, critical civil society.

The role of the international community

The role of international actors, such as the European Commission, OSCE, and Council of Europe (CoE), among others, is vital in providing urgent response to such harmful government tactics. Yet, participants observed that their pressure over the BiH authorities has not yet delivered. CSOs in BiH acknowledge the EC's commitment to supporting their advocacy against restrictive laws, however participants noted there must be a stronger pressure by the EU on BiH authorities to withdraw such restrictive measures, pointing to the duplicity of the recent decision about opening negotiations with Bosnia and Herzegovina, while parts of the country have completely anti-EU and anti-democratic laws in effect (re-criminalized defamation) and in process (foreign agents' law).

Mr. Igor Licina, from the OSCE Mission to Bosnia and Herzegovina shared that the OSCE and the Council of Europe's Venice Commission issued a detailed opinion in June this year, urging the authorities in Republika Srpska to reconsider adopting the "foreign agents" law. He pointed out that if the RS authorities choose to ignore the stance of the 57 participating states of the OSCE and the 47 states of the CoE, it would signify a lack of progress in the country. Worryingly, many participants pointed that when it comes to the civic space restrictions, authorities in Republika Srpska seem committed to disregarding international norms and standards or any kind of international pressure aimed to counterfeit those actions.

On the other hand, Licina mentioned the amendments to the criminal code in Republika Srpska as an example where due to the pressure coming from all sides, including the international community, over authorities in the Republic of Srpska, some improvements in the law were achieved (e.g. the removal of insult as a criminal offence). Nonetheless, the mere fact that defamation was re-criminalized represents a major setback for freedom of expression and freedom of media, which further contributes to the harsh environment in which CSOs in Republika Srpska function. In the case of the draft foreign agents' law there is a prevailing consensus that altering specific provisions of the proposed law would be futile. The primary goal is focused on obstructing its adoption, a stance shared by the international community. However, as of now, there has been a notable absence of effective instruments to prevent it.

Regional and international advocacy efforts and tools

At the regional level, BCSDN has initiated several advocacy efforts aimed at drawing regional and international attention to the concerning civic space situation in BiH and the region, which were presented by Ms. Anja Bosilkova-Antovska, BCSDN's Head of Policy and Advocacy. These include triggering wider media outreach by singling out BiH on a global civic space watchlist – the CIVICUS Monitor, filing a formal complaint to the UN Special Rapporteurs, and requesting official response by MONEYVAL.

- ***CIVICUS Monitor Watchlist***

The CIVICUS Monitor is a research tool that identifies trends and obstacles to basic freedoms worldwide. Based on the regular reporting by BCSDN as one of the research partners, [Bosnia and Herzegovina was put on the latest Monitor Watchlist](#). The Watchlist draws attention to countries

where there is a serious and rapid decline in respect for civic space, timed to coincide with the sessions of the Human Rights Council, and provides a basis for intensified advocacy. The placing of BiH on the Watchlist got outstanding media coverage on national and regional level, raising awareness of a wider audience about the state of civic space in the country.

- **Submitting formal complaint to the UN Special Rapporteurs**

BCSDN submitted a complaint to the United Nations Special Rapporteurs on the promotion and protection of human rights and fundamental freedoms. In late October, [the Special Rapporteurs expressed concerns regarding the draft](#) Republika Srpska Law on the Special Registry and Publicity of the Work on Non-Profit Organizations, emphasizing that the proposed legislation would impose undue restrictions inconsistent with international human rights standards. The reaction further points to the lack of consultation with NGOs and potential human rights implications underlying the necessity for RS authorities to reconsider the legislation.

- **Letter to MONEYVAL**

In justifying the need for the foreign agent's law, MPs in RS Parliament were falsely referencing to recommendations issued by MONEYVAL – monitoring body of the Council of Europe assessing compliance with international standards to counter money laundering and the financing of terrorism. The measures proposed in the draft law, however, go beyond international standards on AML/CFT and hinder the CSOs' free operations. Such a legal solution practically, and unfortunately, represents the unintended consequences resulting from incorrect implementation of the FATF Standards. Therefore, BCSDN has sent [a letter to the MONEYVAL Chairs](#) to ask for an official response to the ongoing discussions. MONEYVAL's involvement in this matter would send a powerful message about the importance of striking the right balance between security concerns and democratic values, and in line with the ongoing FATF efforts to address unwanted restrictions on the civil society sector.

- **Open Government Partnership (OGP) Potential Inquiry**

One of the OGP mechanisms explored was the Response Policy Procedure, to instigate an inquiry by OGP for ensuring that OGP member countries uphold the values and principles of the Open Government Declaration and are held accountable for their commitments to open government. However, after a discussion with local CSO representatives, a decision was made not to take such action further due to the foreseen lack of impact on RS, as the OGP mechanism is led on national level, and there is no authority on the side of the Bosnian government that can influence these decisions at the entity level. The OGP processes are still to be considered further on.

Perspectives from the region and potential strategies for action

Drawing on the experiences from the region, Ms. Maja Stojanovic, Executive Director of Civic Initiatives, addressed a similarly challenging situation for civil society in Serbia. Stressing that shrinking of the civic space can happen even without governments formally adopting restrictive laws, she focused on the solidarity and resilience of civil society to the threats and pressures. She urged a focus on spreading the right message and using effective channels, including international response mechanisms. Noting the

example of [“the List” case](#) in Serbia in 2020, she stressed how a well targeted and focused approach in reacting to the government’s harmful actions, with the right partners nationally and internationally, can yield good results despite an absence of mass mobilization of CSOs in the country.

Expressing doubts over the reliability of the international community, Stojanovic emphasized the importance of engaging with international human rights organizations and foreign media as allies to exert collective pressure on governments and their restrictive tendencies. She also advocated for concrete actions over the reliance on diplomacy, sharing the recent successful example of a [grassroot protest against mining pollution in Serbia](#) that challenged the government's narrative on foreign agents. Ms. Stojanovic noted that the continuous support to informal groups and citizens on the ground has contributed to creating a grassroots resistance in Serbia, especially regarding environmental matters, which showcased the potential of citizens to ‘fight for civic space’ even without understanding the meaning of ‘civic space’ as such.

Recognizing that the shrinking civic space equally impacts both CSOs and media, participants unanimously agreed on the importance to build stronger CSO-media alliances. Ms. Albana Shala, from the Netherlands-based NGO Free Press Unlimited, highlighted the need to reconsider strategies for cooperation in the context of shrinking civic space, while also addressing the roles and responsibilities of both CSOs and the media for improved accountability towards their constituencies. An example of fostering such collaboration are the [local “media shelters”](#) in Serbia that aim to preserve free local media and connect them with local civil society, enabling joint efforts to protect freedom of expression and to ensure an informed citizenship.

Supporting Civil Society Under Pressure

Within the EU, donors seem to become increasingly more attentive to civic space challenges and aware about the need to align donor support with the needs of civil society under pressure. But looking at their programming, many, however, are not there yet. The international community's focus and hasty efforts to ensure more stability in the Balkans is potentially compromising fundamental freedoms and creating a power imbalance in support for governments versus civil society and media. As pointed out by Ms. Albana Shala, donor programs, and especially those supporting the EU accession process, need to ensure stronger support specifically for civil society as a way to address further power disparities caused by the sped-up EU accession process.

While the European Commission’s awareness on civic space is likewise increasing, there is a lot more that civil society should do in order to raise awareness of both policy-makers and international partners. Ms. Waltraud Heller, Lead on Civic Space at the EU Agency for Fundamental Rights (FRA), urged engaging with international allies such as the Council of Europe Commissioner for Human Rights, and the UN Special Rapporteur on Human Rights Defenders, but also exploring alliances with unconventional partners, such as those within business or certain government sectors.

Ms. Heller also stressed the importance of raising awareness within civil society itself, bringing to light different civic space issues experienced by different CSOs. A holistic approach was proposed, outlining five levels of action for enabling civic space: supporting individual activists, strengthening organizations, fostering sectoral cooperation, societal, and strengthening the connection with the constituency base.

Conclusions and Follow-up: What else can be done?

The discussion concluded that the crisis in BiH should serve as a wake-up call prompting a stronger unity among CSOs, as well as a reflection on how to better promote the values of civil society and improve CSOs' image as a way to increase the public support and civil society's resistance to the challenges. Given the limited effectiveness in addressing the worrying developments in Republika Srpska so far, especially in blocking the introduction of the "foreign agents' law", it is essential to carefully reassess the situation in the coming months and react accordingly. Considering the looming threat of this type of legislation being introduced across the region, CSOs must continue sharing experiences and come up with more adequate and effective responses and actions, grounded in stronger mobilization and solidarity on the ground.

Potential actions by different actors for the following period were discussed, including:

CSO actions on national level:

- Raising awareness among CSOs and the wider public in Republika Srpska about the potential effects of the draft foreign agents' law and the overall shrinking civic space, and further local mobilization into action.
- Supporting individual activists' resilience with capacity building and solidarity actions.
- Building/strengthening alliances with media.
- Connecting with legal professionals to strategize and protect organizations, media, and activists affected by the law.

CSO actions on regional level:

- Public statement of support that will be sent to all the stakeholders, including international media.
- As part of the Sida-supported regional programme, BCSDN is launching working groups to discuss and respond to different challenges related to the civil society enabling environment, including by financially supporting the implementation of joint actions resulting from the working group discussions. With the current situation in BiH being the focus of one of the working groups, concrete actions will be further considered.
- Connecting, sharing of experiences and learnings from other countries facing similar challenges.

Actions by the international community

- Continuous advocacy for withdrawing the foreign agents' draft law.
- OSCE will continue monitoring the consultation process for the draft 'foreign agents' law, and will also keep a watchful eye on each case of criminal defamation that goes before the courts.
- OSCE and EU are to host an international Conference on November 22 in Banja Luka with experts and individuals to discuss strategies if the "foreign interference" law is adopted.
- CIVICUS will continue providing updates and pursue advocacy through the CIVICUS Monitor.