



EU TECHNICAL ASSISTANCE
TO CIVIL SOCIETY ORGANISATIONS
IN THE WESTERN BALKANS AND TÜRKIYE



DG NEAR REVISED GUIDELINES
FOR EU SUPPORT TO CIVIL SOCIETY
WESTERN BALKANS AND TURKIYE
2021–2027

Baseline Assessment Report

ANNEX 2

COUNTRY ANALYSIS
BOSNIA AND HERZEGOVINA



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Introduction

This country analysis is an Annex to the DG NEAR Guidelines for EU Support to Civil Society 2021–2027: Baseline Assessment Report 2021.

The Guidelines outline the results towards which EU support to civil society in the enlargement region will aspire in this seven-year period. This assessment provides evidence for the situation against the Guidelines' indicators for 2021 which is the baseline year.

This annex provides a summary of the evidence for assessment of the situation in Bosnia and Herzegovina against each of the 59 indicators in the Guidelines. This annex should be read in conjunction with the main report, which is available on the tacso.eu website.

Methodology

The analysis presented in the main report and country annexes is based on data collected from primary and secondary sources. Primary research included surveys of CSOs and public officials, as well as a legal analysis of relevant laws. Secondary sources such as reports produced by CSOs, national human rights institutions, government, and others were reviewed to provide relevant information and data. The data collection and analysis refer to 2021 which is the baseline year.

The survey of public officials was run between 13 October and 22 November 2022. The aim of the survey was to collect the perspectives on specific relevant indicators of selected public officials who, in their work, engage most closely with CSOs. The survey consisted of mostly closed questions and was anonymous. For Bosnia and Herzegovina, 14 responses were received from public institutions. The survey was anonymous.

The CSO survey was run between 26 September and 18 October 2022. The CSO survey was circulated broadly and elicited 103 valid responses from Serbian CSOs in total. It consisted of mostly closed questions.

Most of the respondents, 55%, were senior officers within the organisation, mostly executive directors, but also other senior managers, board members, directors or presidents. In terms of duration within the organisation, 65 % have been with the organisation for eight years or more.

More than half of respondents, 57%, identified as women. Most of the respondents, 62.1%, were aged 41 or older.

35% of respondents identified as belonging to a community, minority or marginalised group while 15.5 % didn't want to disclose this information. Of those who identified as belonging to such a group, most identified as belonging to the Roma, Ashkali or Egyptian communities.

Most of participating CSOs, were established over the past two decades; 36%, between 2011–2021 and 31% between 2001–2011. 28 % was established between 1991 –2000 and 5% prior to 1990.

Virtually all respondents, 99%, came from officially registered organisations. Most of participating CSOs, 86.4% are registered as citizen's associations; 4.5% are foundations and 1.1% from social enterprises, non-profit companies and cooperatives.

More than half of participating CSOs, 43.8% work at the local level, 38.2% work at the national level, 55.1% work on the regional level within the country and 24.7% work internationally.

The highest proportion of CSOs participating in the survey, 25%, works on social inclusion, followed by socio-economic development 22.7%, and 19% on human rights, environment and climate action 18.2%; community building and development 13.6%; and minority rights and non-discrimination 9.1%. 8% of participating CSOs work on public participation in decision making and education, research and innovation respectively, followed by other areas.

More than half of participating CSOs, 62.9 %, were small organisations with 1-10 permanent, full or part-time staff and volunteers working at the time of the survey. 10.1% of participating CSOs engaged between 10 and 20 staff and volunteers and 14.6% engaged 21 and more staff and volunteers. 7.9% of CSO didn't have any permanent, full or part-time staff and volunteers.

While 7.9% of CSOs didn't have any annual turnover, just over a fifth of participating CSOs, 34%, had an annual turnover of up to EUR 25,000. 24.7% of respondents stated that the annual turnover of their CSO was between EUR 25,000 and EUR 100,001, 20.2% had the annual turnover between EUR 100,001 and EUR 500,000, while 6.7% stated that the annual turnover of their organisation exceeded EUR 500,000.

Assessment against indicators

The data collected informed the analysis of the situation in 2021 against each indicator. For the indicators that have a normative assessment, such as compliance with legislation or standards, the following traffic-light system was used to provide a quick visual guide:



The assessment was applied to those indicators where the assessment was deemed meaningful.

The remaining indicators do not have a normative standard, but instead, provide an indication of year-on-year trends. Future assessment reports will provide comparative values against the 2021 baseline.



Specific Objective 1

A conducive environment for civil society to carry out its activities is in place.

SO 1.1. All individuals and legal entities in the Enlargement Region can establish, join and participate in non-formal and/or registered organisations, can assemble peacefully and can express themselves freely

Indicator 1.1.a: Extent to which relevant domestic legislation provides that:

- Associations can be established or registered without discrimination on any grounds;
- No unlawful restrictions are placed on the scope of their activities or pursuit of their objectives;
- Their termination may only occur following a decision by an independent and impartial court;
- No unlawful restrictions are placed on freedom of peaceful assembly;
- Freedom of expression is exercised by all, and no unlawful restrictions are imposed.

4 – meets most standards

Associations can be established or registered without discrimination on any grounds.

The positive constitutional obligation of the State of BiH, both entities, and of the Brcko District of BiH, to create an enabling environment in which associations can be established and operate is largely reflected in the existing Law on Associations and Foundations (LoAFs). Having in mind the Constitutions of the State of BiH, Federation of BiH and Republika Srpska, and the Statute of the BD of BiH, as well as the Laws on Associations and Foundations of BiH, FBiH, RS and BD of BiH, the general observation may be made that the enjoyment of the right to freedom of association in BiH is guaranteed by the constitutional and legal framework in BiH, in which are embedded the international and European human rights standards and instruments, notably the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), which applies directly and has priority over any other law in BiH (as well as international and European human right standards and instruments also embedded in the EU Charter of Fundamental Rights, the ICCPR, and other human rights instruments listed in the catalogue of human rights in the BiH Constitution).¹

Even though each level of authority in BiH has enacted its piece of legislation on associations and foundations independently from each other, these laws feature a lot of fairly similar or in many instances identical provisions. Nevertheless, there is still room for partial improvement of the LoAFs in order to align them particularly with the Council of Europe's Recommendation CM/Rec(2007)14 on the legal status of NGOs in Europe.² This may include simplifying further the regulatory requirements and ensuring that those requirements are not unduly burdensome to associations. Nevertheless, the legislation on freedom of association is broadly in line with standards and generally upheld.³

1 In accordance with Article 7 of the BD LoAF, (1) The objectives and activities of the association (and foundation) cannot include involvement in the pre-election campaign, fundraising for a political candidate or political party, financing and promoting a political candidate or political party. (2) The association (and foundation) shall independently determine its objectives and activities in accordance with the Constitution of BiH, the laws of BiH, and the Statute of the Brcko District of BiH (hereinafter: the Statute) and laws of the District. (3) The objectives and activities of the association (and foundation) cannot be aimed at: a) overthrowing the constitutional order of Bosnia and Herzegovina; b) violation of guaranteed human rights; c) causing and inciting hatred, intolerance or inequality.

2 See Council of Europe, Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe, 10 October 2007, "Basic principles", para. 1 (<https://www.coe.int/en/web/ingo/legal-standards-for-ngos>)

3 <http://zbirniregistri.gov.ba/Home>

No unlawful restrictions are placed on the scope of CSOs activities or pursuit of their objectives.

All four LoAFs in BiH provide similar reasons under which a CSO may be prevented from registering (and thereby acquiring the status of a legal entity). Nonetheless, it is important to note that, as envisaged in each of the assessed LoAFs, first-instance decisions preventing the CSO from registering can be appealed, so that the final decision on preventing the registration of associations (and their establishment thereof) can only be made by a second instance decision of an independent and impartial court, which is in line with Article 13 of the ECHR dealing with the right to an effective legal remedy. This effectiveness of the legal remedy is not only reflected in the fact that it is prescribed legally and formally, but also in the fact that it is fairly effective in practice. There is no excessively restrictive barrier to lodging an appeal. Accordingly, associations can be established or registered without discrimination on any grounds throughout BiH and in line with international human rights law. In addition, none of the LoAFs may be interpreted in such a way that they place unlawful restrictions on the scope of activities or pursuit of objectives of CSOs under their respective jurisdiction.

Their termination may only occur following a decision by an independent and impartial court.

Both for the entities and the BD of BiH levels of authority, respectively, the existence of an association may be terminated by the decision of its members, or by way of a final court decision. Accordingly, it is envisaged that the termination of an association may be voluntary i.e. it may occur when the association has met its objectives, or, for example, when it has decided to merge with another association, or separate, divide, or transform, or when its members deem that they have attained the association's goals and objectives and thus want to cease operating further. Therefore, the voluntary nature of such a termination is guaranteed by each piece of legislation, and they require requires that this decision must be taken by the association's members, who may be subject to any rules prescribed in the association's statute.

Each of the LoAFs also envisages the so-called 'involuntary' method of termination of an association i.e. by force of law following a decision by an independent and impartial court (i.e. Court of Bosnia and Herzegovina at the level of the State of BiH, the Supreme Court of the Federation of Bosnia and Herzegovina at the level of the Federation of BiH (or the Cantonal Court at the level of Cantons), District Court(s) in the Republika Srpska and the Basic Court of the Brcko District of BiH).

It should hereby be noted that the Council of Europe's Recommendation on the legal status of non-governmental organisations in Europe stipulates that associations may only be dissolved in cases of bankruptcy, prolonged inactivity or serious misconduct.⁴ Indeed, the LoAFs of BiH and BD BiH provide for each of these three cases. On the other hand, the FBiH and RS LoAFs do also envisage possibilities of prolonged inactivity and serious misconduct of associations, but interestingly, they do not seem to envisage the bankruptcy and liquidation procedures of associations. It may therefore seem appropriate for the Federation of BiH and Republika Srpska to amend their respective LoAFs with provisions regarding the possibility to carry out bankruptcy procedures and liquidation of non-governmental organisations by paragraph 44 of the Council of Europe's Recommendation on the legal status of non-governmental organisations in Europe. When doing so, particular attention should be paid to avoiding the application of different rules to associations from those which are already applied to other entities (i.e. it may be appropriate to envisage the application of the provisions of the laws on bankruptcy and laws on liquidation). Implementation of such an effort by both entities would also help to achieve harmonisation of the respective laws across the country, in line with paragraph 44 of the said CoE's recommendation.

Furthermore, each of the analysed LoAFs provides for the possibility to terminate an association in the event of its prolonged inactivity. To that end, prolonged inactivity can hardly be established without, for example, several years having elapsed since the last meeting of the association and repetitive failures to file any annual reports that might be required according to the law. Moreover, it may be appropriate

⁴ Council of Europe, Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe, 10 October 2007, paragraph 44.

for the relevant authorities to double-check whether any apparent prolonged inactivity is actually the result of a failure in communication between the association concerned and relevant authorities. In order to avoid the possibility of arbitrary interpretation of the existing vague provisions of each LoAF regarding determination of the duration of the association's prolonged inactivity as elaborated above, it might seem appropriate that each level of authority in BiH amends its respective LoAF to expressly and clearly stipulate in it that the prolonged inactivity can only be established after the period of two consecutive years has elapsed since the last meeting of the association and repeated failures to file the two consecutive annual reports required by the LoAF. Moreover, it may also be appropriate to envisage the obligation of the relevant authorities to double-check whether any apparent prolonged inactivity is actually the result of a failure in communication between the association concerned and the state, before deciding on the prolonged inactivity of an association.

As regards the cases of serious misconduct of associations, the envisaged penalties and/or sanctions amounting to the effective dissolution or banning of an association seem to be proportionate to the misconduct of the association. Equally important, the procedure for banning the operation of the association must be dealt with and decided by a decision of an impartial and independent court (the Court of Bosnia and Herzegovina at the State level of BiH, the Supreme Court of the Federation of Bosnia and Herzegovina, or the Cantonal Court in the FBiH, Basic or District Court in Republika Srpska and the Basic Court in the Brcko District of BiH). In this way, it is ensured that the alleged cases of associations' serious misconduct cannot be (mis)used as a means of reproaching or restraining the operations and functioning of associations.

According to the available information, there were no reported cases in Bosnia and Herzegovina in 2021 whereby the competent authorities terminated associations in ways not prescribed by law.

No unlawful restrictions are placed on freedom of peaceful assembly.

Some of the reviewed laws prohibit individuals and entities from organising or participating in assemblies where they are under court order not to participate in an assembly. While there may be legitimate grounds for imposing such bans, unless the legislation provides clear grounds and procedures and offers effective legal safeguards to challenge such a ban, it risks violating the right to freedom of assembly.⁵

Freedom of expression is exercised by all, and no unlawful restrictions imposed.

The Constitution of Bosnia and Herzegovina guarantees the right to freedom of expression.

The Constitution of the Republika Srpska guarantees freedom of thought and orientation, conscience and conviction, as well as of public expression of opinion (Article 25 of the RS Constitution). According to Article 26 of the RS Constitution, freedom of the press and other media of communication is guaranteed. In addition, the free establishment of newspapers and publishing houses, and publishing of newspapers and public information by other media in accordance with the law shall be guaranteed, while the censorship of the press and of other public information media shall be forbidden. Public information media shall be obliged to inform the public on time, truthfully and impartially. The right to correction of incorrect information shall be guaranteed to anyone whose right or legally determined interest has been violated, as well as the right to compensation for damage arising therefrom.⁶

5 e.g. Article 5 of the Law on Public Assemblies of Central Bosnia Canton, which provides that "Public assembly shall not be organized by a private person who is, by the court decision, banned from participating at public assemblies or publicly speak at public assemblies (...). A public assembly shall not be organised by a political organization or association of citizens whose work is prohibited. (...)" - Article 19)

6 'Official Gazette of the Republika Srpska', Nos. 21/92 – Consolidated Text, 28/94, 8/96, 13/96, 15/96, 16/96, 21/96, 21/02, 26/02, 30/02, 31/02, 69/02, 31/03, 98/03, 115/05, 117/05.

SO 1.2. Public authorities protect CSOs from interference and attacks and respect their right to privacy.

Indicator 1.2.a: Extent to which CSOs have access to an effective remedy to challenge or seek review of decisions affecting exercise of their rights.

4 – meets most standards

The legal framework for access to an effective remedy for CSOs – the Criminal Procedure Codes of BiH, FBiH, RS and BD BiH, Laws on Civil Procedure of FBiH, RS and BD BiH, and Laws on Administrative Procedure of BiH, FBiH, RS and BD BiH, each regulate the issue of regular and extraordinary remedies in criminal, civil and administrative legal matters.

Article II 2 of the BiH Constitution stipulates that the rights and freedoms guaranteed by the ECHR and its protocols shall be directly applied in BiH as well, as that they have priority over all other laws. This constitutional provision, which has been further translated and accordingly accommodated into criminal⁷, civil⁸ and administrative⁹ procedural legislation at the level of the State of BiH, both entities, cantons and Brcko District of BiH, must be considered by judges when performing their judicial duties, bearing in mind that the ECHR, together with the court practice of the ECtHR, is an integral and inseparable part of the BiH legal system.

The basic division of legal remedies in procedural criminal, civil and administrative legislation in BiH is into regular and extraordinary legal remedies. Regular legal remedies are those that can be applied against any court decision (judgment or decision), whereas extraordinary legal remedies are those that can only be challenged against a court decision in exceptional cases, subject to the fulfilment of certain legal conditions and assumptions.

All these legal remedies are guaranteed and are at the disposal of associations as much as they are guaranteed and at the disposal of any individual or legal person in BiH (i.e. in accordance with the principle of the equality before the law and the right to a fair hearing in civil and criminal matters, and other rights relating to criminal proceedings enshrined in Article II 3. e of the BiH Constitution). Nevertheless, this does not mean that the enjoyment of this right in practice has not/never been infringed by the competent authorities in BiH. Namely, according to the Decision of the Constitutional Court of Bosnia and Herzegovina U 18/00 of 10 and 11 May 2002 ('Official Gazette of Bosnia and Herzegovina', no. 30/02), the Constitutional Court of BiH decided that "the failure of the state to adopt laws that are of great importance for its functioning and for the provision of judicial protection for individuals constitutes a violation of the right to an effective legal remedy guaranteed under Article 13 of the European Convention."

7 See Articles 292 – 333 of the Criminal Procedure Code of BiH ('Official Gazette of BiH' nos. 3/03, 32/03, 36/03, 26/04, 63/04, 13/05, 48/05, 46/06, 76/06, 29/07, 32/07, 53/07, 76/07, 15/08, 58/08, 12/09) on regular and extraordinary legal remedies in criminal proceedings; see Articles 307 – 349 of the Criminal Procedure Code of FBiH ('Official Gazette of the Federation of BiH' nos. 35/03, 56/03, 78/04, 28/05, 55/06, 27/07, 53/07, 9/09, 12/10, 8/13, 59/14, 74/20) on regular and extraordinary legal remedies in criminal proceedings; see Articles 306 – 357 of the Criminal Procedure Code of the Republika Srpska ('Official Gazette of RS' nos. 53/12, 91/17, 66/18, 15/21) on regular and extraordinary legal remedies in criminal proceedings; see Articles 292 – 333 of the Criminal Procedure Code of the Brcko District of BiH ('Official Gazette of BD of BiH' nos. 10/03, 48/04, 12/07, 19/07, 21/07, 2/08, 17/09, 27/14, 3/19, 16/20) on regular and extraordinary legal remedies;

8 see Articles 203 – 267 of the Law on Civil Procedure of the Federation of BiH ('Official Gazette of the Federation of BiH' nos. 53/03, 73/05, 19/06, 98/15) on regular and extraordinary legal remedies in civil procedure cases; see Articles 203 – 267 of the Law on Civil Procedure of the Republika Srpska ('Official Gazette of the Federation of RS' nos. 58/03, 85/03, 74/05, 63/07, 105/08, 45/09, 4909, 61/13 and 109/21) on regular and extraordinary legal remedies in civil proceedings; see Articles of 323 – 390 of the Law on Civil Procedure of the Brcko District of BiH ('Official Gazette of BD BiH' nos. 28/18, 6/21)

9 see Articles 213 – 258a of the Law on Administrative Procedure of BiH ('Official Gazette of BiH' nos. 29/02, 12/04, 88/07, 93/09, 41/13 and 53/16) on regular and extraordinary legal remedies in administrative cases; see Articles 221 – 266 of the Law on Administrative Procedure of the Federation of BiH ('Official Gazette of FBiH' nos. 2/98, 61/22) on regular and extraordinary legal remedies in administrative cases; see Articles 234 – 254 of the Law on General Administrative Procedure of the Republika Srpska ('Official Gazette of RS' nos. 13/02, 87/07, 66/18) on regular and extraordinary legal remedies in administrative cases; see Articles 208 – 249 of the Law on Administrative Procedure of the Brcko District of BiH ('Official Gazette of BD BiH' nos. 48/11 (clean text), 21/18, 23/19) on regular and extraordinary legal remedies in administrative cases.

Finally, the right to an effective legal remedy must be viewed in close correlation with the right to a fair trial referred to in Article 6 of the ECHR. Namely, the right to an effective legal remedy, together with the right to a fair trial, prescribed in Article 6 of the ECHR, are aimed at ensuring the legality, fairness and equality of the parties in the proceedings, through the control of higher courts that regular courts exercise in appeal proceedings or in special proceedings before the Constitutional Court. To this effect, there are a number of decisions issued by the BiH Constitutional Court whereby it has been found that the right to a fair trial, viewed in close correlation with the application of Article 13 of the ECHR and the BiH Constitution, has been violated.¹⁰ While the right to an effective legal remedy is a constitutionally recognised right that is guaranteed on equal grounds and can be exercised by everyone, including the associations, a major problem actually arises when this right is viewed in correlation with the access to the right to a fair trial in accordance with Article 6 of the ECHR and the Constitution of BiH. While it is necessary that court proceedings take place efficiently and last reasonably, the rights of citizens in BiH to speedy and efficient justice are infringed due to the excessive length of judicial proceedings.

In 2021, following results from the CSO Survey, 19.1% of CSOs said that the Government had undertaken decisions in 2021 that negatively affected their organisation's ability to exercise its rights. 8.8% of CSOs stated that they were not sure about this, and 72.1% responded in the negative to this question. Out of those who answered that the Government undertook decisions that negatively affected their organisation, various open answers were given which implied the existence on numerous levels of problems in the country: tax and registration laws make operations difficult for CSOs; incentives at the time of COVID-19 were awarded only to economic entities and not CSOs; poor treatment of CSOs was observed in all public calls of cantons and FBiH budgets.

Among the 19.1% of CSOs who stated that the Government undertook decisions in 2021 that negatively affected their organisation's ability to exercise its rights, 38.5% CSOs answered Yes to the question as to whether they were "able to effectively challenge such decisions through official, legal, judicial and administrative channels", and 7% of CSOs said No, "their organisation was not able to challenge such a decision". Some open answers were that their negative replies were because such decisions of the authorities were made without public discussion and public participation in general, or they did not have a lawyer in their organisation, or they were not legally educated. 7.7% of CSOs answered that the final decisions were pending, their cases have not yet been legally resolved.

Indicator 1.2.b: Extent to which CSOs are protected by law from threats, attacks, judicial harassment and discriminatory treatment, in particular:

- threats including intimidation, harassment, defamation, as well as hate speech online and offline;
- attacks including acts of violence, physical abuse, searches and damage to property;
- judicial harassment including arbitrary arrest and detention, unlawful interference with communications, and abuse of criminal, civil and administrative proceedings, or threats thereof;
- discriminatory treatment, including disproportionate reporting requirements for CSOs.

3 – moderately meets standards

With regard to legal protection of CSOs from threats, attacks, judicial harassment and discriminatory treatment, there seem to be no exclusive/specific provisions that would apply exclusively to CSOs - all such measures are of a general legal nature and apply equally to anyone who believes that his/her rights have been infringed. The Criminal Code of BiH, Criminal Code of the FBiH, Criminal Code of the Republika Srpska and Criminal Code of Brcko District, respectively, the Criminal Procedure Codes of BiH, FBiH, RS and BD of BiH, respectively, and the FBiH, RS and BD of BiH Laws on Protection against Defamation, the Law on the Prohibition of Discrimination, and the Law on Gender Equality deal with the issues of protection of individuals and legal entities from threats, attacks, judicial harassment and discriminatory treatment.

¹⁰ The case law of the BiH Constitutional Court regarding violations of Article 6 of the ECHR and BiH Constitution (right to a fair trial) can be found on the following hyperlink: Constitutional Court of Bosnia and Herzegovina | In general (ustavnusud.ba).

The Law on Prohibition of Discrimination in BiH¹¹ provides for special protection mechanisms and activities aimed at suppressing and abolishing discrimination, primarily procedures for complaints before the Institution of the Ombudsman of BiH, as well as appropriate administrative and judicial procedures. Administrative proceedings can be initiated when discrimination is committed by some action or omission of the administration, by the adoption of an administrative act. The administrative procedure is conducted according to general legal regulations and by its nature is complementary to the court proceeding. The initiation of the administrative procedure (and possible administrative dispute) is aimed at the annulment of the discriminatory administrative act; this does not affect the right of the victim of discrimination to initiate court proceedings, which will determine the existence of discrimination, the damage suffered and the method of restitution or compensation.¹²

Court proceedings are civil proceedings. They are initiated by special lawsuits that are provided for in the Law on Prohibition of Discrimination: a lawsuit to establish discrimination, a lawsuit to prohibit or eliminate discrimination, a lawsuit for compensation for damages, a lawsuit to publish a judgment establishing the existence of discrimination. The procedure is urgent, and revision against the decision of the first instance court is always allowed.

Interestingly, pursuant to Article 17 of the Law, apart from the victims of discrimination, associations of citizens dealing with the protection of the interests of or the prohibition of discrimination against certain groups of persons can also have active legal standing in the proceedings, “if they make it likely that the actions of the defendant have violated the right to equal treatment of a large number of persons who mainly belong to the group whose rights the plaintiff protects”. This is an interesting legislative solution that actually introduces the institute of collective lawsuit in a qualitatively new way into the procedure of protection against discrimination. Article 18 of the Law bans any form of victimisation.

The central institution responsible for protection against discrimination is the Ombudsman for Human Rights in BiH.¹³

The Law on Gender Equality in BiH¹⁴ explicitly prohibits discrimination based on gender and sexual orientation, and also defines the prohibition of direct and indirect discrimination based on gender, harassment, sexual harassment and incitement to discrimination. This Law, however, does not provide for special state/government authorities, nor for a special procedure in case of gender discrimination. Accordingly, the victim of discrimination can exercise his/her rights in regular court proceedings.

When it comes to discrimination against CSOs in reporting requirements, in accordance with Article 5 paragraph (5) of the Law on Associations and Foundations, the association and foundation are obliged to submit the financial report from paragraph (4) of this article to the competent authority according to the seat of the association or foundation, and to the Ministry of Justice of Bosnia and Herzegovina for publication on the website of the Ministry, no later than April 30 of the current year for the previous business year. This new reporting requirement to submit financial reports to the Ministry of Justice was introduced in 2016. However, bearing in mind the fact that pursuant to entity laws on associations and foundations, associations and foundations are at the same time obliged to submit their reports to the entity financial agencies, the new provision/requirement introduced in the BiH LoAF may be viewed as an additional burden of an administrative nature for all CSOs registered at the level of the State of BiH.

With regard to compliance with international human rights law standards, legal protection of CSOs in Bosnia and Herzegovina from threats, attacks, judicial harassment and discriminatory treatment moderately meets international human rights law standards. There seem to be no exclusive/specific provisions that would apply exclusively on CSOs, but provisions of a general legal nature which apply equally to everyone who believes that his/her rights have been infringed. Concerning non-discrimination policies, there was no progress towards adoption of countrywide human rights and anti-discrimination strategies. The 2009 Law on the Prohibition of Discrimination, which aims at full alignment with the EU acquis,

11 'Official Gazette of BiH', nos. 59/09 and 66/16.

12 See Article 11 of the Law.

13 See Article 7 of the Law.

14 'Official Gazette of BiH', no. 32/10 – clean text.

is still not applied effectively, and there is no reliable data collection. Discrimination continues to be underreported, particularly at the workplace, and judicial practice has exhibited a lack of uniform application of the burden of proof, excessive length and non-enforcement of final decisions.

While the constitutional and legal framework in BiH guarantees and provides for freedom of expression and thought, journalists and civil society activists who monitor and criticise political elites and report on corruption, are increasingly under political pressure, intimidation and attacks. Consequently, the criminalisation of hate speech in the public space, which includes hate speech against journalists in BiH (online and offline), should be speedily introduced in the form of respective criminal laws, as this will contribute to the development of a democratic society and strengthen the level of culture of communication in the public space, thereby preventing further political pressures and politically motivated harassments of journalists, and encouraging journalists to engage in critical and investigative journalism.

Although the principle of prohibition of discrimination is a key principle of the Constitution of BiH, and although BiH has acceded to numerous international instruments that entail obligations to establish mechanisms for protection against discrimination, discrimination in BiH society has never been completely eradicated and continues to be a significant problem.

Indicator 1.2.c: Proportion of CSOs that operate effectively without threats, attacks, judicial harassment and discriminatory treatment, in terms of:

- number of complaints concerning lack of protection of CSOs;
- number of attacks on CSOs and their members;
- number of instances of damage to property;
- number of instances of discriminatory treatment in reporting;
- number of instances when CSO offices were unlawfully searched, subjected to inspections;
- number of instances of interference with the communications of CSOs.

In 2021, according to the results of the CSO Survey, 1% of the CSOs stated that both their organisation and members were subjected to threats or physical attacks, whilst 1% of the CSOs stated that only their organisation, and 7% only their members, were subjected to threats or physical attacks

Also, 3% of the CSOs responded that they had submitted complaints concerning lack of protection to various institutions. 97% of the CSOs responded that they were not complaining. The reasons for not complaining were as follows:

- 79.7% said that it was not relevant, because they were not subjected to threats or physical attacks; 3.4% said that they had complained in the past and the response by the authorities was not effective; 1.7% said that they felt their safety would be compromised if they submitted an official complaint; and 15.3% responded they did not know.

In 2021, 10.4% of CSOs and their members had been subjected to attacks, out of the total number of answers evaluated.

In 2021, according to the results of the CSO Survey, CSOs responded that they were 3 times instances of damage to property, which was 1.5% of all responses. 98.5% respondents said that they were no instance of damage to property.

In 2021, CSOs responded that there were instances of discriminatory treatment in reporting, which was 4.6% of all answers.

In 2021, CSOs did not report any occasion on which they were unlawfully subjected to inspections.

In 2021, 3.1% of CSOs reported interference by the authorities with their communications.

SO 1.3. Measures used to fight extremism, terrorism, money laundering or corruption are targeted and proportionate, in line with the risk-based approach, and respect human rights standards on freedom of association, assembly and expression SO 1.4. Public authorities treat all CSOs equally with regards to their operations, and equitably with other entities (such as businesses).

Indicator 1.3.a: Extent to which laws to combat extremism, terrorism, money laundering and corruption do not unduly restrict legitimate activities of CSOs.

2 – minimally meets standards

There is a multiplicity of legislation governing the issues of combat of terrorism, money laundering and corruption. In the separate Annex 1 document are listed all relevant Laws per this indicator request.

Apart from the amendments introduced in the Law on Associations of BiH (in 2016) and in the Law of Brcko District of BiH (in 2020), respectively, as well as in the Law on Prevention of Money Laundering and Financing of Terrorist Activities of BiH (in 2016), in order to accommodate the requirements/recommendations of the Moneyval Committee and FATF, there seem to be no other provisions in these laws which would explicitly restrict the activities of CSOs. The remainder of the identified laws are of a general nature in their application to every individual and/or natural person, and therefore apply to CSOs as much as they apply to anyone else. These amendments could be viewed to be in line with international human rights law, as they were made by Moneyval, the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, and as such have been introduced into the laws of BiH.¹⁵

As noted in the EU Progress Report for BiH for 2021 (p. 34), “the legislation on anti-money laundering and counter-terrorism financing needs to be aligned with the 4th and 5th EU directives on anti-money laundering and countering financing terrorism (AML/CFT). An updated risk assessment needs to be prepared, followed by an action plan. Furthermore, the strategy for preventing and combating terrorism expired in December 2020. Its absence hampers the country’s capacity to combat terrorism and prevent violent extremism. Bosnia and Herzegovina should systematically monitor and assess the impact of existing strategies before adopting new ones. The country should prepare a new serious and organised crime threat assessment (SOCTA), in line with Europol methodology, followed by strategic and operational action plans.” Furthermore, Bosnia and Herzegovina needs to adopt a new law on anti-money-laundering and countering the financing of terrorism (AML/CFT) in line with international standards, and further align with the EU acquis on these matters (see p. 71 of the Report).

The legal framework on public procurement is partially in line with the EU acquis. The law on public procurement includes exemptions which are not covered by the EU acquis. Amendments to the public procurement law, which would further align it with the EU acquis, remain to be adopted by Parliament (see . 56 of the Report). There was no new development as regards the issues of integrity and conflict of interests (see p. 57 of the Report).

In the coming year, Bosnia and Herzegovina should in particular adopt the Law on the Prevention of Conflict of Interest at state level, and further harmonise the legislation at entity and Brcko District levels with international standards and best European practices, as well as complete the legal framework and step up implementation on the protection of whistle-blowers (see p. 21 of the Report).

Effective legislation supported by vigorous measures and actions against fraud, corruption, money laundering and organised crime are critical to developing democracy, a sound market economy and a conducive environment for CSOs. However, BiH is currently lagging behind on all these fronts of democracy. Namely, the state of BiH currently has no strategy for the fight against corruption. As a matter of

¹⁵ See for example Article 47 of the BiH Law on Associations and foundations (amendments adopted in 2016) whereby it is set out that in the process of carrying out inspection supervision of the work of associations and foundations, the inspector is authorised to take measures

fact, the last strategy was adopted for the period 2015–2019, whereas the new one for the period 2022–2024 still awaits adoption. Furthermore, as may be seen from the above, the legal framework has been waiting for a complete and comprehensive ‘overhaul’ for years, which requirement is clearly emphasised by the European Commission as being among the 14 priorities set for BiH obtaining the EU-candidate status¹⁶, but has not been implemented by BiH so far.

Indicator 1.3.b: Proportion of CSOs whose ability to undertake legitimate activities is not restricted by the implementation of laws to combat extremism, terrorism, money laundering and corruption, and in particular by:

- being judicially harassed for their alleged connections with extremism, terrorism, money laundering and corruption;
- discriminatory restrictions placed on funding,
- authorities or banks preventing them from opening bank accounts, sending or receiving money.

In 2021, according to the Survey responses to the question whether the organisation or its members were subject to judicial harassment for alleged connections with extremism, terrorism, money laundering or corruption, 96.9% of CSOs responded that their members were not subjected to judicial harassment for alleged connection with extremism, terrorism or other activities mentioned in indicator, and 3.1% answered that they did not know about such cases in connection with their members. 0% of CSOs answered affirmatively as to whether they were subject of mentioned harassment. Any justifications were not provided in open answers, since there were no affirmative answers on this question.

For the question whether the organisation was subject to discriminatory restrictions because of receiving funding from a particular source, 90.8% responded that they were not subjected to such restrictions, while 4.6% answered affirmatively that they were. 4.6 % did not know anything about the matter. Out of the ‘yes’ answers, the Survey respondents said in open answers that they were not eligible to apply since they have been already before supported by the same donor, etc. This can lead to the conclusion that CSOs were not effectively discriminated against.

On the following question, as to whether the organisation was prevented by government authorities or banks from opening a bank account, or sending or receiving money, 96.9% responded they were not prevented, 1.5% answered they were not sure, and 1.5 % responded they had indeed been prevented by government authorities or banks from opening a bank account, or sending or receiving money. The arguments provided by one respondent was that they had problems with transferring money to another country.

16 Strengthening the prevention and fight against corruption and organised crime, including money laundering and terrorism, notably by: a) adopting and implementing legislation on conflict of interest and whistle-blowers’ protection; b) ensuring the effective functioning and coordination of anti-corruption bodies; c) aligning the legislation and strengthening capacities on public procurement; d) ensuring effective cooperation among law enforcement bodies and with prosecutors’ offices; e) demonstrating progress towards establishing a track record of proactive investigations, confirmed indictments, prosecutions and final convictions against organised crime and corruption, including at high levels (2021 Communication on EU Enlargement Policy, SWD(2021) 291 final /2 - 20190529-bosnia-and-herzegovina-opinion.pdf (europa.eu).

SO 1.4. Public authorities treat all CSOs equally with regards to their operations, and equitably with other entities (such as businesses).

Indicator 1.4.a: Extent to which laws (1) do not require CSOs to submit more reports and information, and (2) do not submit CSOs to more inspections and sanctions, than business entities, all else being equal.

4 – meets most standards

According to the available information, the existing legislation in BiH does not seem to put an over-excessive burden on CSOs to develop and submit more reports to the competent authorities than business entities, or “special” reports. Existing reporting requirements are subject to the duty to respect the rights of funders/donors (both governmental and international), beneficiaries and staff, and the right to protect legitimate business rules and regulations. As a result of the Moneyval and FATF requirements/recommendations regarding international anti-money-laundering and counter-terrorism measures, an amendment to the Law on Associations and Foundations of BiH (‘Official Gazette of BiH’, nos. 32/01, 42/03, 63/08, 76/11 and 94/16)¹⁷ was introduced in 2016, setting a requirement to CSOs registered at the level of the State of BiH, in its Article 5 paragraph (4), to submit an annual work report and a financial report in accordance with the law, other regulations and the statute. Accordingly, in paragraph (5) of this article of the law, the associations (and foundations) are obliged to submit the financial report referred to in paragraph (4) of this article to the competent authority according to the seat of the association (or foundation), and to the Ministry of Justice of Bosnia and Herzegovina for publication on the website of the Ministry, no later than April 30 of the current year for the previous business year. Such a requirement has not been introduced into law at the entities level and for Brčko District of BiH, which makes this an additional requirement for state-level registered associations (and foundations), in comparison with those registered elsewhere in BiH (at entity, Brčko district or cantonal level).

Pursuant to Article 5 of the RS Law on Associations and Foundations, associations (and foundations) are required to submit an annual work report and a financial report in accordance with the law, other regulations and the statute. Furthermore, as envisaged pursuant to Article 13 paragraph (5) of the Law on Associations and Foundations of BiH, the association that has received funds for the implementation of programmes or projects of public interest is required to submit a report to the provider of these funds and to inform the public via its website. Moreover, in accordance with Article 47 of the Law on Associations and Foundations of BiH, associations (and foundations) are obliged to keep business books and submit financial reports in accordance with the regulations governing the accounting of non-profit organisations.

The Administrative Inspection of the Ministry of Justice of BiH can carry out administrative inspection of the work of associations (and foundations) registered in accordance with this law, in relation to the list of required conditions.¹⁸

Pursuant to Article 47 of the FBiH LoAF, administrative inspection over the legality of the work of associations (and foundations) is carried out by the competent federal or cantonal administrative body, whose area of responsibility includes monitoring of the situation in the area to which the activity of the association (or foundation) relates.

In accordance with Article 43 of the RS LoAF, administrative inspection and supervision over the legality of the work of associations (and foundations) is carried out by the competent authority of the Republika Srpska administration, whose responsibility includes the monitoring of the situation in the area to which the activity of the association (or foundation) relates.

As envisaged in Article 41 of the BD of BiH LoAF, the Inspector for Associations and Foundations supervises the work of associations and foundations. When exercising his powers, the Inspector acts in

¹⁷ ‘Official Gazette of BiH’, nos. 32/01, 42/03, 63/08, 76/11 and 94/16

¹⁸ Article 47 paragraph (8) of the BiH LoAF

accordance with the Law on Inspections of the BD of BiH. In case of suspicion of the existence of elements of a criminal offence, the Inspector is obliged to inform the competent authority without delay. Pursuant to Article 42 of the BD of BiH LoAF, administrative supervision of the work of associations and foundations is carried out by other competent inspections. Article 43 of the BD of BiH LoAF stipulates that administrative supervision over the implementation of the Law is carried out by the Department for Professional and Administrative Affairs of the Government of BD of BiH. Finally, pursuant to Article 50 of the BD of BiH LoAF, the Basic Court of BD of BiH is obliged, at the request of the competent inspector, to provide information from the registration documents or provide access to the registration documents, in the event of the need to check the legality of the work of associations and foundations, i.e. to check previous registrations on the establishment of associations (and foundations) by the same persons.

Besides the LoAFs of BiH, FBiH, RS and BD of BiH, the inspection is regulated in a more detailed but generic manner by the Law on Inspections of the Federation of Bosnia and Herzegovina ('Official Gazette of the Federation of Bosnia and Herzegovina', nos. 73/14 and 19/17)¹⁹, the Law on Inspections of Republika Srpska ('Official Gazette of RS', no. 18/20), the Law on Inspections of the Brcko District of BiH ('Official Gazette of BD of BiH' nos. 24/08, 20/13, 16/18, 08/19, 11/20, 24/20 and 40/20).

SO 1.5. Central and/or local public authorities have enabling policies and rules for small community organisations and civic initiatives (grass-roots organisations).

Indicator 1.5.a: Small community/local organisations and civic initiatives are allowed to operate by law without registering.

4 – meets most standards

Even though there are no formal rules or legislation on grassroots in BiH, it is possible to operate without registering a small local/community organisation or civic initiative. As a matter of fact, there have been examples of civic grassroots initiatives and activists throughout the country in the past years 2018–2022 (e.g. activists against small-capacity Krušćica and Neretva hydropower projects in FBiH, “the Park is Ours” civic initiative in Banja Luka organising peaceful protest walks on an almost daily basis for more than a year, in claiming the illegality of the project, pointing to the many irregularities in the agreement signed between the city and the project developer, the “Baby Revolution” country-wide initiative demanding through peaceful protests and gatherings that all children in BiH should get ID numbers, and numerous other examples of civic activism in environmental and cultural heritage protection, etc.). The grassroots initiatives have been typically unregistered and are consequently unable to apply and receive funding from the budgets of different levels of authority in BiH, but also in some cases to access external/foreign funding in cases of strict and rigid donors requiring formal registration in order to grant access to their funding to any CSO, including such civic initiatives. The size of the organisation does not seem to have represented an obstacle to its operations. If it ever decides to register and become formally entitled to government funding, such a grassroots organisation would need to comply with the same requirements as any other formally registered association in BiH.

¹⁹ This FBiH law regulates the performance of inspection supervision under the jurisdiction of federal administrative bodies, the inspection tasks of federal inspections and their scope, the unified procedure of inspection supervision in the FBiH for the purpose of ensuring the enforcement of laws and other regulations, the organisation of the Federal Administration for Inspection's duties and the management, rights, obligations and responsibilities of inspectors, rights and obligations of subjects of supervision, relations between the Federal and Cantonal inspection bodies, preventive actions of inspectors in performing inspection supervision and other issues important for the functioning of the inspection system of the Federation.

Indicator 1.5.b: In law, unregistered small community/local organisations and civic initiatives enjoy the same right to participation in decision making processes as registered CSOs.

4 – meets most standards

There are no formal restrictions for small unregistered community/local organisations and civic initiatives to take part in the consultation processes (as it is practically possible for any individual citizen to become engaged and give comments, remarks and suggestions on government policies and legislation). To this effect, it should be noted that the BiH Council of Ministers' Rules on consultation in drafting legal regulations ('Official Gazette of BiH' no. 5/17) in its Article 2 paragraph (1) item a), as well as the FBiH Government Decree on regulatory impact assessment ('Official Gazette of FBiH' no. 67/20) in its Article 2, do both recognise "informal groups" and "civic initiatives", as parties that are fully and formally entitled to take part in the process of consultations at the level of the state of BiH and at the level of the Federation of BiH, respectively. Similar formal entitlement does not seem to be as yet envisaged in the rules and regulations of RS, and BD of BiH.

SO 1.6. All CSOs are free to solicit and receive funding.

Indicator 1.6.a: Extent to which relevant laws allow CSOs to seek a broad range of funding, including from abroad, without undue restrictions, as regards:

- cash and in-kind donations from all sources;
- funding from domestic public bodies;
- funding from institutional, corporate or individual donors;
- funding from foreign governments or multilateral agencies.

4 – meets most standards

The State level of BiH.

As envisaged pursuant to Article 46 of the BiH Law on Associations and Foundations,²⁰ the income of associations and foundations may include the following: a) membership fees, when it comes to the association; b) voluntary contributions and gifts from public institutions, natural and legal persons, both foreign and domestic, in cash, services or property of any kind; c) state subsidies and contracts with the state, public institutions, natural and legal persons, both domestic and foreign; d) income from interest, dividends, capital gains, rents, royalties and similar sources of passive income; and e) income acquired through the achievement of the goals and activities of the association or foundation, as determined by the statute. (If the founders of the association or foundation are public legal bodies, they cannot participate in public tenders with their programmes and projects for the allocation of public funds, but are financed from other sources, in accordance with the provisions of this law.

Federation of BiH.

As envisaged pursuant to Article 38 of the FBiH Law on Associations and Foundations, the assets of the association and foundation consist of: 1) membership fees, when it comes to the association; 2) voluntary contributions and gifts of natural and legal persons; 3) funds allocated from the budget; 4) income from interest, dividends, capital gains, rents, royalties and similar sources of passive income; 5) incomes obtained from the performance of economic activity; 6) other income acquired, in accordance with the Law and statute.

The FBiH Law on Associations and Foundations does not specify the conditions, manner, dynamics, or responsibilities for CSO financing, particularly from budget funds and funds from other authorities. These shortcomings have been also flagged by Moneyval and FATF, and it was recommended to amend the law in order to introduce the provisions on CSO funding.

²⁰ Article 46 of the BiH Law on Associations and Foundations.

Brcko District of BiH.

Pursuant to Article 36 of the Law on Associations and Foundations of the BD of BiH,²¹ the property of the association and foundation shall consist of: a) association membership fees; b) money, immovable and movable things, as well as other property rights; c) voluntary contribution and gifts of natural and legal persons, both domestic and foreign in cash, services or property rights; d) funds for financing and co-financing of programmes and projects of public interest; e) income from interest, dividends, gains, rent, fees and other similar sources; f) income acquired through the achievement of the goals and activities of the association and foundation, as determined by the statute.

The association and foundation is obliged to submit a report on the manner of disposing of these assets at the request of the natural and legal person referred to in paragraph 1 point c) of this article.

As observed above, the CSOs in BiH are allowed to receive without restrictions cash and in-kind donations from any sources, domestic public bodies, institutional, corporate or individual donors, foreign governments, and multilateral agencies, to raise their own funds, engage in economic activities, and participate in public calls for grants and services. While the legislation provides freedom in these areas, in practice administrative and tax rules, alongside corruption, create a non-favourable financial environment for the civic sector.

Although there are no legal obstacles for organisations to apply and receive foreign funding, tax and custom regulations create unfavourable incentives and obstacles, especially for donations in goods and services. CSOs are allowed to raise funds from any private or commercial person, the state, local authorities, foundations or other legal entities, agencies, etc. They can also participate in public procurement tenders or calls for grants or service provision issued by the public bodies. Due to the lack of legislation on online crowdfunding, such donations are banned. Although participation in public procurement or public calls for funding is usually made through open calls, owing to corrupt practices the allocation and distribution of funds is not transparent and efficient, making it difficult for CSOs to participate in these kinds of bids.²²

Indicator 1.6.b: Proportion of CSOs that can access a broad range of funding without undue government interference.

In 2021, 81.5% of CSOs responded that they did not face undue government interference preventing their organisation from accessing any type of funding. Only 1.5% answered they faced an arbitrary audit, and 1.5% reported a case of a frozen account. One responder provided a specific answer, stating that they noticed a biased distribution of funds from the federal budget (Budget of the Federation of BiH).

SO 1.7. Public financial and non-financial support to CSOs is available in IPA beneficiaries, and provided in a transparent, accountable, fair and non-discriminatory manner.

Indicator 1.7.a: The level of public funding available for CSOs and associations is clearly articulated in laws and regulations, and the rights and duties of the state body invested with the ability to set and revise the level of public funding available is clearly defined in law.

1 – does not meet standards

In BiH, grants are awarded by all levels of government, i.e. the State-level of BiH, Federation of BiH, Republika Srpska, Brčko District of BiH, cantons and local self-governments. Accordingly, the planning, procedure and criteria for awarding, as well as the control of the purposeful use of public funds awarded

²¹ Article 36 of the Law on Associations and Foundations of the BD of BiH.

²² Praćenje raspodjele javnih sredstava udruženjima i fondacijama u BiH
<https://nvo.transparentno.ba/bs-Latn-BA>

through grants, are not uniformly regulated, but quite the contrary - the overall system is characterised by numerous differences. The existing regulatory frameworks in BiH are inadequate, and the procedures for awarding grants are generally insufficiently transparent, which, in addition to the absence of mechanisms for monitoring the procedures of planning, awarding and purposeful use/spending of grants, leaves an ample margin for serious corruption risks in this area.

The State level of BiH.

At the State level of BiH, there are no special regulations that would regulate the issue of the awarding of grants. This area is regulated by a number of regulations such as the Law on Financing of BiH Institutions, Laws on Budget and International Obligations of BiH, Rulebook on Accounting with Accounting Policies and Procedures for Budget Users of BiH Institutions²³ and other regulations and individual decisions of BiH Institutions.²⁴ The aforementioned regulations do not specifically define grants, but rather classify them within the framework of other transfers, subsidies and similar non-returnable budget grants for current purposes, or in capital grants and transfers that serve for the acquisition of capital assets. The grant-awarding procedures themselves differ, depending on the rules of the institution that awards the grant and depending on the type of grant. Regarding the transparency of grant allocation, there are also significant differences, as some grants are awarded through a public call, and some are awarded only on the basis of a submitted application for the allocation of funds. In 2019, the Council of Ministers of BiH adopted the Rulebook on criteria and conditions for financing and co-financing of programmes and projects in areas of public interest implemented by associations and foundations.²⁵ However, it is not possible to find such information by a random search of the websites of BiH institutions. The Office for the Audit of BiH Institutions in its Report on Grant Management in BiH Institutions indicates the diversity of procedures for awarding grants.²⁶ Although a number of institutions have prescribed certain procedures, in many the procedure is not regulated in a uniform manner, which opens up the possibility for different actions in the awarding process of grants, and therefore the possibility of abuses and the appearance of corruption. The Office for the Audit of BiH Institutions particularly underlined that the institutions of BiH do not analyse and evaluate the grants awarded with the aim of obtaining feedback on the results achieved and the level of accomplishment of the strategic goals for which the grants are awarded. Information on grant funds beneficiaries were not exchanged between the institutions, nor are there unified data on grants awarded per beneficiary, which opens up the possibility of financing the same beneficiaries for the same or similar projects.

Federation of BiH.

The method of allocating funds for grants from the budget in FBiH is also regulated by laws on FBiH budgets, and laws prescribing the obligation to finance certain areas through grant funds, but there are no regulations that would regulate the procedure for awarding grants in a comprehensive and uniform manner. The form and content of the report on the expenditure of grant funds, the instructions for the preparation of periodic and annual reports and the deadlines for their submission are regulated by the Rulebook on financial reporting and annual budget statements in FBiH ('Official Gazette of FBiH', nos. 69/14, 14/15, 4/16 and 19/18)²⁷. The competent institutions that award grants are obliged, in accordance with the said Rulebook, to submit information about the grant beneficiary, the purpose of the funds, the amount of transferred funds, and the amount of spent and unspent funds. The competent institutions of the Federation of BiH have not created the basic working-rules in order to use the existing monitoring system for reporting not only on the intended expenditure of grants but also on their final results. The Ministry of Finance of the FBiH published its Guidelines on the minimum standards for the allocation of

23 OpenAttachment (mft.gov.ba).

24 For example, in November 2020, the Council of Ministers of BiH adopted the Decision on criteria for awarding the grant funds of the Ministry of Human Rights and Refugees of BiH for the year 2020, i.e. the Grant for the Support to Local Self-Government Units for the Implementation of the Policy on Cooperation with Immigration, and the Grant to the Association of Families of the Missing Persons in BiH.

25 The Rulebook on criteria and conditions for financing and co-financing of programmes and projects in areas of public interest implemented by associations and foundations.

26 OpenAttachment (revizija.gov.ba).

27 Official Gazette of FBiH, nos. 69/14, 14/15, 4/16 and 19/18.

budget funds through transfers and subsidies in the FBiH ('Official Gazette of the Federation of BiH', no. 15/18)²⁸, which determine the minimum standards for the allocation of budget funds, etc. Although these Guidelines of the Ministry of Finance represent a noteworthy contribution to the goal of overcoming the identified problems in grants-awarding procedures, their non-binding nature and, thus, the impossibility of regulating the supervision and imposing sanctions for non-compliance, leave room for procedural irregularities and misconduct, which could potentially lead to corruptive activities. Regarding the transparency of procedures, there are also significant differences. In certain cantons (e.g. Sarajevo Canton), decisions and public calls for grants are regularly published, but the procedures for selection of applicants, implementation and assessment of the spending of the funds are still not entirely transparent.

Republika Srpska.

The Ministry of Finance of Republika Srpska adopted the Grant Management Methodology for programmes and projects financed or co-financed by the RS budget (no. 06.04/020-2004/14)²⁹. This Methodology defines the general criteria for the selection of programmes and projects that are financed by grants from the budget of the RS, and it is foreseen that more detailed criteria specific to a certain area will be determined by the competent ministries with their internal acts. The forms for application, project proposal, evaluation of the commission, delivery of the financial report and report on the implementation of the project financed by grant funds are defined as an integral part of the Methodology, which has created the prerequisites for collecting data on the recipients of funds and projects in a uniform and unique manner. In accordance with the Methodology, competent ministries should submit reports on allocated grant funds within the deadline for submitting annual financial reports. However, as observed in the Audit Report of the RS Office for Auditing of the public sector³⁰, the competent ministries in the RS Government that allocated the grant funds did not submit reports, nor was a separate unique report made on the allocated grant funds, as provided for in the Methodology. Moreover, there is still no register of beneficiaries of grant funds allocated from the RS budget, which should include all users of grant funds, regardless of who was budget user (including local self-government units) or from which area grant funds were allocated, which would prevent the possibility of financing the same activities from different funding sources. Regarding the availability of criteria for awarding grants, it is indicated that some grant providers in public tenders do not meet these criteria, and for grants that are awarded on the basis of requests, the criteria for awarding funds are not applied, nor are such requests scored. The audit report also identified the absence of transparent reporting on the use of allocated grant funds and on the realisation of the goals of the projects for which grants were awarded.

Brcko District of BiH.

In the Brcko District of BiH, there is no regulation that would in a comprehensive and unique way regulate this area. Accordingly, the planning, awarding and reporting on grants is regulated by the Law on the Budget of the BD BiH and laws on budget execution. The Government of the BD of BiH and budget users, in accordance with the laws, their regulations and operational plans, allocate grant funds to sports associations, cultural associations and the tourist community, religious communities, humanitarian and non-governmental organisations, youth and veterans' organisations, and local communities. The distribution of grant funds is made on the basis of the criteria established by the BD BiH Government. BD BiH does not have a methodology for managing grants, i.e. for their planning, allocation and reporting on the implementation of projects financed by them. In the Audit Report of the Office for the Audit of Public Administration and Institutions of the BD BiH³¹ on grants to citizens' associations, non-governmental organisations and other non-profit organisations, it is indicated that the plans of most institutions do not contain the goals that they want to achieve by awarding grants, and that the lack of a unified methodological approach to grant planning and undefined funding priorities result in different grant planning practices. The rules and criteria on the basis of which grant beneficiaries are defined in special

28 'Official Gazette of the Federation of BiH', no. 15/18.

29 <http://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/mf/Documents/>

30 RU002-12_NP_Lat.pdf (gsr-rs.org).

31 Revizorski izvještaji (revizija-bd.ba)

positions in the BD Budget, including a statement of the goals and expected results, are not clear. At the beginning of this year, BD BiH presented a report by an informal group of citizens gathered around the initiative “For transparent financing of non-profit organisations in BD of BiH”³², in which it was assessed that the allocation of grants to non-profit organisations in 2020 was insufficiently transparent, tardy, incomplete and discriminatory, i.e. that no progress in this area has been seen compared to the previous period. In the Report, the concern is expressed on account of “the practice according to which political parties have been considered as non-governmental organisations, and continued to use grants through their parliamentary clubs in the Assembly of BD.”³³

Having in mind all the above shortcomings, it is not surprising at all that the EU in its 2021 Progress Report for BiH acknowledged the following: “A framework for the transparent and impartial distribution of public funds to associations is needed across the country; only few municipalities adopted regulations on the issue.”

Indicator 1.7.b: Percentage of public budget actually disbursed to CSOs in a year.

According to the research and analysis of Transparency International in Bosnia and Herzegovina³⁴ (TI BiH), over KM 121 million (approximately EUR 60.5 million) were allocated in 2020 and 2021 from the budget at all levels of government in BiH for the financing of associations and foundations. The amount disbursed was not, in fact, final, because some institutions do not disclose information about who they financed.

In the Federation of BiH, according to TI BiH, KM 77.4 million (approximately EUR 39 million) were distributed. The Federal Ministry of Culture and Sports allocated the most money from the entity level.

In the Republika Srpska, according to the TI BiH data, KM 28.3 million were distributed in this period.

The Brčko District Government is the second largest donor to NGOs in BiH after the Sarajevo Canton Government. It had in the two past years distributed over KM 12 million (approximately EUR 6 million). Most of the money went to sports. There are 210 sports clubs in the Brčko District, 58 of which are football clubs, which receive KM 6.9 million (approximately EUR 3.5 million) per year from the budget.

Indicator 1.7.c: Extent to which legal provisions regulating the award of public funding to CSOs ensure that:

- funding criteria are clearly defined, objective and publicly announced;
- evaluation of proposals is clear and impartial;
- conflict of interest is clearly regulated;
- reporting requirements are clear and proportionate.

4 – meets most standards

In 2019, the Council of Ministers of BiH adopted the Rulebook on criteria and conditions for financing and co-financing of programmes and projects in areas of public interest implemented by associations and foundations. This Rulebook stipulates, inter alia, that the institutions shall ensure public participation and the availability of relevant documents on their websites at all stages of the planning and conducting of a public call for the allocation of these funds. It is also envisaged that BiH institutions shall

³² Report of an informal group of citizens gathered around the initiative “For transparent financing of non-profit organizations in BD of BiH”.

³³ See the Report of Transparency International in BiH released in January 2022, ‘Monitoring the allocation of public funds to associations and foundations in BiH’, whereby it is, among other things, stated: ‘It should be noted that Brčko District was in the past period rocked by scandals related to the distribution of grants, so that the former member of the assembly, Mr. Čazim Dačaj, was sentenced to four years in prison last year for abuses during the distribution of grants to associations. In order to prevent corruption in this area, the District last year amended the Law on Associations and Foundations as well as the Law on Conflict of Interest, which has not yet been implemented because the commission has not been formed’.

³⁴ U BiH za dvije godine podijeljeno 121 miliona KM neprofitnim organizacijama, brojni primjeri političkih zloupotreba i sukoba interesa (transparentno.ba) <https://nvo.transparentno.ba/bs-Latn-BA>

publish, within 30 days of the adoption of the BiH budget for the current year on their websites, their annual plans for public calls for financing and co-financing of programmes and projects of associations and foundations. However, it is not possible to find such information by a random search of the websites of BiH institutions. The Office for the Audit of BiH Institutions in its Report on Grant Management in BiH Institutions indicates the diversity of procedures for awarding grants. Although a number of institutions have prescribed certain procedures, in many the procedure is not regulated in a uniform manner, which opens up the possibility for different actions in the grants awarding process, and therefore the possibility of abuses and the appearance of corruption.

Federation of BiH

The method of allocating funds for grants from budget in FBiH is also regulated by laws on FBiH budgets, and laws prescribing the obligation to finance certain areas through grant funds; but there are no regulations that would regulate the procedure for awarding grants in a comprehensive and uniform manner. The form and content of the report on the expenditure of grant funds, the instructions for the preparation of periodic and annual reports, and the deadlines for their submission, are regulated by the Rulebook on financial reporting and annual budget statements in FBiH ('Official Gazette of FBiH', nos. 69/14, 14/15, 4/16 and 19/18).³⁵ Competent institutions that award grants are obliged, in accordance with the said Rulebook, to submit information about the grant beneficiary, the purpose of the funds, the amount of funds transferred, and the amount of spent and unspent funds.

Republika Srpska

The Ministry of Finance of Republika Srpska adopted the Grant Management Methodology for programmes and projects financed or co-financed by the RS budget (no. 06.04/020-2004/14).³⁶ This Methodology defines the general criteria for the selection of programmes and projects to be financed by grants from the budget of the RS, and it is foreseen that more detailed criteria specific to a certain area will be determined by the competent ministries with their internal acts. Application forms, the project proposal, evaluation of the commission, delivery of the financial report and the report on the implementation of the project financed by grant funds are defined as an integral part of the Methodology, which has created the prerequisites for collecting data on the recipients of funds and projects in a uniform manner. In accordance with the Methodology, the competent ministries should submit reports on allocated grant funds within the deadline for submitting annual financial reports. However, as observed in the Audit Report of the RS Office for Auditing of the public sector³⁷, the competent ministries in the RS Government that allocated the grant funds did not submit reports, nor was a separate unique report made on the allocated grant funds, as provided for in the Methodology. Moreover, there is still no register of beneficiaries of grant funds allocated from the RS budget, which should include all users of grant funds, regardless of who the budget user is (including local self-government units) or from which area the grant funds are allocated, which would prevent the possibility of financing the same activities from different funding sources. The audit findings also revealed the occurrence of grants being awarded without publicising of a public competition, on the basis of individual requests, and decisions of the Government of the RS on the basis of special laws – a type of situation which needs to be overcome. The institution of a public competition must be affirmed as the only way of awarding grants, in order to ensure the equality of all participants and the transparency of the funding allocation procedure.

Brčko District of BiH

In the Brčko District of BiH, there is no regulation that would in a comprehensive and unique way regulate this area. Accordingly, the planning, awarding and reporting on grants is regulated by the Law on the Budget of the BD BiH, and the laws on budget execution. The Government of the BD of BiH and budget users, in accordance with the laws, their regulations and operational plans, allocate grant funds to sports associations, cultural associations and the tourist community, religious communities,

³⁵ 'Official Gazette of FBiH', nos. 69/14, 14/15, 4/16 and 19/18

³⁶ <http://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/mf/Documents/>

³⁷ RU002-12_NP_Lat.pdf (gsr-rs.org)

humanitarian and non-governmental organisations³⁸, youth and veterans' organisations, and local communities. The distribution of grant funds is made on the basis of the criteria established by the BD BiH Government.

Indicator 1.7.d: Central governments make the information on awards publicly available and sufficiently detailed to identify individual awards.

2 – minimally meets standards

At the State level of BiH, there are no special regulations that would regulate the issue of transparency of the awarded grants, and there are also significant differences at the entity level and in Brčko district. In the Federation of BiH, the grant award transparency regulations were insufficiently regulated, as is confirmed, for example, in the case of Sarajevo Canton, where the decisions and public calls for grants are regularly published, but the procedures for selection of applicants, and the implementation and assessment of the spending of the funds are still not entirely transparent. In Republika Srpska, there have also been cases where the Audit found the situation of grants being awarded without the publicising of a public competition, on the basis of individual requests or decisions of the Government of Republika Srpska.

Indicator 1.7.e: Proportion of CSOs indicating that the provision of domestic public funds is transparent, fair, and non-discriminatory.

2 – minimally meets standards

In 2021, a very high number of the CSOs – 60% – stated that they did not find the provision of public funding to CSOs transparent (not transparent at all, 12.3%; insufficiently transparent, 47.7%), while 14% of CSOs stated that they found the provision of public funding to CSOs sufficiently transparent or very transparent.

On the question as to how fair the provision of public funding to CSOs was, 69.2% replied not fair or insufficiently fair, whilst 16.9% said very fair or sufficiently fair. 14% of the CSOs said that the provision of domestic public funds was both transparent and fair.

Indicator 1.7.f: Public funding does not exclude CSOs on the basis of their constituency representation.

In 2021, the majority of the CSOs who participated in the Survey (66.2%) applied for public funding, amongst which 72.1% of CSO applications were unsuccessful and 23.3% successful. 9.7% of the CSOs found the application procedure too complicated. Apart from these cases, 16.1% of CSOs said that their proposal was not good enough, and 19.4% said that the competition was very strong.

Some Survey participants provided open answers to certain questions, such as that “the authorities prefer to finance organisations that work in the field and with local communities”; “Allegedly, the proposal was not good enough” (for Federal Ministry); “We were missing one paper”.

Participants were kindly asked to answer an additional question: “If in 2021 your organisation did not apply for public funding, please tell us why not.” They answered as follows: 26% of CSOs said that they did not think they had a realistic chance of winning, 26% said that the funds offered were too small, 11% said that they did not need public funding, and 11% said that they missed the deadline.

In the Focus Group discussion, CSOs said that Sarajevo Canton is the only bright light in this process. Apparently, they are only ones who follow procedures and do not exclude CSOs on the basis of their constituency representation.

38 Revizorski izvještaji (revizija-bd.ba)

Indicator 1.8.a: Tax legislation allows for tax relief as regards:

- Individual giving
- Corporate giving

3 – moderately meets standards

The laws provide for tax benefits, in the form of tax exemptions, for giving by individual and corporate givers for public purposes. The laws expressly provide for tax reliefs for donations for general purposes in money, but also in kind and assets. The laws regulating the tax treatment of CSOs at the state and entity levels are still not harmonised. In the Republika Srpska, legal persons can allocate up to 3 percent of their annual income for donations to organisations that implement humanitarian, cultural, sports and social activities, and up to 2 percent for sponsorship costs. In the Federation of BiH, legal entities can allocate up to 3 percent from their total income for donations for humanitarian, cultural, educational, scientific and sports purposes, which are awarded to legal or natural persons without other income, and up to 3 percent for sponsorship costs. Individual donors in FBiH can deduct the value of up to 0.5 percent of the income generated in the previous year, if they have made non-financial donations (in goods, services and transactions that do not involve money), and material and financial donations for cultural, educational, scientific, health, humanitarian, sports and religious purposes. In the RS, taxpayers can set aside up to 2 percent of their total income in that tax year, with the purpose of donations and sponsorships. Both in the RS and in the FBiH, self-employed persons are exclusively entitled to these deductions. Donations above the prescribed amounts are also fully deductible by the foundation at the decision of the relevant ministries.

CSOs can request a refund of VAT paid on goods and services as part of projects financed by the US Government, while for projects of the EU instrument for the pre-accession programme to the European Union (IPA), VAT is exempted. Humanitarian, charitable, sports and similar organisations do not have to pay VAT on the goods and services they provide to their members in membership fee replacement. Despite this, there have been several cases where the Indirect Taxation Authority (ITA) tried to collect VAT from CSOs. These incidents show how public bodies subjectively interpret the law, creating legal uncertainty, and posing a major threat to the entire sector.³⁹

Indicator 1.8.b: Proportion of private individuals who have given money to a CSO.

The proportion of private individuals who gave money to a CSO in Bosnia and Herzegovina in 2021 was 45%, which was almost the same percentage as in 2017, 44%. Between those times, in 2018 it was 40%, and in 2019, 34%.

SO 1.9. Tax benefits are available to CSOs.

Indicator 1.9.a: Extent to which applicable tax laws provide for the following:

- CSO income generated from grants, donations, and membership dues, income from economic activities, investment income, real property, gifts and inheritance is not subject to taxation;
- any excess revenue or profit generated through economic activity and used for mission-related purpose by CSOs is not subject to corporate income/profit tax.

3 – moderately meets standards

The Federation of BiH Profit Tax Law ⁴⁰(‘FBiH Official Gazette’, Nos. 15/2016 and 15/2020) and Article 4 of the same Law, define that associations and CSOs are not subject to the obligation of profit tax, unless

³⁹ Indeks održivosti OCD u Bosni i Hercegovini za 2021. godinu

⁴⁰ ‘FBiH Official Gazette’, Nos. 15/2016 and 15/2020

they perform some market activity and derive some other income from the market, with the exception of the income specified in paragraph 1. c) of Article 4 of the Law on Income Tax, are liable for income tax for the income they acquire by performing such activities. (A CSO is liable for profit tax if it generates income on the market, and which is not related to its goals. According to the position of the Federal Ministry of Finance (FMF), a non-profit entity in the Federation of BiH is considered liable for profit tax if more than 50% of its income is earned on the market. A CSO is liable for profit tax for funds paid from excess income over expenses (profits) to third parties such as founders, members, donors, and employees).

Carrying out related economic activities is allowed in both entities, as well as at the state level, without the need to establish a separate legal entity through which the related economic activities would be carried out. This means that associations and foundations can perform related economic activities under the condition that they are in accordance with their statutory goals, i.e. to contribute to the achievement of their statutory goals, and when the main purpose of performing such activities is not the acquisition of profit. In this context, it is important that associations and foundations in their statutes clearly and in detail define the goals and economic activities that they will perform in order to achieve their goals. In accordance with the provisions of the law on profit tax in FBiH, associations and foundations do not pay tax on the profit realised by conducting related business activities.

In the Republika Srpska (RS), the Law on Profit Tax stipulates that public institutions and “humanitarian organisations” do not pay tax on profits made on the basis of income from the budget, public funds, “sponsorship” in money or in kind. According to this, if an organisation in the RS does not report profit based on grants/donations, it is not subject to taxation.⁴¹ Monetary donations are not directly taxable, neither for the donor nor for the CSO as recipient.

Gifts and donations of goods and/or services given by business entities to CSOs are taxable only with the giver of such gifts and donations, if the giver is a registered VAT payer. This is because the provision of goods or the provision of services free of charge or with a reduced charge is considered a taxable transaction, on which the provider - the VAT payer - is obliged to calculate the VAT (17%), on the basis of the market value of the goods provided, i.e. the services provided free of charge or with a reduced charge. The CSO is not liable for VAT on the goods or services thus received.

Monetary donations given by various institutions to CSOs are tax-free, because it is assumed that they are donors (state bodies, various institutions, etc.) and not themselves profit-making entities, and not corporate tax payers either. Likewise, gifts and donations in goods and services provided by CSO institutions are tax-free because these institutions, as a rule, are not registered VAT payers. However, if one is and such a donor is registered as a VAT payer, he would be obliged for the market value of donated goods or services to pay VAT (17%).

In the FBiH, income from membership fees is not taxed, as it is considered that they are not economic fees activities, but the contribution of members. In the Republic of Srpska, income from membership fees is taxable for all types of CSOs except for humanitarian organisations and public institutions that are exempt from payment membership tax.

SO 1.10. The policies and legal environment provide incentives and facilitate volunteering and employment in CSOs.

Indicator 1.10.a: Laws regulating volunteering are adopted.

5 – fully meets standards

Volunteering in Bosnia and Herzegovina is regulated by the entity laws in the Federation of Bosnia and Herzegovina and the Republika Srpska, and also at the district level in Brčko district. The Law on Volunteering of the Republika Srpska National Assembly was adopted in 2008 and in the same year in

⁴¹ <https://rijecpravnik.org/sta-kada-neprofitne-organizacije-ostvaruju-profit-d167/>

Brčko district; and four years later, in 2012, The Law on Volunteering of the Federation of Bosnia and Herzegovina was adopted in the Federation of Bosnia and Herzegovina, which is quite similar to the Law of Republika Srpska, but with minor changes.⁴²

Indicator 1.10.b: Government volunteering strategies and programmes support volunteering for CSOs and have sufficient resources allocated for implementation.

3 – moderately meets standards

The National Assembly of the Republika Srpska adopted in 2019 the Strategy for the Improvement and Development of Volunteering in the Republika Srpska (2019–2023). A second entity, the Federation of BiH, still has not created and adopted its volunteering strategy. Brčko district also has not created or adopted a volunteering strategy.

Indicator 1.10.c: Proportion of CSOs that benefit from state employment strategies and programmes.

In 2021, 23.1% answered they had benefitted from government employment programmes, giving specific answers such as those regarding employment of Roma national minority persons with the support of government Employment of Roma programmes, the employment of several persons with hearing impairments, the use on 8 occasions of co-financing programmes for employment, the employment of two persons, the co-funding with government programmes of the insurance of an employee, support for women aged 50 and over, professional orientation of youth. 76.9%, however, said they did not receive any benefit from state employment strategies and programmes.

In 2021, 4.6% of CSOs benefited from COVID-related governmental employment support. 95.4% of CSOs did not experience any such benefits.

Indicator 1.10.d: Proportion of CSOs that benefit from state volunteering strategies and programmes.

In 2021, 3.1% out of the total number of respondents benefitted from government volunteering programmes. Due the fact that only one part of the country, the Republika Srpska, has adopted volunteering strategy, these data show the situation only for the Republika Srpska. Two other entities, the Federation of BiH and Brčko District, still do not have a volunteering strategy.

97% said that they had not experienced any such benefits from government volunteering strategies.

Indicator 1.10.e: Proportion of employees in CSOs in relation to the total workforce.

According to data from entity statistical offices and tax administrations, civil society organisations in 2021 employed between 3,063 and 4,247 people, which is 3.5 percent of the total number of employees, not taking into account people employed in the agricultural sector in BiH.⁴³

Indicator 1.10.f: Percentage of people who have volunteered their time to an organisation.

The percentage of people who volunteered their time to an organisation in Bosnia and Herzegovina in 2021 was only 7%. During 2020 and that number was almost the same – 6–7%.

42 <https://skupstinabd.ba/3-zakon/ba/Zakon%20o%20volontiranju/001%2034-18%20Zakon%20o%20volontiranju.pdf>
<http://zdk-szz.ba/wordpress/wp-content/uploads/2015/03/ZAKON-O-VOLONTIRANJU-2012-god.pdf>
<https://advokat-prnjavorac.com/zakoni/Zakon-o-volontiranju-RS.pdf>

43 Indeks održivosti OCD u Bosni i Hercegovini za 2021. godinu



Specific Objective 2

Strengthened cooperation and partnership between CSOs and public institutions.

SO 2.1. Public authorities and institutions include CSOs in decision- and policy-making processes.

Indicator 2.1.a: Laws, bylaws, strategies, other acts of public interest and policy reforms are effectively consulted with CSOs in that:

- CSOs have access to the draft document from the beginning of the drafting process to the end of the adoption procedure;
- At least 15 days are allowed for commenting before the draft document enters adoption procedure;
- The use of extraordinary/expedited procedures to adopt legislation without allowing for consultation is an exception and duly justified;
- Reports on results of public consultations, including reasons for rejection of comments, are published in a timely fashion;
- Working groups members from CSOs are selected based on a public call, clear criteria and in line with equal treatment;
- Working group members from CSOs include representatives of society as a whole, including women's groups, LGBTIQ+ groups, migrant groups, minorities, disability groups, and others as appropriate, in line with the Human Rights Based Approach.

2 – minimally meets standards

CSOs have access to the draft document from the beginning of the drafting process to the end of the adoption procedure.

At the level of the State of BiH, associations can be engaged even before the draft of the law (or some other piece of legislation) is being prepared. Namely, as envisaged pursuant to the BiH Parliamentary Assembly's Uniform Rules for legislative drafting in the institutions of BiH, as well as in the BiH Council of Ministers Rules for consultations in the drafting of legal regulations, CSOs can become engaged from the earliest possible phase – that is, the phase of the planning of the annual legislative programme for ministries and other administrative bodies through their engagement and provision of comments on the preliminary assessment of the impacts of the proposed legislative initiatives, as well as afterwards in the process of performing the comprehensive impact assessment. Finally, CSOs can be engaged and asked to comment on the preliminaries to and drafts of the legislation. A similar progressive approach towards CSO engagement at an early stage of policy development, and the carrying out of regulatory impact assessment (RIA), is envisaged to take place at the levels of the Federation of BiH and Republika Srpska. When it comes to the Brcko District of BiH, public consultations are envisaged to be carried out after the preliminary draft of the regulation has been prepared.⁴⁴

At least 15 days are allowed for commenting before the draft document enters adoption procedure.

The timeline for submitting comments on preliminary drafts of regulations at the level of the State of BiH ranges from a minimum of 15 days from the day of their publication on the eKonsultacije website to up to 30 days in the case of drafts of regulations and other acts that have a significant impact on the public as stated in Article 10 of the Rules on Consultations. At the level of the Federation of BiH, the timeline within which comments can be submitted is at least ten days from the date of publication of

⁴⁴ See Art. 87 para. (1) of Uniform Rules and Procedures for Law for the drafting of laws and other regulations of the BD of BiH.

the legal regulation or other act on the website of the FBiH Government or of a federal body (Article 81 para. (2) of the FBiH Rules and procedures for drafting of laws and other regulations of the Federation of Bosnia and Herzegovina. Pursuant to Article 83 para. (4) of the FBiH Rules, the federal body shall allow organisations and individuals a period of at least 30 days to submit comments, when the form of consultation allows for written comments. In accordance with Article 87 paragraph (1) of the Uniform Rules and Procedures for the drafting of laws and other regulations of the Brcko District of BiH, forms of consultation include obtaining written and oral comments on preliminary drafts of regulations within a period of eight to 30 days.

The use of extraordinary/expedited procedures to adopt legislation without allowing for consultation is an exception and duly justified.

The Rules of Procedure of the House of Representatives⁴⁵ (Articles 132 and 133) and the House of People⁴⁶ (Articles 123 and 124) of the BiH Parliamentary Assembly, respectively, envisage the possibility of consideration and adoption of legislation in a shortened and urgent procedure.

Pursuant to Article 132 of the RoP of House of Representatives: (1) When submitting a proposed law, the proponent may request that the proposed law be considered by the shortened procedure. In that case, the proponent is obliged to explain in writing the reasons justifying the shortening of the procedure; (2) The request referred to in paragraph (1) of this article is considered by the Collegium of the House, which then decides on it at its first subsequent session; (3) If the Collegium of the House accepts to consider the proposed law in a shortened procedure, all deadlines applicable to the regular legislative procedure shall be cut in half; (4) When the draft law is considered in a shortened procedure, the Collegium of the House can additionally limit the duration of the debate, as well as the number of times a member of parliament can speak; (5) If the Collegium of the House does not accept the request, the law shall be considered in accordance with the provisions regulating the regular legislative procedure.

Similar provisions regarding the shortened and urgent procedure for consideration and adoption of legislation exist in the Rules of Procedure of both houses of the Federation Parliament⁴⁷, the National Assembly of the Republika Srpska⁴⁸ and the Rules of Procedure of the Assembly of the Brcko District of BiH⁴⁹.

As reported by the CSO 'Center of Civic Initiatives (CCI)', there has been an increasing practice of the (ab)use of this procedure by the Parliaments of BiH, FBiH and Republika Srpska in the period 2010 – 2014. Even though such practice can still be seen, it has shown a declining tendency in recent years, which can in fact be attributed to the political crises and blockages in BiH in the last few years rather than to the evolution of mindsets of political officeholders in BiH with respect to the (mis)application of this possibility.

Reports on results of public consultations, including reasons for rejection of comments, are published in a timely fashion.

Pursuant to Article 21 of the Rules on consultation at the level of the State of BiH, Report on conducted consultations on Regulatory Impact Assessment, the preliminary draft or draft regulation contains a summarised review of the basic issues that have occurred during the consultations, views on these issues by consultation participants, and a clear explanation of the views that the institution has taken on these issues. The Report referred to in paragraph (1) of this Article is an integral part of the Explanatory Memorandum of the regulation or other act, or Regulatory Impact Assessment of the regulation replacing the explanatory memorandum of the regulation or other act. At the level of the Federation of BiH, as envisaged pursuant to Article 84 of the Rules and Procedures for "When submitting a legal

45 'Official Gazette of Bosnia and Herzegovina', nos. 79/14, 81/15 and 97/15.

46 'Official Gazette of Bosnia and Herzegovina', nos. 58/14, 88/15, 96/15 and 53/16.

47 See article 186 on urgent procedure and article 187 on shortened procedure of the Rules of Procedure of the House of Peoples of FBiH Parliament; and see Article 172 of the Rules of Procedure of the House of Representatives of FBiH Parliament on shortened procedure and Articles 191 to 195 of the Rules of Procedure of the House of Representatives of FBiH Parliament on urgent procedure of consideration and adoption of laws.

48 See Article 213 of the Rules of Procedure of the RS National Assembly on urgent procedure for consideration and adoption of laws.

49 See Article 75 of the Rules of Procedure of the BD of BiH Assembly on shortened procedure and Article 76 on urgent procedure.

regulation or other act to the Government of the Federation, the head of the federal body shall submit a statement whereby it is necessary to: (...) c) justify the decision on the selected and applied method of consultation and describe the consultations that were carried out; d) declare how the proponent acted with the comments received in the consultation process; e) explain the reasons for not accepting the comments that were provided in the consultation process. In the Republika Srpska, the Rules on good practice guidelines for public participation in the preparation of draft laws and other regulations and acts ("Official Gazette of the RS", no. 51/19) provide in Article 12 that the competent body shall prepare a report after implementing all the consultation methods it has decided to pursue in the specific case. The report shall contain an overview of the basic issues that arose during the consultations, a presentation of the views expressed by the consultation participants regarding these issues, as well as the views taken by the competent administrative body in the end. The report referred to in paragraph 2 of this article shall be published on the proponent's website and on the eKonsultacije web application, no later than 15 days after the end of the consultation.

Working groups members from CSOs are selected based on a public call, clear criteria and in line with equal treatment;

None of the identified pieces of legislation on each level of government does not require that law drafting working group members from CSOs to be selected based on a public call, clear criteria and in line with equal treatment. It would be advisable to accordingly amend the existing legislation on all levels of authority in BiH in order to envisage this requirement, including definition of clear selection criteria. Also, none of the identified pieces of legislation on each level of government require that law drafting working group members from CSOs be drawn from a diversity of backgrounds. It would be advisable to accordingly amend the existing legislation of all levels of authority in BiH in order to envisage this requirement.

Working group members from CSOs include representatives of society as a whole, including women's groups, LGBTIQ groups, migrant groups, minorities, disability groups, and others as appropriate, in line with the Human Rights Based Approach.

With the exception of the State level of BiH where the legislation and the supporting web-based tool eKonsultacije facilitates the engagement of CSOs in the processes of consultation and public decision-making processes is the most advanced within the country and can be assessed in a way that it meets most human rights law standards. This is additionally supported by the fact that after reaching the Agreement at the national-level on Cooperation between the Council of Ministers of BiH and civil society organisations in BiH, and with a couple of years of delay, the Advisory Body for implementation of this Agreement has finally been established in December 2020. The Advisory Body of the Council of Ministers of BiH for Cooperation with Civil Society Organisations consists of seven members whose tasks is to create, monitor and implement public policies important for creating a stimulating legal, institutional, and financial environment for non-governmental organisations in BiH. As far as the rest of the country is concerned, the legislation on public consultations and practices moderately meet the standards. There is a need to further streamline and make the legislative framework more coherent as it is still uneven across the country. To that effect, amendments to existing legislation regarding, inter alia, the selection and engagement of CSOs to legislative drafting working groups which would be based on a public call, clear criteria and which would be in line with equal treatment and be drawn from a diversity of backgrounds (i.e. the representatives of civils society as a whole, including women's groups, LGBTIQ+ groups, migrant groups, minorities, disability groups, and others) are needed. Equally important, it will be necessary to ensure more meaningful and systematic consultations with CSOs, especially at entity, BD and cantonal level of authority where a considerable number of issues of the CSOs interest are within the scope of responsibility of entities. As a right step in that direction, it is recommended that both entities and Brcko District follow the example of the State-level institutions and establish and make fully functional their web-based portals on public consultations (i.e. eKonsultacije). In doing so, it would be highly advisable to ensure the interoperability of these public consultation portals in BiH as, due to the constitutional division of responsibilities, the new legislation or amendments to the existing ones may quite often have effects on not just one, but several levels of government.

According to the CSO Survey results, 29% said that the authorities effectively consulted their organisation in the drafting of laws, bylaws, strategies or acts of public interest and policy reforms, 57% said they were not consulted. Out of all YES answers, only 17% CSOs had access to the draft document from the beginning of the drafting process to the end of the adoption procedure. Only 22% of CSOs had at least 15 days before available for commenting the draft document entered adoption procedure. Only 20% of CSOs said that their organisation was a member of a working group tasked with the development of laws, bylaws, strategies or acts of public interest and policy reforms.

Indicator 2.1.b: CSOs are effectively included in oversight mechanisms.

According to the data from the Public Authority Survey, 30% of the public officials responded that CSOs were very effectively or sufficiently effectively included in the oversight mechanism. The other 38% said that CSOs were not at all effectively or insufficiently effectively included, and 31% said that they did not know. In the Focus group discussion, the CSOs said that in these processes in BIH, at all levels of government, their role is still quite unclearly defined.

Indicator 2.1.c Proportion of CSOs that have participated in consultations during preparation of state reports under international human rights and other legal obligations and the implementation of treaty body recommendations.

In 2021, 22% of CSOs said that the government had published an open call for CSO participation, 35% said that it had not, and 43% said that they had no information on the subject. Of those respondents who were aware of the open calls, 15% said that they had participated in those open calls.

In the Focus Group discussion, small capacity CSOs said they did not have the human/employee capacities to involve themselves in any consultations, since they were struggling to survive as an organisation. Stronger capacity CSOs said they were involved in several consultations, but never received feedback information from the government regarding any final decisions on consultations.

SO 2.2. Public authorities and institutions acknowledge the importance of civil society in societal policy debate and EU integration processes.

Indicator 2.2.a: Extent to which CSOs assess the attitude of public officials towards civil society as supportive.

1 – does not meet standards

In total, 80% of the respondents from the CSO Survey stated that public officials were not at all or insufficiently supportive towards CSOs in 2021. However, the public administration Survey revealed that the perception of the public officials was that they were supportive towards the CSOs during that period.

Indicator 2.3.a: Proportion of CSOs that were effectively consulted in the preparation of civil society cooperation strategies.

In 2021, Bosnia and Herzegovina did not have a CS strategy, at neither national or entity levels. It is therefore not possible to assess this indicator.

Indicator 2.3.b: IPA beneficiaries have adopted currently valid civil society cooperation strategies.

1 – does not meet standards

There was no national civil society strategy adopted in 2021 in BiH.

Indicator 2.3.c: Civil society cooperation strategies are accompanied by adopted budgeted action plans.

1 – does not meet standards

There was no national civil society strategy adopted in 2021 in BiH.

Indicator 2.3.d: Proportion of CSOs that rate civil society cooperation strategies as relevant and effective.

There was no national civil society strategy adopted in 2021 in BiH.

Indicator 2.3.e: Public structures responsible for the implementation of civil society cooperation strategies are appropriately resourced.

There was no national civil society strategy adopted in 2021 in BiH.

Indicator 2.3.f: Mechanisms for dialogue between civil society cooperation councils and central governments meaningfully include CSOs in that:

- they have an agreed programme of work; they have agreed rules of procedure; they meet regularly; rules allow CSOs to call the meetings and contribute to agenda setting;
- there is adequate follow-up to conclusions and recommendations.

4 – meets most standards

In 2021, out of a total of 11 answers in the PA Survey, 36% said that the dialogue between the civil society cooperation council and the government was insufficiently meaningful, 18% said that, on the contrary, it was sufficiently meaningful, and 9% said it was very meaningful.

In 2021, Bosnia and Herzegovina had formally established the Advisory Body of the Council of Ministers of Bosnia and Herzegovina for cooperation with non-governmental organisations.⁵⁰ Advisory Body has seven members, elected from among representatives of civil society organisations, the academic community, the media and individuals with experience in creating, monitoring and implementing public policies important for creating a stimulating legal, institutional and financial environment for civil society organisations in BiH. In the Sector for Legal Aid and Development of Civil Society, an organisation of the Ministry of Justice of BiH, the constituent session of the Advisory Body of the Council of Ministers of BiH for cooperation with non-governmental organisations was held, which fulfilled the conditions for the start of the work of this body in the development of institutional cooperation between the authorities and non-governmental organisations in BiH.

At the constituent session, the Rules of Procedure of the Advisory Body of the Council of Ministers of Bosnia and Herzegovina for cooperation with non-governmental organisations were adopted.

50 Službeni List- Pregled Dokumenta (sluzbenilist.ba)

With the establishment of the Advisory Body of the Council of Ministers of BiH for cooperation with non-governmental organisations, one of the most important obligations in the Agreement on Cooperation between the Council of Ministers of BiH and non-governmental organisations was realised. In addition, this step has contributed to the fulfilment of one of the 14 key priorities defined in the Opinion of the European Commission on the request for membership of Bosnia and Herzegovina in the European Union, which concerns the provision of a stimulating environment for civil society in Bosnia and Herzegovina.

In accordance with the Agreement on Cooperation between the Council of Ministers of BiH and non-governmental organisations in BiH, the Advisory Body of the Council of Ministers of BiH for Cooperation with Non-Governmental Organisations is responsible for improving the cooperation between the Council of Ministers of BiH and non-governmental organisations, with the aim of creating an encouraging legal, institutional and financial environment for activities of the non-governmental sector in Bosnia and Herzegovina.



Specific Objective 3

CSO capacity and resilience to carry out their activities effectively are reinforced.

SO 3.1. CSOs' internal governance structures follow the principles of good governance.

Indicator 3.1.a: Proportion of CSOs that have an independent and effective governing body with clear terms of reference to oversee the organisation's strategic goals, impact, management, legal compliance, and accountability.

3 – moderately meets standards 52%

The proportion of CSOs that had a governing body, and a governing document which defined roles and responsibilities, and that did not have paid members of staff on the board, was 52%. In the CSO Survey, 100% of CSOs reported having a governing body, with 97% having a governing document. In the case of 98% of these CSOs, the governing document defined the roles and responsibilities of the governing body. As regards the independence of governing bodies, however, 32 % of the respondents reported that the executive director or another paid staff member of their organisation was a voting member of the governing body.

Indicator 3.1.b: Proportion of CSOs that regularly check potential conflicts of interest with regard to the political, economic and personal relationships of their governing body.

1 – does not meet standards

In 2021, 36.9% of CSOs said that the members of the governing body of their organisation were required by the organisation to sign a conflict-of-interest declaration, 10.7% of them every year, and 3.6% every two years. However, 42.9% never asked for this signature. Specific answers were included: "When choosing the governing body, we take care to appoint persons who are not in a conflict of interest"; "Sometimes, depending on the situation"; "They do not sign a statement, the conflict of interest is defined by the founding act (Statute) and is binding for the members of the governing body (Presidency)".

Indicator 3.1.c: Proportion of CSOs that share relevant information on their organisation using means and channels that are accessible to all stakeholders in terms of publishing.

2 – minimally meets standards 22%

In the CSO Survey, 22% of CSOs published their governing document together with either organisational structure, members or both, and also published some of their organisational policies on their website. 57% of respondents said they had a website, and 22% said that they shared publicly relevant information on their website.

21 % of CSOs had their governing document, statute, articles of association, or similar founding document published on the organisation's website, whilst 74% said they did not publish this information.

Only 11% of CSOs published the structure of the organisation's board and the names of the members of the board on the organisation's website, whilst only 10.3% published the organisational structure, and

only 23% published members of the board. 31% of the CSOs did not have any information on the governance structure published on their website.

Only 21% CSOs published their organisational policies on their website, whilst 74% did not.

Indicator 3.1.d: Proportion of CSOs that have an organisational gender equality policy.

2 – minimally meets standards 35%

In 2021, 34.8% of CSOs had an organisational gender equality policy.

In the Focus Group discussion, the CSOs said that these percentages in the CSO Survey correlated with their findings in the research from 2021 on the “Engendering civil society organisations” project, performed by the Helsinki Citizens Parliament CSO from Banja Luka. The workshops organised with 47 representatives of CSOs from 19 Banja Luka organisations (youth organisations, organisations for persons with disabilities, women’s CSOs, non-formal groups, human rights organisations) showed that most of the organisations did not have an organisational gender equality policy. That was the reason to prepare and publish the guideline “Gender Equality is Important for All of Us – Short Guideline for Engendering Civil Society Organisations”. The Guideline provides answers to the questions as to how to include the gender component into projects, how to analyse whether and in what way project activities impact women and men, and why it is important for CSOs to include gender principles into their structures and documents.

Indicator 3.1.e: Proportion of CSOs that have an organisational strategy, including vision, mission, and goals.

3 – moderately meets standards 55%

From the total of respondents who participated in the Survey, 55% of CSOs had an organisational strategy that included at least one of these elements - vision, mission, and goals.

57 % of the CSOs answered that in 2021 their organisation had an organisational strategy, and a strategic plan or similar strategy document, while 42 % CSOs did not have such a document.

From the CSOs that had an organisational strategy in 2021, 81% responded that this document stated their organisational vision, 75 % that it stated their organisational mission, and 88 % that it stated their organisational goals.

SO 3.2. CSOs are able to communicate the results of their activities to the public.

Indicator 3.2.a: Proportion of CSOs that have at least one on-line channel of communication.

5 – fully meets standards 100%

In 2021, all organisations involved in the Survey (100%) stated that they had at least one channel of communication. They used all available channels. The majority, 91.7%, used Facebook, whilst 59.5% used their website, 44.0% used Instagram, and 42.9% of CSOs used messaging apps. 36.9% used YouTube.

Only 2.4% used email, and 3.6% used traditional media.

Indicator 3.2.b: Proportion of CSOs that have specialised communication staff.

In 2021, 63.1% of CSOs stated that they had a staff member responsible for external communication with stakeholders and the public.

Indicator 3.2.c: Proportion of CSOs that cooperate with the media.

In 2021, only 30.0% stated that they communicated with media.

SO 3.3. CSOs are transparent about their programme activities and sources of funding.

Indicator 3.3.a Proportion of CSOs that publish their annual reports and financial statements.

3 – moderately meets standards	55%
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The proportion of CSOs that openly and transparently shared both their annual reports and financial statements was 55% in 2021. In total, 73% of the CSOs published only their annual reports and 55% published only their financial reports. Most of the 26% who published both, published these reports on their web pages, and 35% printed their financial statements in hard copy.

Indicator 3.3.b: Proportion of CSOs that publish information on their sources of funding and amounts received in the previous year.

2 – minimally meets standards	29%
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Only 29% of the CSOs stated that their organisation had published information on both their sources of funding and the amounts they received in 2021. On the other hand, while 64% of the CSOs stated that their organisation only published information on the amounts received, 31% of the CSOs stated that their organisation only published information on its sources of funding. 19% of the CSOs stated that they did not publish information on any of the amounts received or sources of funding. The most common reasons for this were that the annual and financial reports were available on request, that they did not have funding in that year, or that according to their statute they were not obliged to publish official documents.

In the Focus Group discussion, the smaller CSOs said they did not have the capacities to deal with communication channels due the work overload. Another reason mentioned for not publishing such documents was that, when politically eligible, organisations that receive public funds mostly do not publicly communicate that information with the wider public.

Indicator 3.3.c: Degree of public trust in CSOs.

Data are not available.

SO 3.4. CSOs monitor and evaluate the results and impact of their work.

Indicator 3.4.a: Proportion of CSOs that have carried out an evaluation of their work in the last year.

4 – meets most standards 78%

In 2021, 58.5% said that their organisation carried out a project evaluation. 39.0% stated they carried out an internal process evaluation, and 22.0% stated they carried out a strategy evaluation. They commented that they were subject to an external finance revision each year, or that they sent in an annual internal evaluation to their headquarters, or that they did not have financial support in 2021. When it came to the number of evaluations in 2021, 33.8% reported they had one (1) evaluation, 55.4% reported 2–4 evaluations, 3.1% had 5–7 evaluations, 1.5% reported 8–10 evaluations, and 3 CSOs (4.6%) had more than 10 evaluations. In total, 78% of the CSOs had at least one evaluation in 2021. Common reasons for not performing evaluations in 2021 were that there was no practice of conducting a regular evaluation, that they did not have the capacities at that moment, that they had no funding, that they performed evaluations and planning once every three years, or that they evaluated activities on a daily basis and were planning the next project steps accordingly.

SO 3.5. CSOs use research and evidence to underpin their work.

Indicator 3.5.a: Proportion of CSOs whose work is based on evidence generated through research.

5 – fully meets standards 83%

In 2021, the percentage of CSOs who carried out at least one type of research was 83%. As regards the details per type of research: consultation with the community was used by 43.9% of CSOs, surveys were used by 35.4%, and a general opinion survey by 15.9%, randomised control trials were used by 8.5%, desk research by 20.7%, field research by 32.9%, and focus group meetings were used by 47.6%. In addition to this, under the 'other' section, CSOs also stated that they used various other tools, such as annual monitoring studies, oral research, zoom meetings, consultation, and analysis of the applications that had been made to their association. Other tools included attending the trials of abused children, and observation during the provision of legal and psychological support to families and children in focus; and search conferences.

Indicator 3.5.b: Proportion of CSOs whose work is informed through consultation with people who have a stake in their current or future work.

5 – fully meets standards 85%

In 2021, 85% of participating CSOs reported that their work was informed through consultation with at least one of the following stakeholders: local communities, partners, members, local authorities, national authorities, public institutions, institutional donors, individual donors, private businesses and academic institutions. The number of CSOs who consulted on their work with local communities was 57.5%, with partners, 57.5%, with members, 57.5% also, with local authorities 50.0%, with national authorities, 13.8%, with public institutions, 35.0%, with institutional donors, 27.5%, with individual donors, 27.5%, with private businesses, 17.5%, and with academic institutions, 23.8%.

Among organisations which did not consult any stakeholders in 2021, the most common answer was that they said they did not to.

SO 3.6. CSOs work in fair and respectful partnerships to achieve shared goals.

Indicator 3.6.a: Proportion of CSOs taking part in local, central and international CSO networks.

In 2021, 58% of all CSOs involved in Survey participated in at least a local, national or international CSO network: formal – 47.5%, informal – 45.0%, local – 18.8%, national- 46.3%, and international – 40.0%. The number of CSOs who were not part of any network was 17.5%.

Indicator 3.6.b: Proportion of CSOs engaged in cross-sectoral partnerships with academia, social partners and private sector.

In 2021, 30.0% of CSOs were engaged in partnership with the media, and 28.8% in partnership with universities. An interesting number - 25.0% - were engaged with the private sector. The total for partners from academia and business was 53.8%.

Among other answers, CSOs mentioned the Ministry of Internal Affairs and international organisations as partners in 2021.

SO 3.7. CSO have a diversified funding base.

Indicator 3.7.a: Proportion of CSOs whose sources of donor income are diversified.

4 – meets most standards	62%
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In 2021, CSOs that participated in the Survey were asked if they had received funding from specific donors and the percentage of the budget coming from each donor. The data received were, in the process of analysis of results, grouped within categories. 62% of CSOs had diversified donor incomes.

38 % of CSOs responded that they had more than 50% of their total budget from one single donor. 32% of all CSOs who participated in the Survey said that they had two or more donors. When it came to specific donors by type of donor, 51% of CSOs had a source of funding from local government and 37% CSOs had a source of funding from provincial/cantonal/entity government. Foreign private foundations and international CSOs were a source of funding to 52% of the CSOs, and after them came the European Commission for 34% of them. Domestic private foundations were sources for 22% of the CSOs. The lowest percentage of donations came from bilateral donors, at 16%.

The United Nations was a source of funding for 18% of CSOs, the Organisation for Security and Co-operation in Europe for 10%, and the Council of Europe a source of funding for 8 % of CSOs.

Indicator 3.7.b: Proportion of CSOs raising funds from sources other than donors e.g. membership fees, corporate/individual giving and income generating activities.

4 – meets most standards	71%
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In 2021, 71% of CSOs in BiH had at least one other source of income. The majority, 51%, said that membership fees were their biggest source, 36% said individual donations, and 22%, private businesses. And 14% received funds from crowdfunding, and 14% of CSOs own a business/social enterprise activity/service provision.

SO 3.8. CSOs have effective, empowered and developed human resources.

Indicator 3.8.a: Proportion of CSOs that employ staff.

In 2021, 33.3% of CSOs reported that they had no paid staff, 33.3% of CSOs reported a paid staff of 1–5, 14.5% had a paid staff of 6–10, and 17.4% CSOs employed 11 or more paid staff.

Indicator 3.8.b: Proportion of CSOs that have organisational human resources policies.

1 – does not meet standards 0%

In 2021, according to the results of the CSO Survey, it was observed that 0% of the CSOs had all nine policies - recruitment policy, diversity equality and inclusion policy, disciplinary policy, grievance/complaints policy, performance evaluation policy, redundancy policy, remuneration policy, bullying and harassment policy, and safeguarding of children and vulnerable adults policies - all of which were taken into consideration in order to assess the proportion of CSOs that have organisational human resources policies. In this respect, it was seen that none of the respondent CSOs in Bosnia and Herzegovina had adopted or implemented all nine policies. On the other hand, the most applied internal policies were a recruitment policy (29%), a diversity, equality and inclusion policy (37.7%), a gender equality policy (34.8%), and a safeguarding of children and vulnerable adult policies (26.1%). 22% of the respondent CSOs had adopted or implemented at least one.

Indicator 3.8.c: Proportion of CSOs that have advertised publicly their staff and volunteering vacancies in the last year.

In 2021, the number of CSOs who advertised publicly their staff and volunteering vacancies on their website was 27.5%, whilst on Internet portals it was 15.9%, on social media, 37.7%, on print media, 2.9%, and via mailing lists, 18.8%. 55.1% of CSOs did not advertise publicly or did not have vacancies. Others mentioned that they were a non-profit organisation, or did not have permanent employees but mostly persons working on a volunteer basis.

Indicator 3.8.d: Proportion of CSOs that have organisational policies encouraging recruitment of a diverse workforce.

In 2021, in terms of having policies that encourage recruitment of a diverse workforce, such as recruitment and diversity inclusion policies, 35 % of CSO respondents said they had.

Indicator 3.8.e: Proportion of CSOs whose staff and volunteers have attended a training course in the past year.

4 – meets most standards 74%

In 2021, 73.9% said that their organisation enabled staff or volunteers to attend a training course for the purpose of their professional development.

List of Laws Consulted

As is the case with the majority of policy areas in BiH, due to its complex constitutional set-up and division of competencies between different layers of government, there is a multiplicity of legislation governing the issues of combat of terrorism, money laundering and corruption.

At the level of the state of BiH, FBiH, RS and BD of BiH, the legislative framework includes:

- The Law on Public Procurement ('Official Gazette of BiH', nos. 39/14 and 59/22) which regulates the public procurement system in BiH, establishes the rules for public procurement procedures, in such a way as to define the rights, duties, responsibilities and legal protection of participants in the public procurement procedure, as well as the competencies of the Public Procurement Agency of BiH and the Office for the Review of Appeals of BiH. Pursuant to this law, the public procurement procedure refers to the procedures for the procurement of goods, services or works carried out by the contracting authorities in BiH. The process of public procurement in BiH is decentralised - that is to say, contracting authorities (institutions) carry out procedures and procure goods and services for their own needs. In accordance with the Law on Public Procurement, contracting authorities for awarding public procurement contracts apply open or limited procedures as basic and regular procedures. The negotiation procedure, with or without the publication of a notice, as well as the competitive dialogue, can be applied as an exception only if the conditions established by the said law are met. Other public procurement procedures are procedures for awarding contracts of low value, competitive requests for submission of offers and direct agreements;
- The Law on Conflict of Interest in the institutions of BiH ('Official Gazette of BiH', nos. 16/02, 14/03, 12/04, 63/08, 18/12, 87/13 and 41/16), which regulates the obligations of elected officials, holders of executive functions and advisers in the institutions of BiH in the performance of public functions and defines that a conflict of interest exists in situations where elected officials, holders of executive functions and advisers have a private interest that affects or may affect the legality, openness, objectivity and impartiality in their performance of public office;
- The Law on Whistleblower Protection in the institutions of BiH ('Official Gazette of BiH', no. 100/13) which regulates the status of persons who report corruption in the institutions of BiH and legal entities that establish the institutions of BiH, the reporting procedure, the obligations of institutions in connection with reporting corruption, the procedure for the protection of persons who report corruption and prescribe sanctions for violations of the provisions of this law;
- The Law on Whistleblower Protection in the Republika Srpska ('Official Gazette of RS')
- The Law on Whistleblower Protection in the Brcko District of BiH ('Official Gazette of BD of BiH', no. 100/13);
- The Criminal Code of BiH ('Official Gazette of BiH' nos. 3/03, 32/03, 37/03, 54/04, 61/04, 30/05, 53/06, 55/06, 8/10, 47/14, 22/15, 40/15, 35/18 and 46/21) which regulates criminal acts and criminal sanctions only for those behaviours that threaten or violate personal freedoms and human rights and other rights and social values guaranteed and protected by the Constitution of Bosnia and Herzegovina and international law;
- The Criminal Code of the Federation of BiH ('Official Gazette of FBiH', nos. 36/03, 21/04, 69/04, 18/05, 42/10, 42/11, 59/14, 76/14, 46/16 and 75/17), which regulates the general part of the criminal legislation in the Federation of BiH and criminal offences under the jurisdiction of the Federation of FBiH;
- The Criminal Code of the Republika Srpska ('Official Gazette of RS', nos. 49/03, 108/04, 37/06, 70/06, 73/10, 1/12 and 67/13) which defines that the criminal legislation of the Republika Srpska pro-

protects the basic rights and freedoms of man and citizen and other basic individual and general values established and guaranteed by the legal order; this protection shall be achieved by determining which acts constitute criminal acts, by prescribing penalties and other criminal sanctions for those acts, and by imposing these sanctions on perpetrators of criminal acts in a procedure established by law;

- • The Criminal Code of the Brcko District of BiH ('Official Gazette of BD BiH', no. 19/20 – clean text), which regulates the general part of the criminal legislation and criminal offences under the jurisdiction of the Brcko District of BiH;
- • The Criminal Procedure Code of BiH ('Official Gazette of BiH' nos. 3/03, 32/03, 36/03, 26/04, 63/04, 13/05, 48/05, 46/06, 76/06, 29/07, 32/07, 53/07, 76/07, 15/08, 58/08, and 12/09), which defines the rules of criminal procedure by which the Court of BiH, the Chief Prosecutor of BiH and other participants in the criminal procedure provided for by this law are obliged to act when acting in criminal proceedings;
- • The Criminal Procedure Code of the Federation of BiH ('Official Gazette of the Federation of BiH' nos. 35/03, 56/03, 78/04, 28/05, 55/06, 27/07, 53/07, 9/09, 12/10, 8/13, 59/14, and 74/20), which defines the rules of criminal procedure, according to which the municipal courts, cantonal courts and the Supreme Court of the Federation of BiH, the prosecutor and other participants in the criminal proceedings act in criminal matters;
- • The Criminal Procedure Code of the Republika Srpska ('Official Gazette of RS' nos. 53/12, 91/17, 66/18, and 15/21), which defines the rules of the criminal procedure, according to which the courts, the public prosecutor and other participants in the criminal procedure are obliged to act in criminal matters;
- • The Criminal Procedure Code of the Brcko District of BiH ('Official Gazette of BD of BiH' nos. 10/03, 48/04, 12/07, 19/07, 21/07, 2/08, 17/09, 27/14, 3/19, and 16/20), which establishes the rules of criminal procedure according to which the Basic Court and the Appellate Court of the Brcko District of BiH, the Prosecutor's Office of the Brcko District of BiH and other participants in the criminal procedure provided for by this law are obliged to act in criminal matters;
- • The Law on Freedom of Access to Information in BiH ('Official Gazette of BiH' no: 28/00, 45/06, 102/09, 62/11 and 100/13), which is enacted with the aim of facilitating and promoting to the greatest extent and without delay the publication of information under the control of a public authority at the lowest acceptable cost;
- • The Law on Freedom of Access to Information of the Federation of Bosnia and Herzegovina, 'Official Gazette of the FBiH', no: 32/01 and 48/11;
- • The Law on Freedom of Access to Information of the Republic of Srpska, 'Official Gazette of the RS', no. 20/200;
- • The Instructions for the Application of the Law on Freedom of Access to Information of Bosnia and Herzegovina ('Official Gazette of the BD of BiH, no. 36/04);
- • Law on the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption ('Official Gazette of BiH' no. 103/09), which was adopted with the aim of preventing the influence of corruption on the development of democracy and respect for basic human rights and freedoms, along with its influence on undermining the economic and socio-economic development of BiH, as well as for the coordination of the fight against corruption;
- • Law on the Financing of Political Parties ('Official Gazette of BiH', no. 95/12);
- • BiH Election Law ('Official Gazette of BiH', no: 23/01, 07/02, 09/02, 20/02, 25/02, 04/04, 20/04, 25/05, 52/05, 65 /05, 77/05, 11/06, 24/06, 32/07, 33/08, 37/08, 32/10, 18/13, and 07/14);
- • Law on Prevention of Money Laundering and Financing of Terrorist Activities ('Official Gazette of BiH', nos. 47/14 and 46/16);
- • Law on Prevention of Money Laundering and Financing of Terrorist Activities of the Republika Srpska ('Official Gazette of RS', nos. 113/17, 91/19 and 153/20);

- • Law on the Court of BiH ('Official Gazette of BiH', no. 29/00, 16/02, 24/02, 03/03, 37/03, 42/03, 04/04, 09/04, 09/04, 35/04, 61/04, 32/07, 49/09, and 97/09);
 - • Law on the High Judicial and Prosecutorial Council of BiH ('Official Gazette of BiH', no. 15/02);
 - • Law on Administration ('Official Gazette of BiH', no. 32/02 and 102/09);
 - • Law on Ministries and Other Administrative Bodies of BiH ('Official Gazette of BiH', nos. 5/03, 42/03, 26/04, 42/04, 45/06, 88/07, 35/09, 59/09 and 103/09);
 - • Law on Associations and Foundations of BiH and the Law on Associations and Foundations of the Brčko District of BiH, which have accommodated the requirements of the MONEYVAL Committee and the Financial Action Task Force (FATF) on the cases of the alleged money-laundering and financing of terrorist activities by associations and foundations. However, the FBiH and RS have still not amended their laws on associations in this respect.
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- The Law on Humanitarian Organisations of Bosnia and Herzegovina.
 - The Law on Associations and Foundations of Bosnia and Herzegovina.
 - The Law on Associations and Foundations of the Republika Srpska.
 - Law on Associations and Foundations of the Brčko District of Bosnia and Herzegovina,
 - Article 46.
 - (1) Income of associations and foundations may include the following:
 - a) membership fee, when it comes to the association;
 - b) voluntary contributions and gifts from public institutions, natural and legal persons, including from abroad; as well as domestic, cash, services or property of any kind;
 - c) state subsidies and contracts with the state, public institutions, physical and legal to persons, both domestic and foreign;
 - d) income from interest, dividends, capital gains, rents, royalties and similar sources of passive income; and
 - e) income acquired through the achievement of the goals and activities of the association or foundation, as it is determined by statute.