

# Bosnia and Herzegovina

## Synthesis of the baseline brief

### Component 1: Conducive environment

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**Objective 1: An enabling legal and policy environment for the exercise of the rights of freedom, expression, assembly and association**

**Result 1.1.: All individuals and legal entities can express themselves freely, assemble peacefully and establish, join and participate in non-formal and/or registered organisations**

	There is no single registry for CSOs in BiH, and therefore there is lack of relevant and accurate information on the number of registered CSOs in the country, which leads to a lack of transparency and allows for misuse and the undermining of the civil society sector's contribution and relevance.
	Freedom of association is guaranteed by the constitutional and legal framework and by recognised international documents. The Laws on Associations and Foundations at the state, entity, and Brčko District (BD) levels stipulate that any person or legal entity can form an association or foundation for any purpose in accordance with the Constitution and legislative framework.
	There is no adequate legislation on humanitarian organisations.
	Associations may establish networks or other forms of collaboration, and freely affiliate and cooperate with international organisations to promote the same rights and interests
	CSOs are registered at an administrative level according to the scope of their activities as provided by the relevant statutes. Fees for registration differ between administrative levels. The option of online registration does not exist at any level.
	A significant number of CSOs still face restrictions during the registration process such as additional requirements, name changes and different interpretations of the law. The majority of CSOs find registration expensive.
	The legal framework provides guarantees against state interference in the internal matters of associations and foundations, but there is no explicit legal provision exists to ensure protection from interference by third parties when exercising freedom of association.
	Most CSOs reported that the government did not interfere in their internal affairs, although there were isolated cases of direct state interference in the internal matters of associations. There is no record of a CSO being terminated by force of law. There are some examples of intrusion by competent bodies, usually politically motivated and mainly expressed through repeated inspections (financial, labour, trade, sanitary).
	Freedom of peaceful assembly is guaranteed by the constitutions, ECHR, positive regulations and international documents. Peaceful organised assemblies are regulated by relevant laws on public assembly. While the laws generally state the principles governing freedom of assembly correctly, they tend to overregulate conditions for exercising the constitutionally guaranteed right of assembly. In the last two years there have been several cases of interrogations and harassment of citizens and civil society activists by the police related to their participation in peaceful assemblies.
	The right to freedom of expression, and the collection and dissemination of information is guaranteed by the BiH Constitution and relevant laws. Existing criminal laws do not encompass the

	positive obligations of Article 10 of the ECHR, which stipulate that the state must guarantee freedom of expression by creating a safe environment in which this can take place. Therefore, existing regulations do not comply with international laws and standards.
	In terms of public criticism, state and government authorities do not have a higher level of protection within the legal framework than citizens, CSOs, activists or journalists.
	The authorities in FBiH and RS did not express a readiness to accept amendments to criminal laws for the definition of hate crimes, as proposed by the Coalition for Combatting Hate Speech.
	BiH was the first country in the region to decriminalise libel (the Law on Defamation) removing the possibility of criminal conviction for any person publicly expressing an opinion
	Freedom of expression and freedom to obtain information as well as access to all channels of communication are guaranteed by the national judicial system and the Law on Communications. Proposed amendments to the Law on Free Access to Information (LFAI) reduce the right to access to public information by reversing the right to access information. The Rule Prohibiting Access to Information defines only a short list of information freely available. It is evident that the usage of a significant number of laws is contrary to the provisions of the LFAI.
	Media, social networks, the official web platforms of public authorities and a number of CSOs are not fully protected from political and other influences especially at the local level.
	The Internet is widely accessible, available on favourable terms to the whole country, and is regulated in a unique way meaning that data of public interest are not sufficiently available.
	In the last two years, cases of social network monitoring, interrogation of CSO activists, tapping of phone lines, and monitoring of the activities and correspondence of online social groups were recorded.

**Result: 1.2. The policies and legal environment stimulate and facilitate volunteering and employment in CSOs**

	Entity employment services do not keep records on numbers of CSO employees. This information can be obtained from the entity tax administration offices, but is not free of charge.
	70% of surveyed CSOs were inclined to stating that legal solution in BiH are not stimulating at all for volunteers, while 27% inclined stating that it is stimulating.
	Civil Society Organisations are treated the same way as other employers according to laws and bylaws. Labour laws of RS, FBiH and BD do not contain specific provisions in respect to CSOs. In addition, the laws on associations and foundations do not contain any specific provisions related to the employment of individuals in CSOs, specific procedures for employment, or specific rights for CSO workers.
	There are no employment incentives related to CSOs specifically. The majority of CSOs consider that they do not have equal treatment with other employers generally, and only one-third of them consider that they have equal treatment in receiving incentives.
	There are laws on volunteering in the FBiH and the RS, but there are no legal provisions for volunteering in BD. There is, as yet, no legal framework defining the respective rights and responsibilities of volunteer and volunteer-involving organisations at the state level.
	Existing laws regulate the basic terms related to volunteering; the principles of volunteering; contracts; the rights and obligations of volunteers and organisers of volunteer work; and overseeing

	applications. However, laws on volunteering are still largely unknown to CSOs who do not see their significance due to insufficient implementation on the ground. CSOs are almost unanimous in their assessment that the situation is poor regarding transparency in the encouragement of volunteers.
	In order to prevent volunteer abuse, profitable companies can no longer offer volunteer programmes. The term “volunteer intern” exists in different labour laws and enables the creation of unpaid internships.

**Result 1.3. National and/or local authorities have enabling policies and rules for grassroots organisations and/or civic initiatives.**

	Registration is voluntary and clearly governed by state, entity, cantonal and BD laws and regulations.
	Fees for registration differ between administrative levels. In some cases the registration procedure for associations and umbrella associations was extremely prolonged, and citizens continued with their activities as informal associations.
	The option of online registration does not exist at any level
	In most cases, CSOs find registration simple, and the process is completed within the prescribed thirty days.
	A significant number of CSOs still face different restrictions during the registration process such as additional requirements, name changes and different interpretations of the law. The majority of CSOs find registration expensive. Additional costs for registering can vary significantly.
	Peaceful, organised assemblies are regulated by cantonal laws on public assembly in the FBiH, and by the RS Law on Public Assembly. These laws recognise peaceful and organised assemblies, but contain a broad range of restrictions regarding the public spaces citizens can use to exercise their rights in this regard. Peaceful assembly may be prohibited pursuant to these laws
	Freedom of expression and freedom to obtain information, as well as access to all channels of communication, are guaranteed by the national judicial system and the Law on Communications.
	There are no restrictions on legislative and technical grounds to access the Internet and its various social networks.
	In the last two years, cases of social network monitoring, interrogation of CSO activists, tapping of phone lines, and monitoring of the activities and correspondence of online social groups were recorded. CSO activists and journalists expressed distrust towards public authorities and security agencies because of their surveillance of social networks and incidences of phone tapping reported by the media.

**Objective: 2. An enabling financial environment, which supports the sustainability of CSOs.**

**Result: 2.1. Easy to meet financial rules for CSOs, which are proportionate to their turnover and non-commercial activities**

	14% of CSOs assessed that prescribed financial rule, obligations of bookkeeping and accounting, referring to their organisations are not clear and understandable, while for 83% were clear and understandable
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	For 27% of CSOs it is not simple to implement prescribed financial rule, obligations of bookkeeping and accounting, referring to their organisations are not clear and understandable, while for 71% is simple to implement.
	Registered CSOs are obliged to comply with entity laws and regulations on accounting as prescribed by International Accounting Standards and are required to send yearly financial reports in standardised forms to the entity level agencies for finance and information services.
	CSOs in BiH have the option to acquire income through economic activities whose purpose is the pursuit of their stated goals. An association and a foundation may undertake economic activities, which are not directly related to the achievement of its goals only by establishing a separate commercial legal entity.
	CSOs can be financed by individuals, corporations and other sources, which may be based outside BiH. The funding of CSOs is conducted in accordance with state, entity and cantonal legislation.

### **Result: 2.2. Donations are stimulated with adequate legislation and regulations**

	Tax exemptions to CSOs and incentives for charitable donations to the non-profit sector are still insufficient.
	The law does not explicitly specify the time frame in which a donation must be used nor does it provide a percentage of the donation that may be used to cover administrative expenses.
	Pursuant to the Law on Corporate Income Tax of Legal Entities and the Law on Corporate Income Tax of Physical Entities in both RS and FBiH, activities such as strengthening of democracy, rule of law, fighting corruption, sustainable development, protection of nature, etc. are not recognised as activities of general interest. Thus, donations for these purposes do not count as tax-admissible expenditures.
	VAT is paid on donations in the form of goods and products.
	CSOs complain that tax exemptions are too low to stimulate a culture of giving in BiH and also that, as far as individual giving is concerned; the scheme is only available to individuals who submit annual tax returns in effect, the self-employed. It is far too restricted in scope to generate significant revenues for CSOs.

### **Result: 2.3. Financial (e.g. tax or in-kind) benefits are available**

	Tax revenues of associations and foundations are regulated by entity laws, which are not harmonised.
	In FBiH, associations and foundations are exempted by law from the payment of profit and income tax, while in RS this exemption applies only to public institutions and humanitarian organisations. Monetary donations are not directly taxable either for the donor or receiver (CSO).
	Gifts and donations made in the form of goods and/or services, and given to CSOs by economic entities are subject to taxation of donors and donations only if the donor is registered in the VAT system.
	Monetary donations from physical entities, as well as monetary donations and gifts of goods and services given to CSOs by different institutions, are not subject to taxation.
	Unlike in RS, income from membership fees is not subject to taxation in FBiH. CSOs are fully equal to the profit sector
	Laws on associations and foundations on state and entity level in BiH and FBiH provide for a minimum means test to establish a foundation up to the amount of BAM 2,000 (approximately EUR 1,000).

	The RS law does not deem a means test necessary for the establishment of a foundation.
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**Result 2.4.: Government support to CSOs is available and provided in a transparent, accountable, fair and non-discriminatory manner**

	In terms of domestic institutions, financial support is provided by all levels of authorities, municipal, cantonal (in FBiH), entity and state level. Funds allocated to CSOs have always amounted to some 0.5 - 0.6 percent of country Gross Domestic Product (GDP) in line with trends in other countries in the region.
	It is also important to note that, in accordance with entity laws on lotteries, 50 percent of revenue generated from fees paid by lottery organisers is set aside for funding/co-funding CSOs projects and programmes.
	In 2012, a total of 47.6 percent of institutions participated in the co-funding of CSO projects on the basis of pooled funds in partnership with other BiH government institutions or foreign partners.
	The sums allocated for CSOs can be identified in the budget. But, reduced allocations to the civil sector and CSOs have been visible in the last five years.
	There is a lack of strategic documentation on the national level that would address and support civil society development with clearly stated goals and measures for implementation, clear allocation of responsibilities and funding available.
	Strategies exist in several areas including commitment of state policy towards the institutional development and support of CSOs and co-funding of projects that contribute to this development.
	There is no unified mechanism for allocation of public funds to CSOs. <a href="#">Current mechanisms depend on the level of authority and the institution allocating funds.</a>
	<a href="#">Procedures can vary significantly in terms of clarity and CSO participation in all phases of the funding cycle. State funding is still insufficiently transparent.</a> The public funds allocation procedure is transparent to the extent that a specific part of funding is allocated through public calls at all authority levels.
	The criteria published in public calls are to a large extent clear and are published on time.
	There are no state bodies with a clear mandate for allocation and/or monitoring of state funds. Monitoring of fund allocation and spending is the responsibility of the institutions allocating the funds and is dependent on these institutions as well as on the reports of CSOs using the funds. Therefore, information related to implementation of the project on the ground, project results and influences are generally inaccessible.
	Monitoring is mainly performed through submission of CSO narratives and/or financial reports to the institutions allocating the funds. It is not known if state bodies perform evaluations of public fund effects or influences.
	Calls for allocation of funds are mainly public and available to all CSOs and names of CSOs receiving financial support are by and large public.
	There is no access to the process of project proposal selection or the specific reasons and explanations as to why certain projects have been selected or rejected.
	The laws on conflicts of interest in institutions (BiH, FBiH, RS) regulate issues of conflict of interest in decision-making.
	It is considered that a large number of decisions related to public calls are not based on transparent and fair treatment, but rather on personal relations and acquaintances. Situations related to conflict of interest are not announced prior to the procedure.
	Procedures for allocation of public funds do not generally provide clear measures for accountability, monitoring and evaluation.

	The law allows state authorities to grant CSOs non-financial support through state assets, the renting of space without financial compensation (to a certain limit), free training, consultation and other resources.
	There is favourable and preferential treatment to certain groups, for example, veterans' organisations, organisations of civilian victims of war
	State financing of services provided by CSOs is mainly based on the allocation of funds through projects.
	There are no known cases of multi-year funding related to service provision.
	CSOs do not receive sufficient funding from the state to cover their basic service costs. State funding is most often combined with much higher funding from foreign donors. CSOs are not able to cover proportional overhead costs with funds allocated to them by the state. Payment dynamics largely depend on the competent institution through which funds are awarded. Some CSOs experienced irregular or late payments.
	The Law on Public Procurement determines procedures, and guarantees transparency in the process of selecting service providers. But, there are no procedures in place to prevent conflicts of interest.
	There is no regular monitoring or evaluation of the quality and effects of services provided. Information about the services provided by CSOs is rarely available to the public. Quality standards and monitoring procedures are not strictly defined and depend on sector legislation and the state institution in question. General opinion and experience is that there is inadequate quality control of services provided by CSOs.

## Changing relations, CSOs and government

### Objective 3: Civil society and public institutions work in partnership through dialogue and cooperation based on willingness, trust and mutual acknowledgment around common interests

#### Result: 3.1. Public institutions recognise the importance of CSOs in improving good governance through CSO inclusion in decision-making processes

	43% of surveyed CSOs in BiH were consulted in the process of preparation of drafts of local strategies, 36% of local action plans, 34% of specific laws, 26% of national strategies, 18% of national action plans, 14% of IPA programming of EU financial support, 17% of policy documents, 25% were not present in such consultations.
	The Cooperation Agreement between the BiH Council of Ministers and the NGO Sector in BiH, signed in 2007, has established a general institutional framework for cooperation and dialogue between the state and CSOs, but it was not implemented. There is no functional institutional mechanism for cooperation between the state and civil society.
	The Strategy and Action Plan for the Creation of an Enabling Environment for the Development of a Sustainable Civil Society was initiated by the BiH Ministry of Justice but was stopped. The Council of Ministers passed the Decision on the Establishment of the Working Group for the Strategy for Creation of an Enabling Environment for the Development of a Sustainable Civil Society, along with an Action Plan for its implementation.
	The Agreement on Cooperation between the BiH Council of Ministers and the Non-Governmental Sector in BiH is not being realised. There is currently no clearly defined mechanism or methodology for monitoring and evaluation.
	Cooperation between CSOs and governance has been particularly improved at the local level. The

	agreement between the Municipal Council, the Mayor and non-governmental organisations was signed in 100 municipalities in BiH.
	The Law on Freedom of Access to Information stipulates exceptions in terms of justifiable reasons why certain information cannot be communicated. The legal framework prescribes publicly exposed policies and drafting laws. Adopted laws and regulations are not always published on the web sites of competent ministries, which are not regularly updated. In practice it is very difficult for CSOs to obtain accurate information.
	Institutions are not legally obliged to involve CSOs in the work of advisory or other bodies. There are examples of good practices, but there are still no clear and transparent mechanisms by which representatives of CSOs are elected to work in decision-making and policy-making bodies.
	In order to strengthen cooperation between authorities and civil society, establishment of SECO mechanisms (non-institutional mechanisms) was initiated for five sectors of civil society to be involved in the consultation process on IPA Funds II (2014-2020).
	The Regulations on Consultations in Legislative Drafting ensures the participation of citizens and CSOs in the consultation process and participation in the formulation and implementation of public policy. At the state level there are some concrete steps taken aimed at improving the consultation process and bringing it closer to the citizens. There are no legislative or institutional mechanisms in place regulating cooperation with civil society for FBiH. While in the RS, there is a need for further improvements. In general, there is a lack of available resources and CcSOs are occasionally and selectively consulted and included in decision-making processes on behalf of institutions.
	The Rules of Consultation formally provide CSOs with timely access to draft documents and participation in the preparation of given legal documents, but this is substantially different in practice. There is no broad and systematic use of the Rules of Consultation.

## CSOs Capacities

### Objective 4.: Capable, transparent and accountable CSOs

#### **Result 4.1.: CSOs' internal governance structures are transparent and accountable to members/constituents/beneficiaries**

	20% of CSOs believe that decision making in CSOs in BiH is in compliance with prescribed rules and laws of the organisation, 56% believe that decisions are made by some individual or top management, 23% that decisions are made with prescribed rules including consultations with the employees and volunteers.
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#### **Result 4.2.: CSOs are able to communicate the results of their activities to the public**

	49.7% of surveyed trust to NGOs in their country, general population trust the most to police 66.7% and media 66.2% of surveyed, and the least to political parties 13.5% of surveyed
	50.1% of the general population believes that NGOs support dealing with problems in their country, 66.2% of population believe that police supports in dealing with problems, and political party support the least 17.0%
	66% of surveyed believe that CSOs in their country are <b>not active</b> in fighting problems in rural development and employment, 63% believe in the area of safety, and 59% in overseeing government and local government performances and fight against corruption

#### **Result 4.3.: CSOs are transparent about their programme activities and financial management**

	39% CSOs stated that they publish their statute on their web page, 36% stated that the statute is
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	accessible to the public, 25% stated that the statute is not accessible to the public
	14% of CSOs stated that they have a rulebook and it available on their web page, 27% stated that they have a rulebook, 14% stated that have a rulebook, but it is not accessible to the public, and 30% stated that they do not have a rulebook

#### **Result 4.4.: CSOs monitor and evaluate the results and impact of their work**

	30% of CSOs evaluate their projects pro forma, while 70% evaluate projects with the purpose of establishing efficiency and drawing a lesson for further projects
	26% of CSOs use external evaluation for realisation of their projects

### **Objective 5.: Effective CSOs**

#### **Result 5.1.: CSO activities are guided by strategic long-term organisational planning**

	67% of CSOs have developed strategic plan, 16% do not have a strategic plan
	88% use internal evaluation when employing staff in their organisation
	51% of CSOs neither have established system for assessment of efficiency of employees in their organisation, nor 38% have internal strategic plan dealing with these issues
	26% of CSOs stated that they have a human resources development plan aimed at attracting and keeping talented associates, while 53% stated that they do not have such plan
	72% of CSO stated that they manage to keep talented associates, and 81% believe that they manage to attract quality new people

#### **Result 5.2.: CSOs use research and other forms of evidence to underpin their activities**

	61% of CSOs active in public advocacy, mainly/frequently uses research for their advocacy actions, while 39% of them mainly/very rarely use research
	74% of CSOs believe that they have enough information at their disposal
	43% of CSOs use official data of national statistical offices, ministries, 38% conduct their own studies

#### **Result 5.3.: CSOs regularly network within and outside country borders and make use of coalition-building for increased impact in campaigning and advocacy**

	49% of CSOs indicated that they do not belong to any international network, 25% stated that belong to one international network, 12% stated that they belong to 2 international networks, 14% belong to more than 3 international networks
	33% of CSOs indicated that they do not belong to any national network, 23% stated that belong to one national network, 14% stated that they belong to 2 national networks, 29% belong to more than 3 national networks
	38% of CSOs indicated that they do not belong to any local network, 25% stated that belong to one local network, 14% stated that they belong to 2 local networks, 23% belong to more than 3 local networks
	47% of CSOs do not find CSO networks efficient, while 53% find them efficient
	13% of CSO stated that their contributed in terms of the exchange of experience/knowledge from being member of a network, 28% stated that had a greatest benefit from the network in access to information/ exchange of information

## Objective 6.: Financially sustainable CSOs

### **Result 6.1.: Fund-raising activities are rooted in CSOs' long-term strategic plans and the core mission of the organisation**

	83% of CSOs believe that CSOs in BiH mainly adopt to donors' priorities and collect funds also for other activities not in line with their organisational strategic plan, while 17% of CSOs believe that CSOs in BiH mainly stich with their strategic plan and collect funds for activities in line with their strategic plan.
	59% of CSOs stated that they mainly stick to their strategic plans and collects fund for activities in line with its strategic plan, while 41% stated that they adapt to donors' priorities and collect funds also for other activities not in line with its strategic plans

### **Result 6.2.: CSO have a diversified funding base, including membership fees, corporate/individual giving and social entrepreneurship**

	4% of CSOs stated that they did not have any donors in the past year, 20% had one donor, 37% had between 2-3 donors, 19% had 4-5 donors, and 20% over 6 donor
	59% of CSOs <b>had</b> income from membership fees, 40% had from citizens, 22% form local self-government and/or regional administration, 26% from other foreign private or state resources, 28% form the EU funds, 24% form governments/ministries/state administration bodies, 22% from private companies operating in the country, 11% from public companies