

Bosnia and Herzegovina – New Government, New Reform Effort?

White Paper
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The following results and recommendations were developed in the framework of an international conference on Bosnia and Herzegovina (BiH), organized on June 26, 2023, by the Aspen Institute Germany and the Southeast Europe Association with support from the German Federal Foreign Office. The conference brought together more than sixty civil society representatives, academics, experts, and decision-makers from BiH and EU member states to analyze the key challenges BiH faces and discuss potential solutions.

The results and recommendations are focused on the following thematic areas, which were reflected in separate working groups:

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Please note that this summary only provides a collection of different points and ideas raised by conference participants and is not to be understood as a joint conclusion. The summaries were composed by different rapporteurs who participated in the working groups. Furthermore, these results and recommendations do not reflect the positions of the Aspen Institute Germany, the Southeast Europa Association, or the German Federal Foreign Office.

A) Functioning Democratic Institutions

Problem Analysis

The working group discussion identified the institutions which are facing the greatest challenges in BiH today. Some participants stressed that the main question usually missing in such discussions on reforms was who should benefit from them. Several participants argued that so far it had mostly been ethnic groups and their political representatives who benefited but stressed that citizens in general and their wellbeing should be prioritized in the future. This could mean putting civic rights before collective rights but above all focusing on the importance of institutions' outputs for citizens (i.e., services and their quality). Several other participants disagreed with this notion, arguing that the Dayton Peace Accord had created a balance that protects collective and individual rights.

Some participants stressed that power lay in the parties in BiH, not in the institutions. This was often underlined by international actors directly negotiating with political leaders instead of institutions. The parties themselves decided which politicians they assigned to certain institutions to most benefit them. Thus, the key actors were not the institutions themselves but the people who chose to sabotage institutions. Overall, participants agreed that while in the previous crisis institutions were endangered, now the very existence of the state was at risk, and Milorad Dodik, the President of the Republika Srpska, attempted to destroy institutions in order to destroy the country.

The list of key problems with institutions and bodies, identified by participants, includes:

- Constitutional Court of BiH: The decisions and work of this top judicial body are being openly challenged by the Bosnian Serb leadership, it was argued;
- Central Election Commission of BiH: This institution charged with organizing elections in BiH had been under tremendous political pressure for years, participants pointed out, as well as under the influence of different parties that managed to elect their members to the Commission;
- Ombudspersons in BiH: The appointment of Nevenko Vranješ, who is closely associated with Milorad Dodik's ruling Bosnian Serb party, the Alliance of Independent Social Democrats, SNSD, in September last year introduced ethnopolitical influence in the body that should normally be fully independent and unbiased in its work; the whole process of selecting Ombudspersons was compromised as parties abused it to reach strategic advantages;
- Houses of Peoples: Some participants stressed that the Houses of Peoples in state and entity parliaments had become bodies that pander to the ruling parties instead of taking care of the true vital national interests of ethnic groups;
- Directorate for European Integration: It was stressed that the leading body that should be taking care of technical details of BiH's EU accession process had been effectively and completely circumvented and sidelined by the

ruling parties and by the “system for the coordination of the process of EU integration in BiH”, which had been – after lengthy and difficult negotiations – adopted by the BiH Council of Ministers in September 2016. Instead of this directorate and other relevant bodies, the EU accession process was now dominated by the ruling parties and watered down by the “coordinating mechanism” in which all administrative levels (state, entity, cantonal, and district) had effective blocking powers. This needed special attention since BiH received candidate status in December 2022;

- Office of the High Representative (OHR): Several participants stressed that international actors who were critically important for the continued existence of BiH – especially the OHR – were also being increasingly challenged and undermined. Participants stated that one reason the OHR was being challenged might be the international military presence, which had diminished in recent years, meaning that no force was present in BiH any longer that would potentially enforce decisions by the High Representative.

Next, the working group discussed who was responsible for the problems mentioned above, i.e., who should be held at fault, and the list included all key local and international actors. However, there were significant differences in participants’ opinions over who was responsible for this situation, oftentimes corresponding to the different backgrounds of participants. The list of those who should be held at fault included:

- Local politicians;
- Local population for electing these politicians;
- Local civil society (including media, NGOs, and academia) for taking sides and participating in political games;
- OHR and the rest of the international community for failing to uphold the Dayton Peace Accord’s red lines. Some participants argued that the United States, the EU, and the OHR have had a flawed approach to BiH over the past few years when their main objective was to keep the peace and appease regional leaders. Several participants deemed the policies of the United States, the EU, and the OHR unlikely to constrain the politicians who want to destroy democracy;
- Serbia and Croatia for continuously meddling in BiH’s internal issues, for refusing to respect BiH’s sovereignty, and for failing/refusing to recognize that the interests of individual ethnic groups should not be viewed as a separate issue when considering a stable and unified BiH;
- The EU for failing/refusing to understand the situation in the Balkans and for failing to establish itself as a relevant political and economic player in the region;
- The United States for trying to take shortcuts and focusing on short-term solutions, turning everything “upside-down”.

During the working group discussion the following key points were outlined:

- Over the years, some institutions in BiH had been challenged more than others; however, the deepening crisis present in this country for several decades showed that BiH and its existence were being challenged;
- Local and international experts and decision-makers should focus not on particular institutions (which were being challenged left and right) but on the general situation and trends;
- The BiH crisis was not new. A new aspect, however, – dating from a few years back – was that regional and BiH's entity of Republika Srpska (RS) had been effectively, geopolitically “separated” from the rest of BiH because of the activities of Milorad Dodik as well as other internal and external actors;
- There was no common/joint vision about the future of BiH among local and international leaders;
- BiH was not a fully sovereign country but partially ruled by different actors, including the United States, the EU, OHR, Serbia, Croatia, etc.

The discussion about BiH's many problems and challenges raised the following key questions:

What is the main problem in BiH: blocked reforms or threatened peace?

Who could/should fix this/these problem(s): local actors or the international community?

Solutions and Recommendations

The working group discussed several concrete proposals on resolving some of the problems outlined in the problem analysis. However, in this regard, participants also displayed significant differences of opinions over what should be done and who should do it. Overall, participants stressed that it was important to decide whether progress or protection of the status quo was the goal of political efforts. If progress was the goal, many agreed that a more fundamental system reform would be necessary.

Most participants agreed that the main focus should be on strengthening the functionality of institutions and strengthening the democratic processes and mechanisms in BiH in general. As for concrete suggestions on achieving this, the working group displayed various opinions. The list of concrete (mostly individual) recommendations includes:

- A few participants proposed the abolishment of the House of Peoples in the Federation of BiH entity and the Council of Peoples in the RS entity. This would effectively bring BiH closer to the “one man one vote” system that some participants (mainly from the Federation of BiH) preferred to the current ethnically divided system;
- Introduction of electronic voting aimed at reducing/eliminating massive election fraud that has been present for years in BiH elections; in general, the integrity of the electoral process and its credibility had to be improved;

- Although the judiciary was the topic of another group at the conference, several participants of the working group also outlined the need for a thorough overhaul of BiH's judiciary which was critical for almost all sorts of problems in BiH, including the democratic functioning of its institutions. Some participants also stressed that this judiciary reform should establish full political and financial independence of judicial bodies (following the model introduced in the Brčko district). One proposal was the introduction of a specialized prosecutorial body, like USKOK (Office for the Suppression of Corruption and Organised Crime) in Croatia, focused on corruption;
- Several participants proposed that Germany should insist on the EU institutions (rather than individual EU member countries) imposing individual sanctions against Milorad Dodik and other separatists and politicians who were misusing consociational mechanisms of the political system in BiH to block reforms; others, however, underlined that sanctioning Dodik could also make him a hero within his constituency;
- Several members said that the mechanism for the protection of vital national interests should be redefined in state and entity institutions since the current one enabled political gridlock in the decision-making system;
- Several participants suggested that the EU clause used in the Croatian Constitution as a part of Croatia's EU accession process could serve as a role model for BiH's Constitution. They also proposed that the EU supported broad public debates in BiH about the EU accession process, its needs, and possible benefits;
- Concerning the previous point, some participants proposed the establishment of better standards of procedures and better mechanisms for evaluating EU reforms and their (positive and negative) consequences;
- Most participants underlined the need for a stronger and more engaged EU in BiH and stressed that the EU had to establish better carrots and better sticks when dealing with BiH/Balkan politicians;
- Some working group members also stressed that the EU and the United States should not be making any compromises with local politicians when it came to respecting the most basic human rights and liberties;
- Some participants also said the United States and EU should support democratic policies rather than individual politicians or political parties;
- Some suggested that the EU and United States should strongly push for adopting legislation that would better regulate media ownership and transparency of the financing of local political parties;
- Several participants argued that the brain drain of BiH citizens to the EU had to be stopped because it had considerably undermined the country, especially the capacity of its institutions to consider, let alone carry out, reforms. Talent schemes and other options should be considered to bring the "best and brightest" back home.

After outlining some of these concrete recommendations, working group members also briefly discussed how to make these changes and who should be responsible for them.

Some participants stressed that it was not realistic to expect local politicians to change the system which they created to keep themselves in power and argued, in agreement with many other participants, that the only one who could make positive changes in BiH was the International Community (meaning the United States, the EU, and OHR).

However, several other participants strongly disagreed. They thought the OHR was making things worse and stressed that BiH needed better and stronger local participation.

General Note

While the discussion in the working group was generally civil and friendly, it was also marked by significant differences among participants over the analysis of the problems, their roots, and main culprits, as well as recommendations on how to resolve them. The differences followed ethno-political lines as in addition to independent local and international experts and analysts – who made up a major part of this group – the group also included several persons who are directly linked with some of the ruling and opposition parties in BiH as well as with governments of neighboring states. Yet, it should be stressed that the participation of these political actors made the discussion more realistic and to the point.

As a result, the only near-unanimous point of agreement was that BiH faced the biggest crisis since the end of its 1992-95 war. The depth of the otherwise predominant differences of opinion was reflected in the fact that no joint conclusions could be reached, but rather a summary of individual opinions. This demarcation of views of some of the key local and international Balkan/BiH actors can be seen as both a cause and a consequence of BiH's deepening crisis.

Several participants stressed that BiH today faced completely conflicting narratives, and since the international community (i.e., the United States and the EU), which had been protecting the Dayton Agreement in the past, did not effectively protect it anymore, the breakup of BiH was once again becoming a possibility in the near future.

B) Rule of Law and Fight Against Corruption

Problem Analysis

The group discussion reflected several areas of interest, mainly related to ongoing and much-needed reforms in BiH's judiciary, anti-corruption, and organized crime sectors. There was a general agreement on the main root causes of enduring challenges within each "ecosystem", and all themes reflected on and discussed by participants were fairly well-known. Particularly themes associated with the appointments, the role, and the independence of prosecutors within the BiH judicial system, as well as the role of political elites in preserving the existing ethnopolitical clientelist networks were discussed.

The discussion in the working group identified both internal and external challenges which were directly correlated with a low level of implementation of rule of law (RoL) reforms. They also identified other challenges that directly contributed to systemic backsliding and hindrance of the overall reform process in gaining a foothold over time, inter alia:

- **State Capture in the Judiciary:** It was pointed out that challenges in the justice sector had been consistently growing for over a decade, many of which could relate to the attempts of political elites to control the judicial structure to avoid prosecution for corruption and abuse of office. Ethno-territorialized state-capture in the BiH judicial system(s) were most prevalently visible and nested in clientelist and nepotistic ethnocentric structures, which political elites had developed to prevent a stricter and more independent rule of law and independent police force application across the country and to prevent a competitive and independent public procurement. Procedures for appointing prosecutors and judges in the BiH system were identified as especially challenging, as they had become increasingly de-professionalized and politicized. It was argued that there were no strategic, systemic approaches to deal with this type of threat, which allowed political elites to perpetuate their role in the system. The situation was further aggravated by repeated power- and control-seizing threats of the RS entity authorities to call for a referendum on judicial reform, on rulings of the Constitutional Court of BiH, and the imposed decisions of the High Representative.
- **Limits within the Prosecution Structures and Workload/Workflows:** Prosecutors in BiH were understaffed and overburdened, it was pointed out, with an average of 60 new open cases per month. Their investigation was underfunded, and most of them lacked proper training in handling serious organized crime cases, which prolonged processes indefinitely and affected public trust and perceptions of judicial capacities to implement the rule of law reforms. Furthermore, prosecutors often lacked education, especially in foreign languages, which hindered cross-border cooperation. On top of this, the chain of command required at least three signatures for an indictment to be published. The internal supervision and oversight mechanisms were not aligned with public interests and often left unchecked which opened an additional gap in managing the independence versus accountability dilemma

for prosecutors. Only a handful of chief prosecutors could control and block the entire criminal justice system, and they were often open to outside influences and not accountable to anybody within the system. Furthermore, it was argued that the cooperation between law enforcement agencies and prosecutors on operational levels was weak and had not improved over time. Some discussants highlighted self-censorship of prosecutors, as a way to protect themselves and their families from possible repercussions, as one of the key obstacles in pursuing high-level criminal matters.

- **Shifting Strategic Approaches of the International Community in RoL Reforms:** Some interlocutors noted that the international community in BiH had not always been consistent in funding projects that served local needs. Rather they focused on those that (in)directly contributed to their own needs (for example, excessive funding and focus on migration and human trafficking that protected EU borders rather than on other types of organized crime, which were more embedded within BiH, or on the Western Balkans RoL systemic reforms). On top of this, withdrawing funds for projects as a form of sanctions for non-compliance with the external demands by certain political elites in BiH was also perceived as counterproductive. It could lead to an increased presence and role of other competing international powers and further polarize the efforts of the international community in streamlining and managing the development affairs in BiH. Some participants also mentioned practices of irregularities present in development projects and external state-building. While “internationals” found their understanding and use of informality to be ethically neutral and professional in the local BiH contexts, more and more “locals” perceived no difference between foreign and local concepts and practices, which only deepened public mistrust in the reform processes. Some discussants argued that the “internationals” had made themselves part of the problem in RoL reforms by emphasizing strong language and impractical solutions or insufficient empowerment of local champions of democracy.

Solutions and Recommendations

The group participants deliberated on and put forward a set of recommendations to be further considered and developed to ensure the basic requirements in carrying out the necessary RoL reforms in BiH. While not all could agree on how to prioritize the proposed recommendations, most participants fully agreed on the need to initiate them as soon as possible. In no particular order, key recommendations developed in the working group were the following:

- **Articulate a Strategic Approach for the Fight against Corruption:** Some participants cited the need to articulate a strategic framework for the fight against corruption, given that the country had no strategic approach to fight corruption, as the last anti-corruption strategy expired in 2019. An anti-corruption strategy should be communicated coherently and comprehensively, adopting a whole-of-government and whole-of-society approach to fighting corruption while focusing on the root causes. The focus should be on the key manifestations of the state capture phenomenon, such as clientelistic/

patronage networks (distribution of public jobs and contracts), political control over the judiciary and law enforcement agencies, how political parties operate (lack of internal party democracy), etc. One idea, also discussed in this context, was to limit the term limits of mayors: this could help fight corruption and patronage systems at the lower levels. Fighting petty corruption could increase the trust among citizens in institutions and the rule of law. On the other hand, some participants voiced the opinion that fighting high-level corruption should be the top priority.

- **Initiate Vetting Procedures of Public Prosecutors at all Levels:** It was proposed to re-evaluate judges and prosecutors designed to “purify” the justice system of corruption and political influence. The process had to be initiated to significantly reduce all forms and types of corruption, restore public trust in the judicial system, and increase its integrity, independence, and efficiency. The re-evaluation process had to include verification of property, verification of past involvement in political and other types of non-judicial conduct, and assessment of professional skills. Some participants suggested that investigations should target individual responsibility, avoid duplication of roles of vetting bodies, and evade extensive incorporation of less relevant circumstances that could lead to disciplinary action.
- **Jumpstart Fast-track to Cooperation with Eurojust:** In 2021, the Council of the European Union granted permission to the EU Commission to open negotiations for a cooperation agreement with Eurojust with a large number of so-called third countries, including BiH. According to some participants, the decision clearly stated that cooperation with the Hague-based judicial agency enabled prosecutors and judges from the European Union and beyond to work side by side to effectively facilitate and coordinate investigations and prosecutions of terrorism and serious cross-border crime. Eurojust provided prosecutors and judges access to jurisdictions in almost 80 countries worldwide. Besides Kosovo, BiH is the only country in the Western Balkans region that had yet to agree to Eurojust. The primary recommendation was to revitalize the work of the Council of Ministers (CoM) working team appointed to follow developments related to the cooperation agreement with Eurojust (which has not convened a meeting since late 2019) and to get the negotiation procedures started as soon as possible without delays.
- **Enhance Operational Cooperation of BiH Law Enforcement Agencies (LEAs) and Police in Europol’s IMPACT Platform and within Joint Investigation Teams:** Some participants explained that BiH had recently established a single National Contact Point (NCP) for all BiH law enforcement authorities with Europol, connecting them to the Europol Secure Information Exchange Network Application system. The BiH NCP’s work, coordinating the communication between relevant BiH law enforcement authorities and Europol, would be complemented by the deployment of a BiH Liaison Officer to the agency in The Hague. The BiH Liaison Officer would join the large community of almost 300 Liaison Officers, representing more than 45 countries already hosted at Europol’s headquarters. This opportunity had to be further explored and managed so that BiH LEAs took part in more operational actions within

Europol's IMPACT platform to tackle both international and domestic crimes. Embedding the BiH LEAs in such international platforms would put additional pressure on the local agencies to be more efficient in channeling domestic criminal cases. BiH LEAs would score well on participating in other countries' cases and would initiate more of their investigations within international joint investigation teams.

- **Increase Mentorship of Foreign Prosecutors in the BiH Judicial System:** While several well-funded projects fostered the direct and embedded presence of foreign prosecutors in various prosecution offices in BiH in advisory and mentoring roles, according to several working group participants more such programs should exist to enable the systemic fight against organized criminal networks and to eliminate gaps in practice that relate to lack of adequate judicial and prosecutorial training in managing the cases. Also, the participation of BiH prosecutors, judges, and civil servants in international training programs should be increased. Another suggestion was the idea of strengthening meritocracy in the judicial system by introducing a work scoring point system for training.
- **Improving Interoperability of the LEAs and Judicial Authorities in BiH:** Lack of interoperability in utilizing and accessing technical solutions, systems, and tools was a widely recognized challenge in the law enforcement and policing sectors in Bosnia and Herzegovina, it was argued. More initiatives were needed to develop a commitment to openness in securing horizontal cooperation among different LEAs in the RoL system and their interoperability. This primarily related to guaranteeing efficient communication and data exchange in preventing, detecting, and investigating organized crime. Local LEAs needed to develop a road map for the best possible interconnection of national to international databases, to enhance their policing capabilities and to ensure that more efficient communication and exchange lead to tangible improvements for the public and also in the EU accession process.
- **Increasing the Capacity of Border Police and Border Security Authorities:** According to some participants, the border guards and police officers employed at the Border Police of BiH were heavily understaffed and underpaid. Currently, they covered 15 km of the border each, which made securing the minimum required protection for incoming and outgoing border points virtually impossible. The Border Police of BiH currently lacked over 500 border guards at all border crossings, and the situation had been acutely ignored for the past ten years. The BiH authorities needed to effectively budget for increases and operationalize the work of the Border Police of BiH in line with international and Frontex standards.
- **Ensuring that EU and International Legislative Agreements are Simultaneously Implemented in BiH:** BiH authorities needed to urgently adopt an EU acquis standardized application program for all jurisdiction levels in BiH so that the reform laws adopted as a part of the SAA and other EU integration process requirements were consistently and universally applied in all aspects of BiH with no exceptions. While they would be adopted by different parlia-

ments, at state, entity, or cantonal levels, and operating within other constitutional competencies, keeping the texts of the adopted and aligned reform laws identical was essential, it was underlined.

- **Need for Establishing the Supreme Court of BiH:** It was posited that equality before the law, equal protection of property, and the protection of human rights and resources under the criminal laws in BiH were not fully applicable across the country. Confirming the case law and harmonizing the RoL application practices with the binding legal positions of one institution would offer some remedy to the aforementioned issues. Therefore, establishing the BiH Supreme Court could help synchronize the RoL reform implementation in criminal matters by rendering somewhat comparable sanctions for similar offenses, which had not been the case in the court and prosecutorial practice to date, according to several participants.

C) Media Freedom and Fundamental Rights

Problem Analysis

According to participants, challenges related to the media and fundamental rights in BiH could not be viewed separately from the context in which these challenges were created, maintained, and — very worryingly — progressing. An increase in ethno-nationalist rhetoric, hate speech, and division characterized the environment in BiH. Deeply rooted traditional attitudes shaped the position of women, LGBTIQ+ persons, minorities, and young people, and created an unfavorable environment for equal treatment and non-discrimination. This directly affected the level of freedom and limited the quality of democracy in its complete sense. Bearing in mind that BiH was facing a democratic backslide, the consequences were felt by the most exposed groups – the media, activists, and the civil sector.

The environment in which the media and civil society currently found themselves was shaped by different factors: On the one hand, the recent introduction of retrograde legal solutions that limited freedom of speech and opinion. Earlier this year, the Government of RS started the process of adopting changes to the Criminal Code of RS, where libel/slander would be re-introduced as a criminal offence, with heavy fines and the threat of imprisonment. Media professionals, activists, and citizens feared that these amendments will limit freedom of speech. In their opinion, politicians, as public officeholders, are subject to greater scrutiny from the public and should therefore tolerate a higher level of criticism.

Furthermore, civil society faced general exclusion from the reform process and a lack of institutional transparency. In addition to these circumstances created by the official government in BiH and the entities, it was necessary to emphasize that the systemic targeting and exclusion of the civil sector had already created a hostile social environment for both the media and activists. Thus, it was pointed out, that they witnessed frequent threats, labeling, and attacks, while at the same time, protection was mostly absent. This kind of environment inevitably lead to a shrinking of the space for free voices and actions of critics of the government, as well as actors who were the only ones working on certain issues (such as dealing with the past, discrimination, inclusive education, etc.). At the same time, the watchdog role of civil society organizations (CSO) was abolished both formally and in practice, and censorship is introduced in a very perfidious way.

Many participants emphasized that the shrinking space was also reflected in the corrupt policies of the institutional funding of the civil sector as another way to stifle critical voices. Additionally, attacks and targeting media and CSOs were normalized in the public discourse. Continuous impunity often lead to self-censorship, fear, and inability to voice complaints and access justice. The safety of media workers and activists had been compromised, and there was no sign of will or readiness to solve this problem. On the contrary, it was only deepened by recent developments in RS, in particular.

The analyzed problems, therefore, could be sorted into three main groups:

1. Media Regulation and Digital Landscape

- Lack of proper oversight of online media: While legislation was available, proper oversight and harmonization of legislation with contemporary platforms was lacking, the participants argued. This allowed for quasi-portals to pop up without ever being registered properly;
- Lack of implementation of existing legal frameworks, especially regarding hate speech;
- The global trend of infotainment and “de-intellectualization” of media driven by profit;
- Difficulty in distinguishing real reliable media from quasi-portals and pure infotainment platforms without journalistic standards;
- Low level of media literacy accompanied by low general literacy of citizens;
- The strong influence of political parties on media, particularly during the electoral period.

2. Critical Position of Civil Society

- According to participants, governments targeted civil society, which was now directly affected by the proposal of a “Special Registry and Publicity of the Work of Non-Profit Organisation”, dubbed the “Foreign Agents Law” in RS. This controversial draft law approved by the government of RS requires non-profit organizations, funded from abroad and active in BiH’s Serb entity, to register, to report on their work and to submit their “financial flows” to the Justice Ministry of RS. Participants agreed that this law would limit the rights to freedom of association and freedom of expression impacting the civil sector in BiH in general. It was also criticized by the Venice Commission and the OSCE;
- There was general hostility towards critical voices and a lack of understanding of the purpose of CSOs within society, paired with a perception of CSOs as foreign agents;
- Lack of systematic support and the need to change the politics of “donor-favored” programs: Public funding from the state and entities was politically affiliated and often directed to funding pro-government CSOs, created with the direct involvement of politically exposed persons or with their consent. Also, donor dependency led CSOs to become specialized in “donor-favored” programs, shifting their focus to accommodate the donors’ agenda instead of society’s needs;
- The lack of a harmonized legal framework, in general, affected the work of CSOs;
- Need for a strategic approach to CSOs and questioning if the current approach of CSOs reflects the needs/wants especially of the younger generations;

- Exclusion of CSOs from the reform processes, legislative developments, and the EU accession processes. Also, the lack of meaningful consultation processes and substantial involvement of CSOs.

3. Threats to Freedom of Assembly and LGBTIQ+ People

- Worrying developments concerning LGBTIQ+ rights. The government showed an alarming lack of initiative to support the LGBTIQ+ community and to help improve the human rights situation in the country. There was limited latitude for activism and safe spaces (this is the case particularly in RS due to recent events in Banja Luka, where activists were assaulted hours after the police banned an LGBTIQ+ event, citing security concerns);
- Work on human rights and minority issues was difficult since it goes beyond ethnic categories. There was a continuous governmental marginalization of these topics;
- Lack of access to justice and complaints for activists and CSOs in general;
- Entity-sponsored homophobia was mirrored in an open promotion of homophobic notions by politicians in RS. Namely, an anti-LGBTIQ+ campaign was ongoing in the RS, which included calling for violence; justifying and contributing (retroactively) to the attack which happened in Banja Luka; institutional refusal to respond to homophobic violence in the public space; and announcements made by RS President, Milorad Dodik, that a law which would prohibit members of the LGBTIQ+ community from entering educational institutions will be adopted in the entity.

Solutions and Recommendations

The working group discussion identified as the most pressing issue the “Foreign Agents Law”. If this draft law was adopted, this would eliminate free media and CSOs, according to the participants. This was one of the conclusions highlighting the current problem with legislative interventions in RS. If adopted, CSOs funded by international donors would be under particular scrutiny and subject to repetitive and non-announced inspections, which would heavily impede their work. Further, for every program to be implemented on the territory of RS, CSOs would have to seek approval by the Ministry of Justice (or other ministries in charge of the particular sector), which would further diminish the independence of civil society and would allow for direct control by the government. Stopping the adoption of this law was of utmost importance. Both media and CSOs raised concerns, advocated against this law, submitted opinions, and contacted relevant international actors – and by that, their possibility of influencing the adoption of laws was exhausted. Therefore, the international community had to use its influence to stop the adoption of both laws. The United States and the EU had sharply criticized the proposal, with U.S. officials calling it repressive, anti-democratic legislation. However, it was still in the procedure, and if adopted, it would cause irreparable damage to democracy, especially freedom of association and expression.

The six most important issues that were identified during the problem analysis were:

- Hostile atmosphere towards media and civil society;
- Inadequate prevention/prosecution of assaults on civil society and media representatives;
- Lack of transparency in funding CSOs and media;
- Need for more systematic involvement of youth in CSOs;
- Low level of media literacy among citizens;
- Lack of substantially involving CSOs in political decision-making processes.

One important cross-cutting issue underlined by participants was addressing the hostile environment for media and CSOs, keeping in mind the difficult position of human rights defenders. The polarized political climate, constant verbal attacks by high-level politicians against media workers, and nationalist rhetoric have created a hostile environment for media freedom, which was also highlighted in the European Commission Report on BiH 2022.

Analyzing the issues discussed, it was logical to jointly approach one set of challenges both media and activists faced because of their work as human rights defenders. For that reason, recommendations were organized into three categories related to human rights defenders, media, and civil society regarding fundamental rights. Each recommendation also contains a concrete activity in response to the question of “how” to implement the recommendation and to whom it is directed (international or domestic institutions).

A) Human Rights Defenders

- Enhance law enforcement. A key example is hate speech regulation in the Criminal Code of BiH: despite the open denial of genocide and war crimes, and instances of glorification of war criminals, no prosecution has taken place, yet. Ensuring timely, strong, and improved law enforcement was essential, the participants underlined. Law enforcement agencies required targeted training to enhance their capabilities (international and local actors)
- Safeguard human rights defenders and bolster the role of journalists. Ensure that adequate judicial actions were taken in response to threats and acts of violence against journalists, media personnel, and activists (international and local actors);
- Provide strategic long-term funding for professional CSOs. This was essential to ensure their sustainability, capacity building, innovation, collaboration, policy influence, stability, and independence (international actors);
- Develop education on human rights and EU values. This had to be contextualized and applicable. It should be done through the reform of curricula on human rights in formal education (BiH government);
- Prioritize and allocate funding towards youth-focused initiatives in BiH to prevent the potential radicalization of youth, emphasizing the importance of collaboration with CSOs (international actors);

B) Media

- Significantly strengthen regulatory bodies through building capacities of the Press Council, a self-regulatory body (European Commission and Council of Europe);
- Structurally reform the media regulations for online media. Structural reforms needed to be implemented to address online media regulations. It was necessary to legally adapt to the evolving media landscape and create a legal framework that would endorse and promote responsible journalism, combat misinformation, protect user privacy, foster media pluralism, and balance freedom of expression and responsibility in the digital age (BiH government);
- Increase media literacy and the involvement of young people. This had to be systematically organized and supported both by formal and non-formal education (BiH government);
- Adopt legislation on media ownership transparency and criteria for public advertising (BiH government);

C) CSOs

- Render governmental funding transparent and merit-based. This referred to improving the existing criteria for funding, including public calls for funding with transparent procedures and evaluation. Also, proper monitoring for allocated funds was needed since these organizations are spending public money (BiH government);
- Include CSOs substantially and meaningfully in the reform processes. There were simple ways of doing so through regular consultation meetings, a database of verified CSOs by areas of expertise, and the inclusion of CSOs in working groups for developing laws (BiH government).

D) Economic Development

Problem Analysis

During the working group discussion it was highlighted that GDP growth in BiH was limited and insufficient to get closer to the EU average economy. The following reasons for limited economic progress were emphasized:

- Political causes: Corruption and a poor system of providing social services which created a negative environment for the life and work of young people incentivizing them to leave the country; a very complex and difficult process of making political decisions at the state level, especially in the Parliament of BiH (House of Peoples);
- Several economic factors: the lack of implementation of the key economic reforms, especially the reform of the tax system, thereby reducing opportunities for salary increases and new employment; a large number of inactive persons in the labor market (according to one participant, mostly women with a lower level of education); double-digit inflation with its peak in 2022; and the unwillingness of the political elite to reduce the tax burden on energy and food.

According to participants, these points also created several future challenges, including:

- The lack of workers in BiH as the biggest future challenge;
- The aging of the population due to the emigration of the young, with a rapidly growing burden on budgets, causing an increasing budget deficit;
- Tedious administrative procedures for establishing a company that limited the level of investments from abroad, especially from the EU, which was a very important economic partner for BiH, unlike China and Russia;
- Control over the work of 550 public enterprises by political parties resulting in a debt of over 6 billion EUR, including tax debt;
- Increased needs of state entities to borrow money on the international market with very unfavorable financing conditions, especially in the case of RS.

In addition to these inputs, two more characteristics of the BiH economy were mentioned:

- The considerable presence of the gray economy, especially concerning the labor market (it is estimated that around 80,000 workers were in the shadow economy zone, i.e., around 10 percent of the workforce), with its negative effects. Many employers only paid a part of the wages regularly, while the rest was paid out of profits and unofficially because taxes and contributions on wages were too high. Also, parts of the officially unemployed persons (registered in the records of the employment office to use the health insurance benefit) were, in fact, employed;
- On the other hand, the positive impact of remittances from abroad (around 10 percent of GDP) on the domestic economy, especially because they partially offset low pensions and are spent mainly on consumption.

The main part of the discussion regarding the problem analysis was focused on describing the “vicious cycle” with public enterprises as the main drivers of corruption:

1. The management of public enterprises was appointed and controlled by political parties;
2. They concluded non-transparent and unfavorable contracts with private companies to extract money, which they then gave to the headquarters of their political parties;
3. Political parties used that money to finance campaigns and buy elections that kept them in power.

Corruption was increasing in BiH, with such dominant patterns of behavior involving an increasing number of public and private companies and leading to irresponsible spending of taxpayers' money in the country.

On the other hand, it was emphasized that export-oriented companies, especially those participating in value chains connected to the EU market, represented the best part of the BiH economy. They were mostly left to their own devices, without appropriate support in the form of targeted policies, instruments, and meso-organizations that would help them overcome market failures and networking failures which were characteristic of small and medium-sized enterprises (SME) in a transition economy like BiH. Such support was partially provided through international projects and organizations (e.g., for twin transition, the introduction of a dual education system) but in insufficient scope and questionable sustainability.

The digitalization of public services as a precondition for more time-efficient administrative processes was still slow and without real effects on improving the business environment in the country. Payments by card were costly, especially in rural areas (4-6 percent charges by the banks), making business operations for SMEs more difficult and deterring potential investors.

State aid instruments were still underdeveloped, often misused, and more focused on helping public enterprises cope with losses than on supporting export-oriented and innovative private SMEs. It was argued in the working group that tax reform was urgently necessary. The tax system should be tailored to have a low burden on lower incomes. There was a need for a simpler and fair taxation system to increase wages and pension contributions. Lack of political will often hindered, slowed, or even prevented economic development. For instance, BiH was the only signatory party that did not ratify the mobility agreement of the Berlin Process.

Solutions and Recommendations

In the working group the following suggestions to address the problems outlined above were developed:

- Accelerate tax reform to reduce the tax burden on labor, with the expected positive impact on the labor market and reduction of the gray economy;
- Accelerate digitizing public services at all levels, including the local level. This process should be synchronized with the digitalization of the private sector;
- Find a way to break the “vicious cycle” of corruption in which public enterprises were the main driver. One way could be a strong support to transition to corporate governance instead of the current model of non-transparent political management, with the risk that this concept and effort may be blurred by domestic stakeholders, as has already happened with similar attempts. The other way could be selective privatization of those companies, considering the lessons learned from the previous privatization of state and social enterprises after the war in BiH, which mostly led to bad effects and unintended consequences;
- Significantly strengthen the meso-level to support private SMEs, especially those that were export-oriented, by creating targeted policies and instruments to overcome market and networking failures as well as to accelerate and facilitate twin transition and solve the growing problem of labor shortage (by the dual education system and Technical and Vocational Education and Training). When strengthening the meso-level, include, to a much greater extent, domestic civil society organizations specialized in economic development as partners in the design and implementation of international projects. Similarly, include domestic universities and institutes. In this way, the support would be made more effective and sustainable;
- Instead of insisting on one-size-fits-all solutions in the process of accession of BiH to the EU (one law, one strategy, one institution), in cases where this was not possible due to the complex constitutional structure of the country, it was better to promote the harmonization of laws, strategies, and policies between the entities, based primarily on the harmonization of entity solutions with appropriate EU standards and requirements in that specific area. In this way, internal harmonization was reached indirectly through external harmonization. A good example was the current harmonization of laws, strategies, and policies in the field of SME development based on the Small Business Act as a relevant EU framework;
- The Berlin Process should be much more ambitious in delivering things and should do more on branding this initiative, according to the participants;
- When applying the “carrot and stick” approach, synchronization of international actors on policies towards BiH was necessary to decrease inefficiencies and make measures more effective (e.g., the United States and EU should align sanctions to decrease possibilities of circumventing the measures). Only if sanctions were effectively and dutifully enforced, they could have the intended positive impact on the political landscape in BiH. The same applied

to conditioning and providing financial support to authorities and political and economic decision-makers (e.g., IMF funds should be conditioned not by new promises from politicians and governments but by fulfilling previously given promises and priorities from the EU accession agenda);

- Regarding the design and implementation of future projects in the area of economic development, due to the complexity and specificity of the context, the following approach was suggested: small-scale probes (safe-to-fail), piloting (to stabilize hypotheses what works, how, and why) and then scaling up practices proven to work in such contexts. This would change the currently ineffective approach of transferring best and good practices from the EU to a context that is different in many respects;
- The role and influence of civil society organizations in the economic development of the country should be strengthened, especially in the following areas:
 - Advocating for economic and related political changes;
 - Promoting good local/regional practices and successful examples of changes;
 - Facilitating networking and cooperation of the public, private, and academic sectors;
 - Designing and implementing targeted policies and support instruments for SMEs and vulnerable groups.

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