

## TOWARDS INCLUSIVE POLICY-MAKING IN BOSNIA AND HERZEGOVINA: Examining the Triangle of Relations



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## Examining the Triangle of Relations

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*Think tank Populari is a non-governmental, non-partisan, non-profit organization founded in 2007 in BiH. Populari focuses its analysis primarily on political/economic affairs, with a strong convergence towards social trends research. Populari was created in response to the shortage of good quality, comprehensible and original research products, as most studies on Bosnia and Herzegovina are produced outside of the country and very often do not match realities on the ground.*

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## Introduction

Democracy is increasingly becoming understood in a participatory manner as a way of life, rather than a mere form of representation, government or governance<sup>1</sup>. This conception goes hand in hand with a growing support within the international community for a continuous civil society–government dialogue and cooperation. In this sense, civil society’s participation in policy-making goes beyond citizens’ exercise of passive and active voting rights. Rather, it assumes a more frequent communication and interaction between the state and its citizens for the benefit of increased legitimacy, transparency and accountability of the government, and in turn a strong democracy representative of its citizens’ interests. A proactive and vibrant civil society is thus vital for the development of a democratic state.

A very concrete manifestation of an empirical shift towards participatory democracy is the 2007 Lisbon Treaty, which in the Provisions on Democratic Principles unequivocally emphasises the need for civil society to engage in political dialogue with national (and European) institutions.<sup>2</sup> In particular, local communities have been recognised as the level at which citizens can most directly and most efficiently participate in the conduct of public affairs of their country.<sup>3</sup>

In Bosnia and Herzegovina (BiH) the channels of communication between the state and the citizens have for the last 20 years been largely underutilised. It is a country where apathy, especially in the political sense, is high among citizens, where voter turnout has been falling sharply since the 1998 elections,<sup>4</sup> and where only 18 percent of citizens have trust in the voting system and their elected representatives.<sup>5</sup> Their influence on policy-making is thus also questionable. However, since June 2013, BiH has in a relatively short period of time witnessed two waves of civic and political engagement. The initial protest movement eventually evolved into the establishment of informal consultative institutions, called *plenums* or citizens’ assemblies. Unprecedented in BiH’s post-war years these developments are considered a “*bottom-up transformation*”<sup>6</sup> and “*an indicator of citizens’ awareness developing towards expressing the desire for dialogue.*”<sup>7</sup>

The potential of social protests and citizens’ clear calls for the improvement of the socio-economic situation in the country has also been recognised as a window of opportunity by actors supporting the democratisation processes in BiH. The

<sup>1</sup> This understanding goes far back in the first half of 20th century. See, for instance, Dewey, J. 1937. “Democracy and Educational Administration,” *School and Society*, 45: 457–67.

<sup>2</sup> European Union, *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*, 13 December 2007, 2007/C 306/01.

<sup>3</sup> Council of Europe, *European Charter of Local Self-Government*, adopted on 15 October 1985 in Strasbourg, entered into force 1 September 1988.

<sup>4</sup> While in the 1998 parliamentary and presidential elections the voter turnout stood at around 70%, by the last election in 2010 this percentage dropped to approximately 56%. Last elections were in Oct. 2014. The turnout was even lower – only 54.14%.

<sup>5</sup> Analitika, Fakti: Rezultati ankete – građani ne vjeruju institucijama vlasti i političkim partijama u BiH (Factsheet: Poll Results – Citizens do not trust governmental institutions and political parties), 13 November 2013.

<sup>6</sup> Nigel Osborne in an interview with Elvira M. Jukić for *BalkanInsight*, “Bosnian Plenums Offer a ‘New Model of Democracy’”, 8 May 2014.

<sup>7</sup> Populari interview with Džemal Hodžić, Programme Manager for Civil Society at the EU Delegation to BiH, Sarajevo, 11 August 2014.

conclusions adopted by the Foreign Affairs Council of the European Union (EU) on 14 April 2014 thus voiced a commitment to the inclusion of the civil society in decision-making processes by

*“strongly urg[ing] the BiH institutions and elected leaders to reach out to the people, engage with civil society and provide responsible and immediate answers to their legitimate concerns.”<sup>8</sup>*

Similar words, however, have without much effect been repeated several times before by both international actors in BiH, as well as by local political players, which mostly at least on a rhetorical level concur that EU integration of BiH should be an inclusive process bringing together all spheres of the society.<sup>9</sup>

This policy brief seeks to untangle and contribute towards the improvement of the current state of play in terms of civil society–government cooperation and dialogue in BiH. It first provides a brief overview of the complex civil society context in BiH by looking at the extent to which the civil society in BiH is a genuine and legitimate actor in this country. Then, it goes on to analyse existing legal and institutional frameworks that (should) provide the basis for citizens’ political participation, and look at how these are used by the citizens themselves. By bringing forward the gaps at both the lowest, i.e. local, and the highest, i.e. state, level, it will pave way for improved and meaningful models of civil society–government dialogue.

## The Reality of Civil Society in BiH

The first relevant indicator of the level of development of the civil society in BiH is the fact that there is no exact data on the number or the structure of the ‘organised part’ of civil society, the civil society organisations (CSOs). The most widely accepted data currently suggests that more than 12,000 CSOs are registered in the country, with assessments of probably less than half of them active and functioning.<sup>10</sup> In addition to the legislative framework relating to civil society, much of this problematic situation goes back to the war and immediate post-war recovery period when civil society building was the focus of donor support in the country, and the mushrooming of CSOs ensued. Partly also due to the existence of a different type of civil society prior to the war,<sup>11</sup> more than 90 percent of existing CSOs were registered after 1991.<sup>12</sup>

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<sup>8</sup> Council of the European Union, *Conclusions on Bosnia and Herzegovina*, Foreign Affairs Council meeting, Luxembourg, 14 April 2014.

<sup>9</sup> This is a statement common in political speeches in the parliament or prior to elections, and has also been emphasised in Popolari’s interview with Željana Zovko, Advisor to the Chair of the BiH Council of Ministers.

<sup>10</sup> Civil Society Promotion Centre, *Monitoring Matrix on Enabling Environment for Civil Society Development in BiH*, Sarajevo 2013.

<sup>11</sup> During Communist rule in Yugoslavia, and thus also in BiH, independent religious, educational, humanitarian and cultural organisations enjoyed limited freedom. Instead, linked to the party or the *mjesna zajednica*, various types (e.g. sports, professional, youth) of associations and more or less formal groups operated. A large portion of the population was engaged in some sort of special interest association, which were – unlike the largely professionalised non-governmental organisations – mostly amateur and based on the principle of volunteering.

<sup>12</sup> *Ibid.*

Quantity, as the saying goes, is not a guarantee of quality. Osman Topčagić, Head of Department for the EU in the BiH Ministry of Foreign Affairs, points this out:

*“Among BiH CSOs it is difficult finding a reliable non-governmental partner in certain sectors. [...] There are only a small number of those who can serve as a corrective to the government with their high quality capacities.”<sup>13</sup>*

The absence of qualified civil society interlocutors is an almost omnipresent conviction within BiH governmental institutions; nevertheless, BiH government has under the international influence also gradually started to demonstrate support for dialogue with civil society and its inclusion in policy processes, at least on a rhetorical level. But CSOs are in this set-up expected to also take up of the role of the messenger in communicating between the citizens and the state level government, which is no easy task.

Against this backdrop, it comes as no surprise that the European Commission’s 2014 Progress Report,<sup>14</sup> similar to those preceding it, finds civil society engagement and civil society–government cooperation to be insufficient. The 2013 report explicitly pointed out substantial differences at two different levels:

*“Cooperation [of the government] with civil society at the local level has improved. At the state, entity and cantonal levels, cooperation remains weak.”<sup>15</sup>*

The above principally means that participation in policy-making processes in BiH should be examined at the local and state levels which have to ensure effective communication with each other. This paper introduces the untangling of a complex triangular relationship, which allows citizens to communicate with the local level government and CSOs – as the formalised part of the civil society – with the state level government. Hence, the following links are explained:

- Cooperation between CSOs and the state level government; it is the level at which CSOs have already on paper been recognised as a relevant partner standing for citizens’ interests in relation to the government, while in practice this form of cooperation is virtually non-existent.
- Communication between citizens and CSOs as the organised part of the civil society that should advocate for the interests of the citizens, but in BiH so far does not enjoy trust from the general public.
- Interaction between citizens and local level government as the level at which citizens can most directly and effectively participate in political affairs.

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<sup>13</sup> Populari interview with Osman Topčagić, Head of Department for the EU in the BiH Ministry of Foreign Affairs, Sarajevo, 13 January 2014.

<sup>14</sup> European Commission, Bosnia and Herzegovina Progress Report 2014, Brussels, 8 October 2014.

<sup>15</sup> European Commission, Bosnia and Herzegovina Progress Report 2013, Brussels, 16 October 2013, p.11.

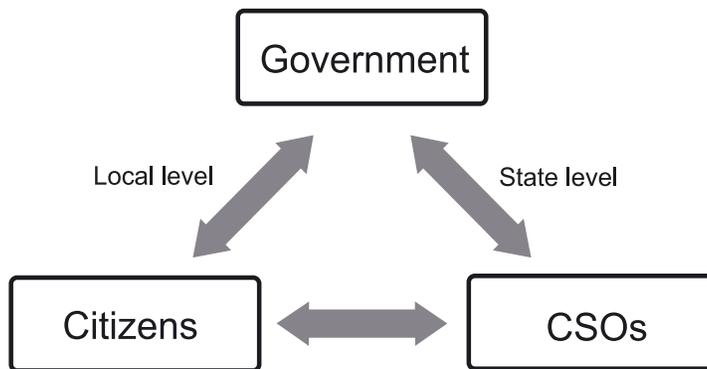


Chart 1: Triangular relationship: citizens–CSOs–government institutions

## Inclusive Policy Dialogue at the State Level?

Prepared in partnership and after comprehensive consultations with the CSOs, the 2007 ‘Agreement on Cooperation between the Council of Ministers and the Non-Governmental Sector in BiH’ was initially welcomed as a proof of a common vision of the government and the civil society. The BiH Council of Ministers committed itself to including CSOs in the policy-making processes and supporting their work financially, while the CSOs obliged themselves to function in accordance with the BiH legal system and to establish quality standards in their work. The agreement was concluded in the form of a memorandum, and is thus not a legally binding document; nonetheless, it encouragingly states that the work of CSOs “will assume a central place in the mission of [the] Council of Ministers over the next few years.”<sup>16</sup>

Yet, while a number of cantons and municipalities took over the agreement, its implementation at the state level – for instance the establishment of the agreed ‘Commission for the Non-Governmental Sector’ – was soon stalled:

*“The Ministry of Finance found that there is no need for having another body dealing with CSOs at the state level as it would duplicate the work, authority and competencies of the Ministry of Justice’s Sector for civil society.”<sup>17</sup>*

The Sector that was once known as the Sector for Civil Society is led by an experienced lawyer who is nearing her retirement age, Sadeta Škaljić. She emphasises that the Sector is not positioned to be the governmental focal point for dialogue with the civil society. Even though the employees might have the knowledge to do their work competently, they are not in a position to take any decisions. Sadeta is open in her lamenting over the situation:

<sup>16</sup> Council of Ministers of BiH, Agreement on Cooperation between the Council of Ministers of BiH and the Non-Governmental Sector in BiH, Sarajevo, April 2007.

<sup>17</sup> Popolari interview with Džemal Hodžić, Programme Manager for Civil Society at the EU Delegation to BiH, Sarajevo, 11 August 2014.

*“We now actually do not have contact with CSOs or citizens. We do not have a say in anything. The name of our sector has been changed from the Sector for Civil Society into the Sector for Legal Aid.”<sup>18</sup>*

It was at the end of 2013, as a part of the reorganisation of the Ministry of Justice, that the Sector was renamed and brought together a rather unusual combination of divisions: the Division for Legal Aid and the Division for Criminal Defence, each of them employing four persons. Following another reorganisation about a year later, the name of the Division for Legal Aid was changed once more – this time into “Division for Legal Aid to the Civil Society”, thus making the Division’s mission clearer. This Division, as a part of the Sector, is in charge of “*enabling and encouraging NGO sector participation in the processes of consultations in writing of laws and other regulations,*”<sup>19</sup> and was with the latest reshuffling also moved to a new, less central location outside the main governmental building. Whether this is a sign of the government pushing those who are supposed to work with the CSOs away or a positive sign of making the sector more accessible to the civil society, it is not entirely clear; yet, it is certain that given the complex composition of the CSO sector in BiH, little meaningful work can be carried out by the Division’s four members of staff.

Nonetheless, their Ministry – the Ministry of Justice – is one of the rare institutions implementing the 2006 Rules of Consultations in Drafting of the Legal Regulations in BiH.<sup>20</sup> The Rules have been adopted on the Ministry of Justice’s proposal by the Council of Ministers, and established a minimum framework for cooperation between CSOs and state level policy makers, which is the first time this type of cooperation between these two actors has become institutionalised in BiH. Relevant BiH institutions are through these Rules obliged to publish the text of a planned legal regulation online or in the media, and ensure the possibility of commenting and receiving other forms of feedback on the proposal from both the general public, and especially CSOs on their consultation lists.

Again, while on paper generally considered a progressive step in the right direction, the value of these Rules on the ground remains highly questionable; the Ministry of Justice that proposed them is in fact the only state-level ministry to have adopted the necessary by-law or rule book determining the manner in which the Rules are carried out. None of the other eight state-level ministries has done so to date. As the March 2014 report on the implementation of the Rules<sup>21</sup> emphasises, the implementation of them remains very much limited as the awareness of these consultations taking place is very low – even among the NGO sector.

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<sup>18</sup> Populari interview with Sadeta Škaljić, Assistant Minister at the Sector for Legal Aid of the Ministry of Justice of BiH, Sarajevo, 5 August 2014.

<sup>19</sup> Website of the Ministry of Justice of BiH, Organisation and Contacts – Sector for Legal Aid – Responsibilites.

<sup>20</sup> Ministry of Justice of BiH, Rules of Consultations in Legislative Drafting in the Institutions of BiH, 2006.

<sup>21</sup> Ministry of Justice of BiH, Report on the Implementation of Rules of Consultations in Legislative Drafting in the Institutions of BiH, March 2014, p. 9.

*“Based on previous experience in implementing the Rules of Consultations it seems that the entire process, agreed and adopted by the local institutions, still cannot be independently led by them and that intervention and engagement of international institutions or donors in order to drive the process is necessary.”<sup>22</sup>*

Making matters worse, most of the state-level ministries within almost eight years did not even undertake the very first step towards implementation, i.e. naming a coordinator of consultations. As it has already been pointed out, the Ministry of Justice is the most advanced of all, which given the Ministry’s responsibility for cooperation with CSOs and the development of this sector, is fairly reasonable. Yet, the office of the Sector for Legal Aid that was until recently located on the 9th floor of the Building of the BiH–Greek Friendship was not exactly what the advocates for the establishment of the Office for Cooperation with the NGO Sector or the Civil Society Council, envisaged in the 2007 agreement, had in mind. Perhaps the new office move is a step in the right direction.

The Council of Ministers, on the other hand, is more or less avoiding the responsibility to tackle these issues. Željana Zovko, Advisor to the Chair of the BiH Council of Ministers, stresses that the focus of her advisory role is on foreign policy, but she in part also deals with the civil society, especially through her membership in the managing board of a government capacity building project. This double or overlapping role, where the secondary one is to deal with the civil society, also demonstrates the lack of interest on government’s part to engage seriously with civil society. It often also gives policy makers an excuse to avoid taking actual responsibility. Still, telling Populari we are the first civil society organisation to have sought a meeting with her, she makes her view clear:

*“We need a mature civil society that will have influence. But now, they are not seeking public discussion. Civil society is only starting to develop.”<sup>23</sup>*

In a cacophony of existing voices within the civil society sector in BiH, this seems a truthful observation. Over 50 networks and CSO coalition groups exist in the country, which makes it difficult for the government to find relevant partners to communicate with. However, the governmental side of the story should not be overlooked; the legislative framework currently allows for citizens’ associations and foundations in BiH to be registered at local, cantonal, entity or state level. All of the levels maintain their separate registries. No unified registry exists, and with the Sector as the only office dealing with the CSOs at the state level, there is no effective coordinating body overseeing the existence and activities of CSOs throughout BiH.

Though not specific in BiH, an additional limiting factor is the definition of CSOs in BiH, which does not only include typical non-governmental organisations, but also sports, war veteran or former combatants’ organisations, with the latter group being the main funding recipients which raises questions on the funding provided in the

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<sup>22</sup> Ibid., p. 11.

<sup>23</sup> Populari interview with Željana Zovko, Advisor to the Chair of the BiH Council of Ministers, Sarajevo, 15 September 2014.

interest of the broader society.<sup>24</sup> As Željana Zovko from the office of the Council of Ministers' Chair emphasises, the government does support the CSOs:

*"The government is doing its best to cooperate with CSOs, and we provide a lot of funding to the CSOs."*<sup>25</sup>

Yet, according to the 2014 Audit Office of the Institutions of BiH Report,<sup>26</sup> it is the monetary reserves in BiH that have during 2012 and 2013 been largely used to support various types of CSOs, sports clubs and religious and humanitarian organisations. It is not only that these funds should normally be intended for other purposes (e.g. post-natural disaster reconstruction), but also that they have been assigned in a very non-transparent and arbitrary manner. Out of 10 million KM of available reserve funds, around a quarter has by the Chair of the Council of Ministers or his deputies been channelled to the "grants to non-profit organisations" purposes.

The entity governments demonstrate similar issues; The Government of Republika Srpska, for instance, maintains close relations with 21 of the 'organisations of public interest', which they present as their key mode of cooperation with civil society. Assistant Minister for Local Self-Governance, Milanka Šopin, explains how their cooperation is closest with the Republika Srpska Association of Local Authorities:

*"Unlike some other civil society organisations that do not have capacities or knowledge, the Association knows very well where they fit into the system and they know how to get us to hear them."*<sup>27</sup>

While this is essentially an association boosting cooperation among municipalities and their representatives and hence not what we would commonly imagine as a CSO, as Milanka points out, The Republika Srpska Government is open to working with all. Nevertheless, she expressed honest and valid scepticism about how prepared and able CSOs are to take part in policy-making, and also how to approach them due to their diversity. Indeed, so far, this entity government does not seem to have made significant steps towards the CSOs. In August 2014 it for instance announced the allocation of a quarter of a million KM (roughly 125.000 Euros) to citizens' associations – topping the list were the Veterans' Organisation of the RS, Union of Camp Prisoners of the RS, National Organisation of Families of Captured and Killed Soldiers and Missing Civilians, and the Union of Organisations and Associations of Disabled War Veterans of the RS.

Like in Republika Srpska, in Federation BiH, the relevant officials all maintain they are open to working with CSOs, but that they are not developed enough, that they cannot find equal partners to talk to or work with, or that they are branches of

<sup>24</sup> Žeravčić, Goran, Analiza institucionalne suradnje između vladinog i nevladinog sektora u BiH (Analysis of Institutional Cooperation Between Governmental and Non-Governmental Sector in BiH), Sarajevo, 2008.

<sup>25</sup> Populari interview with Željana Zovko, Advisor to the Chair of the BiH Council of Ministers, Sarajevo, 15 September 2014.

<sup>26</sup> Audit Office of the Institutions of BiH, Izvještaj revizije učinka: raspodjela i korištenje sredstava tekuće rezerve (Performance Audit Report: Liquid Reserves Fund Use and Distribution), October 2014.

<sup>27</sup> Populari interview with Milanka Šopin, Assistant Minister for Local Self-Government at the Ministry of Governance and Self-governance of Republika Srpska, Banja Luka, 19 August 2014.

political parties.<sup>28</sup> While in RS the funds intended for CSOs are mostly allocated at the level of the entity, it is at the level of Federation BiH the CSO funding is allocated both at the level of the entity and at the level of municipalities. The issues displayed, however, are largely the same. Only the government of the Federation of BiH in 2013 intended around 8 million KM for non-profits, more than 1.5 million of which went to political parties and coalitions. Around half a million KM was similarly allocated to Veterans' organisations, Union of Camp Prisoners and Families of Killed Soldiers.

The allocation of these funds and the criteria for making the choice of which organisations are the ones that are most relevant for the public interest are at all levels non-transparent to say the least. Much of it seems to be intended to fund those CSOs that provide a good electoral basis (numerous war veterans, sports fans etc.). CSO funding thus appear to serve the goal of improving image and maintaining social peace rather than contributing towards a participatory and democratic development.

Therefore, international pressure is constantly needed if a genuine environment enabling the development of civil society in BiH is to develop. This is also the case with the latest developments when it comes to the institutional framework for government–NGO dialogue at the state level. Namely, the EU Delegation managed to get the government to put their minds onto this issue again:

*“We finally managed to have a breakthrough in June this year. We pushed from the political side and managed to exert enough pressure on BiH decision makers, so we agreed that there would be a revision of the Agreement [on Cooperation between Council of Ministers and NGOs].”<sup>29</sup>*

Bringing together a number of representatives from the state-level, the entity level and the Brčko District as well as civil servants with experience in this sector, the working group has been established in fall, and met for the first time in mid-November 2014.<sup>30</sup> Civil society sector, on the other hand, is not a part of this revision process. As the working group continues to meet what remains to be seen is what will come out of this revision process. The Agreement in itself included provisions that would – if implemented – help the development of inclusive policy-making.

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<sup>28</sup> This was maintained, for instance, during Populari's interview with an official of the Municipality of Tešanj at the end of 2012.

<sup>29</sup> Populari interview with Natalia Dianiskova, Head of Operations Section for the Social Development, Civil Society and Cross Border Cooperation at the EU Delegation to BiH, Sarajevo, 11 August 2014.

<sup>30</sup> According to a Member of the Group, Željana Zovko.

## Inclusive Policy-Making at the Local Level?

Yet, state-level government–civil society dialogue is only one part of the story. Local level, i.e. municipal or *mjesne zajednice* level of political participation of citizens has traditionally been the most present one in BiH. Already during the times of socialist Yugoslavia, *mjesne zajednice* existed as a part of the governmental structure, and allowed citizens to practice direct democracy through the system and take part in decision-making in the confines of their neighbourhood. Unlike the relatively newly introduced CSO form of civil society, at citizens' assemblies, residents of a certain *mjesna zajednica* would already in the past publicly discuss issues pertaining to their neighbourhood or issues directly affecting their daily lives and develop proposals to solve those issues. After the war, this tradition continued in around 90 percent of BiH municipalities.<sup>31</sup>

Plenums that sprung up in municipalities around BiH in February 2014 are largely reminiscent of the traditional work of *mjesna zajednica*, with one important difference – *mjesna zajednica* is recognised as an entity in BiH regulatory framework, while plenums as such are not. However, even the inclusion of these local level instruments in the legislative framework would not provide for any significant change in practice. In the absence of a state level law on local self-government, the regulatory framework in this area is largely asymmetrical throughout the country and varies between the entities which in turn provide space for confusion and differing understandings of these mechanisms across the country.

In Federation of BiH (FBiH) the Law on Principles of Local Self-Government<sup>32</sup> is in force, and sets out *mjesne zajednice* as an obligatory type of self-government and thus a model of communication between local government and the citizens. Through it, citizens are granted the right to directly take part in the process of decision-making at the local level. In Republika Srpska, however, *mjesne zajednice* are according to the Law on Local Self-Government<sup>33</sup> only one of the options that municipalities and cities have in ensuring citizens' participation at local level decision-making. In addition to *mjesne zajednice*, they can also allow referendums, citizens' initiatives, citizens' panels etc. A third, if very simple, system exists in the Brčko District that is in itself a single unit of local self-government, and is according to the official 'Basic Principles of Partnership' document similar to the FBiH in that it is divided into additional subunits, the *mjesne zajednice*.

This mishmash and lack of explaining to the citizens the role of local communities more clearly strongly influences how local community organisational units of citizens' participation are perceived and utilised by the citizens themselves. Research carried out in 2009<sup>34</sup> suggests that citizens often have a very limited knowledge of the possibilities and ways how to take part in local decision-making. At the same

<sup>31</sup> OSCE Mission to BiH Website, What We Do – Community Engagement – Local Communities.

<sup>32</sup> Zakon o principima lokalne samouprave u Federaciji BiH (Law on the Principles of Local Government in the Federation of Bosnia and Herzegovina), 2006, Official Gazette of the Federation of BiH, 49/06.

<sup>33</sup> Zakon o lokalnoj samoupravi Republike Srpske (Law on Local Self-Government in the Republika Srpska), 2004, Official Gazette of Republika Srpska 101/04.

<sup>34</sup> World Bank Institute, Citizen Review of Service Delivery and Local Governance in Bosnia and Herzegovina, Governance Working Paper Series, September 2009.

time, their attitude towards local level participatory mechanisms is similar to that of the state level government; with a chronic lack of information, citizens are mostly – and possibly rightly – convinced that their opinion cannot in fact influence decision-making as it is done on a political level by people backed by the strongest political parties. The Centre for Civil Initiatives 2011 report more encouragingly showed that as many as 80 percent of respondents would like to engage in public policy development at the local level.

Nonetheless, at the local level, the level of inclusiveness exceeds the one at the state level. The previously mentioned agreement on cooperation between the NGOs and the government has some effect also at this level of government. As Samir Omerefendić, Project Manager of the UNDP's Reinforcement of Local Democracy Project (LOD), explains, soon after its signing the agreement was brought down to the local level:

*“Until 2009, around 40 municipalities signed agreements on cooperation with NGOs. This was a very welcome step, but it was a little bit forgotten then.”<sup>35</sup>*

The signing of agreements alone, however, did not ensure citizens or CSOs getting more say in decision-making processes. On the other hand, both CSOs and citizens benefitted through the LOD project which has been recognised as a good practice beyond BiH. Samir, the project manager, likes to point out that the triangular structure seems to be working pretty well in some municipalities. Their cooperation is mostly limited to service-provision projects, rather than decision-making per se. But this is not without relevance for the establishment of meaningful dialogue either:

*“Step by step, when participating in LOD project, municipalities and their citizens with their CSOs have to decide through public debates on what kind of projects should be funded, meaning that they all have to sit down, talk and set development priorities for their own local community. That is something that should be seen as a good model.”<sup>36</sup>*

Not the usual suspect, Banja Luka is the city that seems to be working well in this respect. Aside from Novi Grad Sarajevo, Tešanj and Višegrad, Banja Luka is in the LOD projects considered to be offering good models of cooperation. In the municipality seven LOD projects have been implemented, targeted at the marginalised groups, such as youth, elderly, the unemployed etc. The NGO ‘Partner’ for instance implemented a project on the re-socialisation of the elderly in rural areas. Thereby, they used the available capacities of the local community, including *mjesna zajednica*, but provided the services that would otherwise not have been provided by the state or municipal institutions.

In the words of Slobodan Gavranović, the Mayor of Banja Luka, forms of cooperation linked to service provision are welcome:

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<sup>35</sup> Populari interview with Samir Omerefendić, Project Manager of the UNDP Reinforcement of Local Democracy – LOD project, Sarajevo, 13 August 2014.

<sup>36</sup> Ibid.

*“It is in this way that the local communities will in partnership with civil society organisations solve problems that otherwise would not be solved. There is a considerable number of civil society organisations that have through the LOD project specialised in a particular area [...]. We expect that in future they will further build their own capacities and professional attitude [...].”<sup>37</sup>*

The expectation that CSOs would be providing services in addition to (or instead of) the government’s or municipal provision of services is also indicative of how CSOs and their role are understood by the decision-makers, and this is not a role of an equal participant in the policy-making processes. Yet, the expert knowledge and experience of CSOs is a useful foundation to build on as they can significantly contribute to the policy-making process given that they are familiar with the specific area policies. Their building of the knowledge and capacities should work for the benefit of the local population and at the same time also to build capacities of the municipalities. The Helsinki Citizens’ Assembly for instance is happy to tell how more than ten years ago they launched a municipal bulletin in partnership with the municipal administration. Eventually, the partnership stopped, but the bulletin continues to be published regularly by the municipality in the service of Banja Luka’s citizens.

*Mjesne zajednice* in Banja Luka also seem to be functioning fairly well; until September of this year the members of 57 *mjesne zajednice* held 169 sessions where 502 different points were discussed. On average, a council held around three meetings and at each three points would be discussed; this would mean holding a meeting every three months, which might not solve all issues at the micro-level of one’s existence, but is a welcome step towards it. A representative of *mjesna zajednica* Rosulje confirms a one-way street in communication:

*“People think that problems should be solved and can be solved without them. That’s a very relaxed understanding of how things should work.”<sup>38</sup>*

In the case of inclusive decision-making at the local level, as at the higher state and entity levels, it appears that very often the quality of this cooperation depends on the individuals involved. Željana Zovko admits that often *“it all comes down to one individual sitting in the institution.”<sup>39</sup>*

<sup>37</sup> UNDP Newsletter – Reinforcement of Local Democracy III, Rekl su o LOD-u: Slobodan Gavranović, gradonačelnik Banja Luke (What they said about LOD: Slobodan Gavranović, Mayor of Banja Luka), 22 August 2014.

<sup>38</sup> Gagula, Željko, Građani aktivni samo u četiri mjesne zajednice (Citizens only Active in Four *mjesne zajednice*), Banjaluka.com, September 2014.

<sup>39</sup> Populari interview with Željana Zovko, Advisor to the Chair of the BiH Council of Ministers, Sarajevo, 15 September 2014.

## Bridging the Citizens–CSOs–Government Dialogue Gaps

With low levels of social trust present in BiH generally, the CSOs or the NGO sector as it is mostly understood, enjoys a relatively good balance of people who trust CSOs – the latest available measured trust level is at around 50 percent.<sup>40</sup> Nonetheless, this still means that half of the respondents if representing the BiH population have no trust in CSOs whatsoever, even though it is actually the CSOs that could be the pillar of society communicating and working with the citizens in general most closely.

Largely, this is due to prejudice and a lot of (sometimes legitimate) confusion about the funding of CSOs. In addition to non-transparent governmental funding, they are largely dependent on international funds and donors; and in turn, their image of promoting positive, democratic change and being an advocate for citizens' interests has been damaged. CSOs are often "seen as an extended hand of international organisations, and not as a pillar of civil society,"<sup>41</sup> which is sometimes even the perception of politicians.<sup>42</sup> On the other hand, the citizens also see CSOs as being in the service of certain political parties or elites, rather than solving problems in specific fields.

The media, which are in most cases inclined towards one or the other political side, additionally contribute to the deepening of this divide, as does the fact that very often CSOs are non-transparent as regards their finances and agendas. For instance, the 2010 study showed that less than a fifth of organisations undertook independent financial audits and less than 5 percent of them made their yearly budgets public.<sup>43</sup> These factors combined with the fact that many CSOs due to their limited capacities lack communication with the public, engaging with them one-to-one or through social media, are deepening the rift between what is often termed the "elite civil society"<sup>44</sup> of BiH and the "ordinary citizens". Against this backdrop, it is not entirely unexpected that participants of plenums – which arguably also did not entirely represent "ordinary citizens" – at the beginning of this year refused to let most representatives of CSOs take part in their professional capacity.

Yet, if this gridlock is to be overcome and if opportunity should be taken of the current revision of the Agreement on Cooperation between Council of Ministers and NGOs from 2007, the EU Delegation should also assume its role. Many would agree with the words of Željana Zovko, who frankly addresses the downsides of the work the EU Delegation has been doing so far and the double standards:

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<sup>40</sup> Analitika, Fakti: Rezultati ankete – građani ne vjeruju institucijama vlasti i političkim partijama u BiH (Factsheet: Poll Results – Citizens Do Not Trust Governmental Institutions and Political Parties), 13 November 2013.

<sup>41</sup> Papić, Žarko, Mit i stvarnost civilnog društva: uloga civilnog društva u jačanju socijalne uključenosti i smanjenju siromaštva (Myth and Reality of Civil Society: the Role of Civil Society in Strengthening Social Inclusion and Reducing Poverty), Sarajevo 2011.

<sup>42</sup> Populari interview with Željana Zovko, Advisor to the Chair of the BiH Council of Ministers, Sarajevo, 15 September 2014.

<sup>43</sup> Žeravčić, Goran, Analiza institucionalne suradnje između vladinog i nevladinog sektora u BiH (Analysis of Institutional Cooperation Between Governmental and Non-Governmental Sector in BiH), Sarajevo, 2008.

<sup>44</sup> Populari interview with Sadeta Škaljić, Assistant Minister at the Sector for Legal Aid of the Ministry of Justice of BiH, Sarajevo, 5 August 2014.

*“The EU Delegation should also critically observe themselves; they often demonstrate a profound misunderstanding of the context and an inadequate manner of communication. Especially communication – that’s the role they should work on.”<sup>45</sup>*

As much as the EU has been supportive and vocal in supporting the principle of government–civil society cooperation so far, it has so far not assumed a role that would substantially change the civil society environment in BiH. To a limited extent it has been able to exert sustained and effective political pressure. While it would be impossible and senseless to argue that the EU Delegation should do the government’s job, it is certain that their role in the country should go beyond an occasional meeting of a the few hand-picked CSOs with Brussels officials. In most of these cases the list of CSO invitees remains unknown as does the criteria for receiving an invitation.

In December 2014 when the EU High Representative for Foreign Affairs and Security Policy Federica Mogherini and the EU Commissioner for European Neighbourhood Policy and Enlargement Negotiations Johannes Hahn visited Sarajevo and held a number of meetings, among others with CSOs, it happened for perhaps one of the first times that a list of invitees representing the BiH civil society was published. This happened upon a public call for transparency communicated through the social media.

Setting the bar higher and serving as an example to the government, the EU Delegation in BiH should continue to push for the timely revision of the 2007 Agreement that would provide for the trickling down to the local level. Together with other actors supporting the role of civil society in policy-making (e.g. Austrian Ministry of Foreign Affairs), it should support the enabling environment for civil society development not only by words, but also by actions. It has the image that could help CSOs in building a more favourable perception among the citizens through clearer communication strategies. Continuous exertion of pressure from the top side of the EU, a better understanding among citizens and civil society organisations, and the pressure from the bottom side of the citizens could finally push the BiH politicians to stop being great at only putting things on paper, but rather also at implementing them.

## Conclusion

Given the specifics and complexity of the BiH administrative setup which influence all aspects of political and daily life, it is – in spite of recently enhanced citizens’ engagement through protests and plenums – clear that BiH is still far from turning into a country in which participatory practices are widely accepted and practiced. As suggested by the triangular structure analysed in this paper, all actors involved in these processes should strive towards playing a more active and constructive part if BiH is to move forward towards a more participatory, inclusive and thus responsive democracy.

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<sup>45</sup> Populari interview with Željana Zovko, Advisor to the Chair of the BiH Council of Ministers, Sarajevo, 15 September 2014.

Starting at the bottom, it is up to the citizens – who are best informed of the concerns in the microcosm – to push them through existing formal mechanisms of *mjesne zajednice* without losing focus of their engagement. The local level government – when capable and prepared to cooperate with formal CSOs – should on the one hand promote and inform citizens on the possibility of this sort of direct engagement, and on the other hand work together with higher levels of government to give a voice to the concerns. In this way, local governments could play the key role in the transition of participatory decision-making practices from the bottom towards the top.

Provided that CSOs even in ideal circumstances themselves cannot replace the government, and are in BiH often seen through an unfavourable lens among the citizens, their role at the local level should remain limited to service-provision and similar activities. It is the type of engagement, and open support of the EU for instance, that could bring the “elite” CSOs back to the ground where they work with and understand the needs and interests of the citizens. This could in turn lead to an improved image, and when time is ripe, to a more fundamental, policy-oriented involvement.

In terms of policy-dialogue, they should focus their efforts on building a partnership and continuous dialogue with the state-level institutions. Particularly at this point in time, when much of EU’s work in the country is concentrated on boosting the role of civil society and the agreement on cooperation is being revised, they should take up the window of opportunity and in a joint voice call for the establishment of functioning and efficient institutional mechanisms supporting this cooperation.

## Recommendations

### CSOs should

- utilise the EU and other international actors’ support for CSOs participation in policy-making processes by engaging in constructive discussions with the government and offering constructive, timely, useful and realistic input to the government using existing mechanisms – public discussions, *mjesne zajednice* etc. to communicate, influence and engage;
- engage more frequently at the local level to gain insight into the needs of the citizens, to inform their own actions targeted at the government, to improve the image of organised civil society as more approachable, and to motivate citizens to actively engage in policy-processes;
- improve coordination and cooperation within the NGO sector in more unified platforms in order to increase leverage and speak with a less disintegrated, stronger voice.

### Policy-makers should

- at the local level work on promoting the work of *mjesne zajednice* as the key instrument for citizens’ direct engagement, and in their relations with the upper levels of government ensure the transfer of these voices;

- at the state level include CSOs in the process of revising the 2007 agreement on cooperation to make sure that all points of view and needs are represented in the institutional solution;
- implement the rules on the consultation process fully in all ministries to ensure a more balanced and sustainable development of policies by using the existing know-how and expertise of the CSOs;
- together with international actors and through internationally-funded projects work towards the establishment of an institutional structure that would ensure communication with CSOs at both the state and the local level of government.

#### **EU Delegation in BiH should**

- strive towards leading by example in terms of developing a pool of respected and/or emerging CSOs that are/have the potential of being respected by both the citizens and the government, and have been defined as such according to publicly known criteria;
- support the revision of the 2007 agreement on cooperation through an inclusive process that would include the expert opinions of the CSOs as well as governmental institutions and would lead to the envisioning of a viable institutional framework;
- continuously seek the input from the grassroots from the selected pool of CSOs and begin publically and regularly engaging in dialogue with them on matters of importance to the political processes and life of BiH;
- help building the visibility of CSOs (rather than merely political elites) and practically encourage their interaction with the general public, the EU should boost the CSOs credibility among the society and in practice help in build their image of an equal and valuable partner to the government and the citizens.







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