



Social Accountability of the Judiciary in Bosnia and Herzegovina

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Summary

Judiciary in Bosnia and Herzegovina is exemplified by numerous deficiencies. Its institutions are slow, unaffordable, and oftentimes biased and discriminatory, legal proceedings are unnecessarily complex, non-transparent, and intimidating, and public officials are corrupt. Development practice and studies suggest that engagement of citizens, civil society organizations, and media in judiciary can significantly lead to improvement of efficiency and performance of judicial institutions and office holders. Modes of such civic engagement range from public demonstrations, protests, advocacy campaigns, investigative journalism, public interest lawsuits, to participatory budgeting, public expenditure tracking, monitoring of public service delivery, free legal aid, etc. These actions and mechanisms have been commonly defined as social accountability. Although importance of social accountability has been recognized in Bosnia and Herzegovina through identification of a need for active participation of civil society organizations in the judiciary within the Justice Sector Reform Strategy - the key judicial policy that incorporates instructions and reform measures for all justice sector institutions in the country – aside from one initiative on the state level, concrete actions or mechanisms for social accountability mechanisms in the BiH judiciary have not been development nor implemented. In order to fill this policy gap, this paper will provide recommendations for justice sector officials in Bosnia and Herzegovina with policy measures that will strengthen social accountability of judicial institutions in the country. Moreover, this paper will identify specific mechanisms and activities that can be included in the Justice Sector Reform Strategy in BiH 2008 – 2013 and its Action Plan, and will therefore support already existing public efforts to open justice institutions to the pressure “from below” and assist officials in institutionalizing different modes of civic engagement.

I INTRODUCTION

Justice system of a state is its core guardian of liberties and rights. Without an independent and efficient judiciary, the state cannot guarantee the rule of law and protect its citizens from various kinds of abuses. Harahan and Waleed note that „courts and other public agencies comprising a community or a nation’s justice system directly affect the public safety, commerce, and overall quality of life of every citizen every day of the year.”¹ Gloppen, Rakner and Tostensen add that courts’ duty is also to make sure “that the power-holders at various levels respect the laws and operate within their mandates.”² Thus, bearing in mind its fundamental role in a political system, judiciary should be the most powerful branch of the government in any country.

Unfortunately, the opposite has been the case in most developing and transition countries where usually the executive branch overrules legislative and judicial powers making the checks and balances system out of place. As a consequence, inefficient public institutions, abuse of power, corruption, and crime become common characteristics of public life. Situation in Bosnia and Herzegovina demonstrates this fact. Its justice sector is weaker than other branches of the government and is exemplified by numerous deficiencies. Its judicial institutions are inefficient, slow, unaffordable, and oftentimes biased and discriminatory, legal proceedings are unnecessarily complex, non-transparent, and intimidating. As a result, access to justice is limited for great number of citizens.

Strategies to fix and reform such inefficient justice systems have proven to be difficult to implement. They fail mostly because of their focus on administration and procedures: they affect institutional changes but oftentimes they do not challenge power relations or consider needs of common citizens. A traditional strategy to reform the public sector usually incorporates measures and activities that strengthen the “command-and-control” elements of the government. In this instance, governments of developing countries and international development agents work on addressing the weaknesses of bureaucratic apparatuses.³ In scope of the judiciary, this strategy implies strengthening the justice sector powers over the executive; make procedures more efficient; foster better coordination between justice institutions; develop strong rules and criteria for election of judges and prosecutors, just to name the few. Although this approach is important and necessary, assessments of justice sector reforms showed that is not sufficient and should be supported by an additional strategy that works on building the justice sector based on pressure “from below” making its objectives coincide with local priorities and needs. Such strategy “involves constructing a healthy relationship between state and society so that social actors and individual citizens are empowered to oblige the government to uphold the rule of law and fulfill its promises.”⁴ Furthermore, justice reforms that include broader public in their implementation will „be more likely to garner the backing and commitment needed to sustain democratic change.”⁵

Although main objective of the “command-and-control” and the “from below” strategies is the same – to strengthen and build accountability in public institutions – the second one, commonly known as “social accountability”, relies on civic engagement, i.e., where ordinary citizens and/or civil society organizations participate directly or indirectly in exacting accountability.⁶ Thus, social accountability „refers to a broad range of actions and mechanisms that citizens, communities, independent media and civil society organizations can use to hold public officials and public servants accountable.”⁷ Empirical studies⁸ of social responsibility initiatives in different countries suggest that engagement of citizens and civil society organizations in the judiciary can significantly lead to improvement of efficiency and performance of justice sector institutions and office holders⁹.

¹ Harahan, F. Samuel and Waleed H., Malik. „Partnerships for Reform - Civil Society and The Administration of Justice: Learning By Doing.”

² Gloppen, Siri and others. „Responsiveness to the concerns of the poor and accountability to the commitment to poverty reduction.”

³ World Bank. “State-Society Synergy for Accountability: Lessons for the World Bank”.

⁴ Ibid.

⁵ See McIlvain, Ashley. „Toward a more sustainable democracy: Public Participation in Justice Sector Reform.”

⁶ Malena, C, Forster, R. and Singh, J. “Social Accountability: An Introduction to the Concept and Emerging Practice.”

⁷ Ibid.

⁸ Torres, Magüi Moreno. „Beyond Representation: Good Governance and Empowerment in Latin America and the Caribbean”; World Bank. “Social Accountability Sourcebook”; Ahmad, Raza. „Governance, Social Accountability and the Civil Society.”; McIlvain, Ashley. „Toward a more sustainable democracy: Public Participation in Justice Sector Reform.”

⁹ Malena, C, Forster, R. and Singh, J. “Social Accountability: An Introduction to the Concept and Emerging Practice.”



Importance of civic engagement and overall social accountability¹⁰ in reforming malfunctions of the judiciary has been recognized in Bosnia and Herzegovina as well. Recent reforms of the justice sector have made ground for active participation of civil society representatives¹¹ in the justice sector of BiH. The Justice Sector Reform Strategy in BiH 2008 - 2013 - the key judiciary policy that incorporates instructions and measures for all justice sector institutions in the country - incorporates also reform tasks for inclusion of civil society organizations in policy and law development processes. However, although the Strategy sets ground for greater participation of civil society actors with an objective to improve accountability in the judiciary, it does not incorporate clear activities of such involvement or identifies specific social accountability mechanisms.

In order to fill this policy gap, this paper will provide recommendations for justice sector officials in Bosnia and Herzegovina with policy measures that will strengthen social accountability of judicial institutions in the country.¹² Moreover, this paper will identify specific mechanisms and activities that can be included in the Justice Sector Reform Strategy in BiH 2008 – 2013 and its Action Plan, and will therefore support already existing public efforts to open justice institutions to the pressure “from below” and assist officials in institutionalizing different modes of civic engagement.

Since this policy paper is concerned with judiciary, it will primarily examine modes of civic engagement whose objective is to enhance - directly or indirectly - accountability in justice sector institutions. Although in some instances, primarily objective of certain forms of civic engagement in justice sector is not directly to make justice institutions accountable - such as provision of free legal aid whose main purpose to increase access to justice – this mechanism can foster transparency in work of justice institutions, and therefore indirectly can hold public officials accountable.

In order to provide need-based - supported by evidence - recommendations, for policies that will strengthen and institutionalize social accountability of justice sector institutions in B&H, this policy study is based on several phases of research and analysis that informed the author about justice stakeholders and their existing initiatives. In the first preliminary phase, desk research was conducted accompanied by stakeholder analysis, whose main objective was to identify justice sector stakeholders in B&H, various civic initiatives existing or implemented by civil society actors in B&H in relation to judiciary reforms, and international experiences in this regard. In the next phase, national survey on social accountability initiatives in the B&H justice sector was conducted. All justice sector institutions, identified in the first phase, were directly contacted and asked to fill out a questionnaire. Two different questionnaires were designed: one for justice sector institutions and one for civil society actors¹³. Objective of this research phase was to complement the preliminary phase, add new information and data to existing ones in order to provide answer to following question: how can social accountability of the justice sector in B&H get improved and institutionalized? In total, 148 institutions participated in the survey: 54 courts responded to the questionnaire, 7 other justice sector institutions, 72 non-governmental organizations (including 15 trade unions).¹⁴

The policy paper is structured in four sections. First section describes the justice system in B&H, existing institutions and shortly provides an overview of reform processes and issues the sector deals with. Second part identifies various mechanisms of social accountability in justice systems based on international and B&H experiences. Next section deals with necessary pre-conditions for efficient institutionalization of social accountability mechanisms. Then, the paper

¹⁰ Terms ‘civic engagement’ and ‘public participation’ as well as ‘social accountability’ have similar or even same meanings, and will interchangeably be used in this paper.

¹¹ According to regulation in Bosnia and Herzegovina, term „civil society“ refers to any formal or informal civil society group: non-governmental organization, citizen group, trade union, professional association, religious community, think tank, media and even political parties. For the purpose of this policy study, civil society in this paper refers to non-governmental organizations, citizen groups, trade unions, professional associations, think tanks, but leaves out political parties and religious communities, since these forms of civic action have different modes of action and objectives when compared to other organizations. In addition, policy study leaves out media outside the study due to its specific nature and relationship with public institutions.

¹² This paper analyzes different forms of civic engagement in the justice sector; however, it does not research or presents approaches nongovernmental organizations use to achieve their policy objectives in the judiciary. For more information about approaches nongovernmental organizations in the judiciary, see Harahan, F. Samuel and Waleed H., Malik. „Partnerships for Reform - Civil Society and the Administration of Justice: Learning By Doing.“

¹³ Non-governmental organizations, citizen groups, trade unions, professional associations, think tanks were surveyed. Please look at footnote no.8.

¹⁴ List of institutions and organizations that responded to the survey is available in Appendix A.

describes social accountability initiatives (existing forms of civic engagement) that have been implemented in the justice sector in B&H. In the final section, the paper defines recommendations on how civic engagement in the B&H judiciary can be improved and institutionalized by justice sector institutions. Recommendations can be useful for international development agencies and donors that support judicial reforms in B&H as well, since recommendations provide insight into stakeholders' needs and priorities in the B&H judiciary.

Main objective of this policy paper is to foster social accountability of the judiciary in Bosnia and Herzegovina through institutionalization of mechanisms of civic engagement in the justice sector, which would ultimately lead towards better performance of judicial institutions, and more efficient provision and access to justice in Bosnia and Herzegovina.

¹⁵ Reiling, Dory; Hambergren, Linn; and di Giovanni, Adrian. "Justice Sector Assessments: A Handbook."

¹⁶ Ibid.

¹⁷ Legal practitioners point out occurring practice in courts to make conflicting decisions on similar issues sometimes even made by the same institution. This practice highly affects legal security in the country.

¹⁸ Primarily because Supreme Court of B&H does not exist. European Commission. "Progress Report for Bosnia and Herzegovina for 2010" also emphasizes this fact as great number of legal experts as well.

¹⁹ Demir, Elma. "Independence of Judicial Institutions." in *Human Rights and Judiciary in Bosnia and Herzegovina: A report on implementation of the recommendations for justice sector in Bosnia and Herzegovina from the Universal Periodic Review of the UN Human Rights Council - 2010 – 2011.*; OSCE Mission to Bosnia and Herzegovina. „Nezavisnost pravosuđa: Neprihvatljivi pritisci na pravosudne institucije BiH.“ [Independence of Judiciary: Inappropriate pressure on judicial institutions in BiH]; OSCE Mission to Bosnia and Herzegovina. „Postizanje pravde u Bosni i Hercegovini: procesuiranje predmeta ratnih zločina od 2005. do 2010. godine.“ [Reaching Justice in Bosnia and Herzegovina: Prosecution of war crimes cases from 2005 to 2010].

²⁰ Entity parliament in Republika Srpska issued recently a decision on holding a referendum on work of B&H Court and B&H Prosecutors' Office, directed towards abolishment of these institutions. President of Federation of B&H - second B&H entity - issued decisions on appointment of judges for the FB&H Constitutional Court, that have not been shortlisted by the HJPC, and thus violating appointment procedures. B&H Central Electoral Committee adopted decisions in relation to certain appointments in parliamentary bodies in Federation B&H, giving itself authority to interpret FB&H Constitution. Luckily, interventions of local and international actors halted these attacks on the judiciary.

II JUSTICE SECTOR IN BOSNIA AND HERZEGOVINA

Term 'justice sector' or the 'judiciary' is usually used by policy decision-makers while, 'justice system' is the term usually used by social scientist and academics, all referring to:

„The institutions that are central to resolving conflicts arising over alleged violations or different interpretations of the rules that societies create to govern members' behavior; and that, as a consequence, are central to strengthening the normative framework (laws and rules) that shapes public and private actions.“¹⁵

Justice system or sector in a particular country is product of its complex historical institution-building processes. While justice sectors in every country do perform many similar tasks, great differences exist in overall frameworks.¹⁶ Justice sector in Bosnia and Herzegovina has a multi-layered and decentralized structure consisting of 14 jurisdictions (state, two entities, 10 cantons and Brcko District). It has 14 justice ministries and numerous courts. Both entities, Federation of B&H and Republika Srpska, have their own constitutional and supreme courts, while on the state level there is Court of Bosnia and Herzegovina and the Constitutional Court of B&H. Brcko District also has its own courts as well. Overview of justice sector institutions is available in Appendix B.

Complex judiciary in B&H replicates the complex political system of the country, which is a product of peace resolution efforts in relation to the conflict in Bosnia that took place in early 1990s. Even fifteen years after the General Framework Agreement for Peace (i.e. Dayton Agreement) was signed, the judiciary in B&H is in process of its institutional design development. Supreme Court on national level does not exist, making it difficult to harmonize judicial practice.¹⁷ 14 parallel judicial systems do not coordinate their procedures and practices very well with each other.¹⁸ As in other sectors, this extreme decentralization resulted in limited performance of the B&H judiciary. Allocation of budget for the judiciary is performed by 14 different levels of executive branches of the government. In such system, justice institutions cannot operate fully independently and are under strong influence of the executive and even political elites outside the system.¹⁹ Attacks on judicial institutions by the executive powers of entities have been noted as well.²⁰ Aside disorganized and politically-influenced institutions, the B&H justice system is exemplified by additional inefficiencies: limited access to justice, complex and non-harmonized procedures and legal practices, corrupt personnel, and lack of human and financial resources resulting from poor planning. The latest EU policy progress report supports this claim



implying that judicial institutions in B&H are slow, unaffordable, and oftentimes biased and discriminatory. Their proceedings are unnecessarily complex, non-transparent, and intimidating.²¹ Institution of Ombudsmen for Human Rights of B&H in its latest report for 2010 argues – based on received claims from citizens – that the judiciary in B&H is particularly exemplified by long court procedures²² that directly hinder access to justice and violate human rights.²³ Although needs of judicial institutions for personnel have been almost fulfilled – occupancy of judge positions amounts to 93,7% and prosecutors to 97,7%²⁴ – court procedures are still very long²⁵. Another problem closely related to this one, is significant number of backlogs in courts. In a recently conducted survey, courts state that their most pressing problem are backlogs,²⁶ which is not surprising taking into account that backlogs are even increasing: from 453,336 unresolved cases in 2004 to 602,866 unresolved cases in end of 2009.²⁷ In best scenarios, citizens usually wait for three to five years to have their cases solved, and then another year to have the court decision enforced, if that happens at all. Namely, a pressing judicial issue is also execution of court decisions: not only that the judiciary has problems with private sector to execute court decisions, but with public institutions as well, which oftentimes violate the law themselves.²⁸

Aside above-mentioned issues, lack of information also limits access to justice, as basic information about rights and procedures is not readily available. Care for court and prosecution users is not at the adequate level. In addition to lack of information, formalism of the legal language, which is quite complex and difficult to understand even to well-educated citizens, reinforces further barriers as well as general lack of awareness of citizens about legal system (rights and obligations, legal aid, functioning of the legal system), particularly among vulnerable groups (poor, women, youth, Roma, etc.). Economic costs of judicial proceedings hinder access to courts in most cases, and many citizens are unable even to initiate a legal process, let alone carry it through. With „almost one fourth of [B&H] population living on poverty line, and more than half of population facing some aspects of exclusion“²⁹, it is questionable how can common B&H citizens afford a legal process, which costs around 5 to 7 regular salaries. Good lawyers are particularly expensive, and without a good lawyer the chance of succeeding in a lawsuit is drastically reduced. Free legal aid is not available everywhere, and in many places only NGOs offer this service.

Current correction system, although it went through certain reforms, also needs further improvements. Prisons are overcrowded; social reintegration of former prisoners rarely takes place; and recruitment and training of personnel in prisons needs to be upgraded. Prisons do not provide proper treatment of vulnerable groups, such as women, juveniles, the sick, the elderly, substance abusers, and prisoners with psychiatric problems.

In such system, it is not surprising to find widespread corruption. Transparency International (TI) corruption reports positions the judiciary as one of the most corrupt sectors in Bosnia and Herzegovina each year. TI surveys reveal that some citizens admit to have bribed public officials working in the judiciary, while others report that they have been openly asked for bribe. Corruption increases economic costs of judicial proceedings as it requires additional bribe money to “guarantee” a favored outcome. Judges and prosecutors are seen as corrupt - working only in their own personal interest or in the interests of the powerful - instead of for justice, ordinary men, or the public interest. The judicial system in general, is perceived as a web that catches the small fish but gets broken by the big ones.³⁰ Media regularly reports about various personal and political influences on courts and prosecutors’ offices in processing of crimes committed by high level politicians. There are dozens of such cases based on abuse of public office, cor-

²¹ Ibid.

²² In conducted national survey, 86,7% of trade union respondents state that not a single case they have been involved in - individual or collective labor disputes - has not been solved within reasonable time defined by law.

²³ See also: European Commission. „Report from Consultation Workshops for the MIPD 2011-2013 for B&H – Justice Sector.“

²⁴ High Judicial and Prosecutors Council (HJPC) of B&H. „Annual Report 2010.“

²⁵ Individual accountability of judges and prosecutors also needs to be enhanced as performance standards and monitoring have not fully developed and more efficient disciplinary system needs to be introduced. Small percentage of claims the HJPC receives get reviewed, while disciplinary measures are rarely enforced. Judges and prosecutors themselves are not properly supported by the system. Their material status is under regional and international standards and when compared to other public officials in the country, not only in matters of remuneration but also in terms of benefits they receive and their working conditions.

²⁶ 57,1% of 54 courts that responded to the survey indicate backlogs as their biggest problems. Source: Demir, Elma. “Sudska zaštita prava iz radnih odnosa.” [Judicial Protection of Labor Rights] in Access to Justice in Bosnia and Herzegovina. See also: Bečirović, Azra; Demirović, Amer and Šabeta, Rusmir. „The Final Step in Reforming the Judiciary: Disposition of All Cases in Reasonable Time.“

²⁷ Bečirović, Azra; Demirović, Amer and Šabeta, Rusmir. „The Final Step in Reforming the Judiciary: Disposition of All Cases in Reasonable Time.“

²⁸ See: Institution of Ombudsman/men for Human Rights in B&H. „Godišnji izvještaj o rezultatima aktivnosti ombudsmena za ljudska prava BiH za 2010.“ [Annual report on results of activities of ombudsman for human rights in B&H for 2010.]

²⁹ UNDP. „2007 Human Development Report: Social Inclusion in Bosnia and Herzegovina.“

³⁰ Transparency International in Bosnia and Herzegovina. “Analiza rezultata prvog dijela kvartalnog istraživanja percepcije korupcije.” (Analysis of results from first part of quarter research of corruption perception).

ruption, and money laundering, but most of them are processed slowly, if at all, and mostly end in freeing the accused. It is not surprising then that public trust in judicial institutions is low. Through a recently conducted survey on 1000 citizen responses, USAID Justice Sector Development Project in B&H found that 45% of respondents believe that judges and prosecutors make decision influenced by political pressure, corruption or favor their acquaintances, while 61% of respondents find that judiciary needs to become more independent.

As a result, ordinary citizens can protect and consume their rights only with great difficulties, if at all, although provisions for various rights are generously incorporated into the legal framework of the country. Exercise of these rights, particularly by poor and disadvantaged social groups, remains limited as justice sector problem disproportionately affect the poor.³¹ Particularly important for the vulnerable groups is application of international human rights standards in court practice, which rarely takes place.

³¹ UNDP Human Development Report on Social Inclusion in Bosnia and Herzegovina states that around 50% of B&H citizens are in different instances socially excluded, whereas 12% out of total population is absolutely or extremely excluded, and 47% B&H citizens are at risk of long-term exclusion.

³² Madacki, Saša. "Praćenje stanja ljudskih prava u sektoru pravde." [Monitoring Human Rights in Justice Sector]. in *Human Rights and Judiciary in Bosnia and Herzegovina: A report on implementation of the recommendations for justice sector in Bosnia and Herzegovina from the Universal Periodic Review of the UN Human Rights Council - 2010 – 2011*.

³³ This first pillar – Judiciary – sets forth great number of measures that focus on development and harmonization of budgets of justice sector institutions; solving the issue of great number of unsolved cases in courts; selection, work and appointments of judges and prosecutors; and informatization of the judiciary. The second pillar - Execution of Penal Sanctions – incorporates measures that would harmonize regulation in this area within the country and with international standards; improve conditions in prisons including their overcrowding; and introduce alternative ways to serve sentences. Third pillar - Access to Justice – deals with issues such as international legal aid, free legal aid, and care of court users and role of civil society. Fourth pillar - Support to Economic Development – incorporates measures that would create supportive legal framework for the industry and trade and focuses on alternative resolution of disputes (ARD) and reform of land administration. Final pillar - Well-Managed and Coordinated Sector – includes activities that should resolve issue of bad coordination and lack of communication among great number of justice institutions.

³⁴ Complaints have been made that external parts of the JSRS, such as the State Strategy for Prosecuting War Crimes and the Strategy against Juvenile Delinquency in B&H, are also very slowly implemented.

Another problem in the B&H judiciary is lack of reliable information and research that should serve as basis for creating policies and making decisions. Databases of various cases between police, prosecutors' office, courts, ombudsmen are not maintained and integrated, making it difficult to track particular issues and to analyze them.³²

Described problems represent impediments also to economic growth. This is especially relevant for land registry reforms, which are not harmonized between entities and hinder citizens and legal entities to use their property. Use of alternative dispute resolution mechanisms, such as mediation, is in its initial phase although regulative and institutional framework has been set several years ago.

In order to deal with these issues, leading justice institutions developed and adopted the Justice Sector Reform Strategy in BiH (JSRS) in 2008. Ministry of B&H along entity and cantonal justice ministries, along with the High Judicial and Prosecutors Council of B&H and the Judicial Commission of Brcko District set numerous measures and tasks that need to be fulfilled in order to strengthen and maintain independence, accountability, efficiency, professionalism and effectiveness of justice institutions in B&H. The JSRS consists of five pillars – strategic areas: Judiciary; Execution of Penal Sanctions; Access to Justice; Support to Economic Development; and Well-Managed and Coordinated Sector.³³

The JSRS stipulates responsibilities of each institution and evaluation and monitoring procedures. Monitoring of implementation of JSRS is conducted through the Conference of Justice Ministers in B&H that gathers all executive justice institutions twice a year, and through five Functional Working Groups, whereas each focuses on one pillar. In addition, a special department within the B&H Ministry of Justice was established: Department for Strategic Planning, Coordination of Assistance and EU Integrations that coordinates all monitoring implementation activities. The JSRS envisions establishment of similar departments in ministries on all levels of government, however, mainly due financial reasons, this process is delayed.

Implementation of the JSRS is going on quite slowly and it will probably be prolonged even after 2013, though it was prolonged just recently.³⁴ Although monitoring reports show certain progress, many key reform measures in each pillar are on a status quo. In addition, set deadlines are constantly prolonged and certain officials responsible for implementation of the JSRS activities do not attend Functional Group Meetings on a regular basis. Lack of political will to



implement reforms and resistance to find consensus on crucial issues (budgeting of justice institutions in order to eliminate political influence; establishment of B&H Supreme Court) significantly hinders any progress in the sector.

Aside reforms and activities implemented by justice sector institutions that are taking place in the scope of the JSRS, civil society - particularly non-governmental organizations - have developed strong interest in judicial issues and have implemented various initiatives within the justice sector with an objective to tackle some of above-mentioned problems, particularly those related to protection of human rights and access to justice – both issues which are of particular interest to civil society. Following chapters will illustrate how the civic sector responded to identified problems and impact their initiatives created.

III SOCIAL ACCOUNTABILITY OF THE JUDICIARY

Aside political and administrative measures that should solve identified judicial problems and foster development of an efficient justice sector, an important instrument in coping with malfunctions of the judiciary, is accountability. It is a key element in assuring good governance in any public sector: “[a]n accountable government is one that pro-actively informs about and justifies its plans of action, behavior and results and is sanctioned (positively and negatively) accordingly.”³⁵ Accountability can be defined as the obligation of decision-makers - who hold political, financial or other forms of power and include officials in government, private corporations, international financial institutions and civil society organizations - to account for or take responsibility for their actions. Public officials – elected politicians and civil servants - are accountable for their conduct and performance. Thus, they can and should be held accountable to a) obey the law and not abuse their powers and b) serve the public interest in an efficient, effective and fair manner.³⁶

In order to ensure accountability of public officials, various internal and external mechanisms have been developed within the political system to ensure that public officials do not abuse their office for private gains. These mechanisms are called “horizontal” accountability³⁷ and have been divided by scholars in following categories:³⁸

- Political mechanisms: constitutional constraints, separation of powers, the legislature and legislative investigative commissions;
- Fiscal mechanisms: formal systems of auditing and financial accounting;
- Administrative mechanisms: hierarchical reporting, norms of public sector probity, public service codes of conduct, rules and procedures regarding transparency and public oversight;
- Legal mechanisms: corruption control agencies, ombudsmen and the judiciary.³⁹

Although “horizontal” accountability mechanisms and occasional elections are important, empirical research shows that these are not sufficient to guarantee good government and the rule of law. Various policy studies⁴⁰ suggest that engagement of citizens, civil society organizations, and media in decision-making processes can significantly lead to improvement of efficiency and performance of public institutions and office holders⁴¹. More precisely, through different modes of engagement in the government, civil society actors can directly or indirectly enhance accountability of public officials and servants, and in this way foster governance performance, improve public service delivery, improve allocation of budget resources and enhance public

³⁵ Ackerman, John: „Social Accountability for the Public Sector: A Conceptual Discussion.”

³⁶ Malena, C, Forster, R. and Singh, J. “Social Accountability: An Introduction to the Concept and Emerging Practice.”

³⁷ Scholars emphasize that accountability has two dimensions: horizontal and vertical. The horizontal dimension is related to the effective operation of the system of checks and balances, and with due process in governmental decision-making, whereas the vertical accountability is accountability are external to the state and incorporates elections and several other mechanisms, including mechanisms of social accountability.

³⁸ Goetz, Anne Marie and John Gaventa. „Bringing Citizen Voice and Client Focus into Service Delivery.”

³⁹ Examples of horizontal accountability mechanisms include institutions like human rights *ombudsman*, independent electoral institutes, corruption control agencies, legislative investigative commissions and administrative courts. World Bank. “State-Society Synergy for Accountability: Lessons for the World Bank.”

⁴⁰ Torres, Magüi Moreno. „Beyond Representation: Good Governance and Empowerment in Latin America and the Caribbean”; World Bank. “Social Accountability Sourcebook”; Ahmad, Raza. „Governance, Social Accountability and the Civil Society.”; World Bank. „The Role of Civic Engagement and Social Accountability in the Governance Equation.”

⁴¹ Malena, C, Forster, R. and Singh, J. “Social Accountability: An Introduction to the Concept and Emerging Practice.”

expenditure effectiveness, increase access to justice for marginalized groups, and decrease corruption. In this instance, Harahan and Waleed note that „So]rganized civil society groups can play a critically important *independent role* in communicating the need for adequate court resources, facilities and services to the community at large. At the same time, such groups may serve as important credible voices for change, and for much needed improvement in the administration of justice.”⁴² This mode of accountability that relies on civic engagement is defined as social accountability. Social accountability functions as a mean to improve efficiency and performance of public institutions and officials as it improves the quality of information concerning the citizens’ needs and values, encourage public debate over fundamental public issues, and therefore, protects the public interest.

⁴² Harahan, F. Samuel and Waleed H., Malik. „Partnerships for Reform - Civil Society and The Administration of Justice: Learning By Doing.”

Value of increasing social accountability of judicial branch of the government has been recognized by practitioners and scholars as well. Empirical studies show that civic engagement in the judiciary can significantly improve the rule of law: increase transparency, limit opportunities for corruption, political influence and abuse of power, increase government adherence to the law, promote uniform application of the law, and improve access to justice. In her analysis of incorporated civic engagement initiatives in police or judicial reforms in 100 countries, McIlvain finds that „public participation and oversight in judicial work guard against internal and external pressures for judicial corruption, helping to ensure the effectiveness and strength of the judiciary as an independent and impartial body... Secondly, public scrutiny of the courts’ work is key to keeping the judiciary’s own power in check—an important function since the judge is delegated broad powers as the ‘ultimate decision-maker and the highest government official within the justice system.’”⁴³

⁴³ McIlvain, Ashley. „Toward a more sustainable democracy: Public Participation in Justice Sector Reform.”

However, it is important to note that when judicial accountability is in question, hallmarks of an effective justice system is its autonomy and neutrality. Thus, judges should be insulated from any kind of pressure, political or public. Nevertheless, these two principles are not in contradiction: “Independence addresses freeing the judiciary from prior control of its decisions. On the other hand, accountability focuses on having mechanisms in place by which the judiciary as an independent body is required to explain its operations after the fact. Since greater transparency is often the key to both, enhanced measures of accountability can often actually help to reinforce independence.”⁴⁴

⁴⁴ In sum, any initiative to introduce social accountability mechanisms in the judiciary needs to take into consideration judicial autonomy and neutrality. USAID Office of Democracy and Governance. „Guidance for Promoting Judicial Independence and Impartiality.”

Mechanisms of social accountability can range from public demonstrations, protests, advocacy campaigns, investigative journalism, public interest lawsuits, to participatory budgeting, public expenditure tracking, monitoring of public service delivery, free legal aid, etc. As these mechanisms vary in their form, their outcomes can be different. For example, accountability as product of active participation of civil society organizations in the policy process has different consequences and outcomes than the accountability as social monitoring and control. Thus, various social accountability mechanisms have different objectives:⁴⁵

⁴⁵ World Bank. “State-Society Synergy for Accountability: Lessons for the World Bank.”

1. Participatory planning processes: decision-making based on needs, thus yielding a better targeting of resources;
2. Oversight of public resource management: to discourage corruption, clientelism, and capture;
3. Participatory monitoring and evaluation: the improvement of the quality of services.⁴⁶

⁴⁶ Ibid.

Practice shows that “[w]hile the range of social accountability mechanisms is wide and diverse, key common building blocks include obtaining, analyzing and disseminating information, mobilizing public support, and advocating and negotiating change.”⁴⁷ Several efforts have been

⁴⁷ Malena, C, Forster, R. and Singh, J. “Social Accountability: An Introduction to the Concept and Emerging Practice.”



made to define modalities of civic engagement,⁴⁸ but for purpose of this research Forster and Singh's classification will be used for as it most closely relates to the outcomes of conducted empirical research on social accountability in the B&H judiciary. Forster and Singh defined five levels of civic engagements that fosters social accountability: participatory public policy making; participatory budgeting; citizen monitoring and evaluation of public policy and service delivery; raising public awareness about citizens' legal rights and public service; and provision of justice by civil society organizations.⁴⁹ These mechanisms can be initiated and supported by governmental institutions, civil society agents, or both.

Participatory public policy making. This mechanism involves direct citizen/CSO participation in formulating public policy (i.e., preparation of draft laws, strategies, and similar) with an objective to transfer "grassroots" needs and interests of common citizens, or particular social group's interest CSO represent (women, disabled, etc.) in public policy. Public participation in decision-making process takes place usually through involvement in governmental working groups, public consultations, commissions, hearings, citizen advisory boards and oversight committees. These instruments are used to provide opportunities to citizens and nongovernmental groups to communicate with governmental officials on a specific policy issue.⁵⁰ In addition, when judicial institutions are concerned, in several countries, the public has been active in the process of development of an ethics code for judicial personnel where citizens and NGOs participated as observers in order to make sure that court or prosecutors' office ethics code addresses all the situations that could arise. Similarly, NGOs can participate in development of court or prosecutors' office procedures in regard to establishing rules that prevent corruption. The public can be involved in designing the justice reform program itself, as noted in various countries, whereas „diverse representation in development of the reform program builds the broad consensus necessary to carry out reforms that extend beyond the judiciary“.⁵¹ The public can play an important role in developing personnel policies, professional selection criteria, appointment procedures, performance standards, and processes for promoting and disciplining judges and prosecutors. Within this scope of participatory work, CSO also oftentimes develop policy analyses and studies to support their claims and to affect policy outcomes.

Participatory budgeting. Participatory budgeting in a new mechanisms which aims to involve CSOs and citizens in the decision-making process of public budgeting in order to provide them with a channel to give voice to their priorities. Participatory budgeting is perceived as a tool for making the allocation of public resources more 'inclusive' and 'equitable' since „enhancing public access to budget information, transparency in fiscal policy and public expenditure management can be achieved that in turn reduces clientelism, elite capture, and corruption.“⁵² Participation of CSOs in budgetary processes usually consists of four different approaches: budget formulation, budget review, expenditure tracking and performance monitoring. The first mechanism involves direct citizen/CSO participation in formulating public budgets (i.e., in proposing projects and allocating funds) in order to track how public resources are allocated. It usually takes place in form of budget consultations. Budget analysis/review involves CSOs review of budgets and policies with purpose to diagnose implications of budgets when they are formed and assesses whether allocations match the government's expressed social commitments. It is a process "where a wide range of stakeholders research, unpack, monitor and disseminate information about public expenditure and

⁴⁸ The OECD distinguishes between three different types of civic engagement: information, consultation and participation. Information consists of a one-way provision of information from the public authorities. Tools usually used for information/communication processes are: advertisements, publication of reports, newspaper inserts, press releases, news conferences, or websites. Consultation usually includes initiatives where the authorities inform NGOs of current policy developments and ask for their comments, views and feedback. It takes places through public meetings, surveys, public opinion polls, public hearings, focus groups, referenda, meetings with stakeholders, letterboxes, on-line live chat events, on-line working groups, consultative bodies (review boards evaluating government policies or programmes), workshop, seminars, conferences, non-binding referenda (consultation of the entire population on a specific issue with a choice of answers), open hours, citizens' panels (composed of citizens selected on the basis of a representative sample of the population; consultation take place by postal or telephone), and advisory committees. Participation involves active participation of NGOs in defining and implementation of policies. Active participation tools are: consensus conferences (where group of 10 to 15 citizens gather to question experts on a policy issue. After the questioning, they discuss the issue among themselves. At the end, they publicly present the conclusions they share – the consensus. The group of citizens is randomly selected); Citizens' juries (similar to consensus conferences, but features a couple of important differences: questioning takes place as in a courtroom, open to the public at large); evaluations by group of experts and representatives of interest groups and civil society organisations; traditional tripartite commissions; joint working groups; open working groups (similar to the tripartite commissions and joint working groups but in contrast to these, they operate publicly and use opportunities to involve broader parts of the population); participatory vision and scenario- development about future; citizens' fora (large and broad group of civil society representatives gathered around a specific policy area or issue). The International Association for Public Participation (IAPP) classified civic engagement in five levels of public participation: aside information and consultation, IAPP defines public *involvement*, though which NGOs participate in drafting policies; public *collaboration* incorporates NGOs at each stage of the decision-making process; and *empowerment* where decision-making authority is placed in the hands of citizens.

⁵⁰ They provide governmental institutions with information how policy proposal will affect different social groups and how well it is received on the ground.

⁵¹ McIlvain, Ashley. „Toward a more sustainable democracy: Public Participation in Justice Sector Reform.“

⁵² Ahmad, Raza. „Governance, Social Accountability and the Civil Society.“

⁴⁹ Malena, C, Forster, R. and Singh, J. "Social Accountability: An Introduction to the Concept and Emerging Practice."

⁵³ Malena, C, Forster, R. and Singh, J. "Social Accountability: An Introduction to the Concept and Emerging Practice."

⁵⁴ Wagle, S., and Shah P. „Participation in Public Expenditure Systems.“

⁵⁵ Singh, Janmejay and Shah, Parmesh. „Making Services Work for Poor People -The Role of Participatory Public Expenditure Management (PPEM).“

⁵⁶ Malena, C, Forster, R. and Singh, J. "Social Accountability: An Introduction to the Concept and Emerging Practice."

⁵⁷ Ibid.

⁵⁸ McIlvain, Ashley. „Toward a more sustainable democracy: Public Participation in Justice Sector Reform.“

⁵⁹ Peruzzotti, Enrique and Smulovitz, Catalina. „Held to Account: Experiences of Social Accountability in Latin America.“

investments.”⁵³ Budget analysis/review works along the public expenditure cycle, based on the assumption that budgets and their execution reflect actual policy decisions and their implementation.⁵⁴ Budget analysis is somewhat different from simple budget review, because in analysis „civil society is involved here with the specific focus of *demystifying the technical content of the budget* for common people as well as their elected representatives to understand.”⁵⁵ A similar and related mechanism to the previous one is public expenditure tracking that involves citizen groups and organizations „tracking how the government actually spends funds, with the aim of identifying leakages and/or bottlenecks in the flow of financial resources or inputs.”⁵⁶ Thus, this mechanism usually shows where the money goes. Performance monitoring of CSOs entails activities that track performance, outputs and results of policies even when the money is already spent, according to indicators CSOs themselves have selected. Thus, it includes evaluation and monitoring activities.

Citizen monitoring and evaluation of public policy and service delivery. This mechanism incorporates monitoring the implementation and performance of public policies (laws, strategies, and similar), services, or specific projects and evaluating their impact according to indicators CSO or public institution has selected.⁵⁷ In this instance, particularly important are initiatives related to civic engagement in defining, executing and evaluating justice reforms as they present a basis for all other policy activities in the judiciary. McIlvain notes that „[b]y increasing public awareness of—and engagement in—reform efforts, public participation in justice sector reforms could thus be key to not only increasing the effectiveness of these institutions, but also fostering the public’s faith in democratic change more generally and reducing opportunities for spoilers.”⁵⁸

Raising public awareness about citizens’ legal rights and public service. Oftentimes application of rights and provision of public services are poor simply because citizens are not aware of their rights and available services. Thus, CSO can play a significant role in demanding accountability through raising awareness and empowering citizens to claim rights and services. In order to achieve this objective CSOs initiate various activities: they organize movements around certain cases in which the provision of impartial justice seems to be jeopardized due different reasons; promote and demand access to justice to disadvantaged groups; organize campaigns for the legal education of the citizenry; or they submit for individuals or social groups legal claims or legally framed petitions to the courts used to force the state to intervene in those political and social disputes of public interest that they do not want to be avoided or ignored.⁵⁹

Provision of public service (justice) by civil society organizations. Although this aspect of civil society participation in work of governmental institutions does not present an obvious social accountability instrument, provision of public service by non-governmental organizations can directly lead towards better performance of governmental institutions and strengthen their accountability. It usually entails agreed or at least allowed provision of public services by non-governmental organizations.

IV. PRECONDITIONS

Empirical studies show that successful implementation of described social accountability mechanisms in public institutions requires several preconditions to be met: access and effective use of information is granted to citizens and NGOs; capacities of civil society and public institutions for civic engagement are developed; readiness for cooperation of both sides exists; and social accountability mechanisms (at least some) are institutionalization of. Each precondition will be described in more detail.



a. Access to information

Participatory public policy making as well as other forms of institutionalized civic engagement dependent on the information-sharing process between justice sector institutions and citizens and their groups. If this process is not in place, or does not function very well, then results of other civic engagement activities will be affected.⁶⁰

Opportunities to obtain information as defined in administrative laws and their application in practice by justice institutions play a crucial role in exerting social accountability. Administrative laws provide legal framework “governing both the *standards* for bureaucratic and regulatory decision making and the *procedures* by which the public can assert their rights in the regulatory process.”⁶¹ They provide rules for the public and NGOs to obtain information, to make their views and evidence known in regulatory proceedings, to file appeals, and to seek court redress. In this instance, laws on citizen’s access to information, often called freedom of information laws, have particular importance in facilitating NGOs-government relations. Aside regulation, implementation of information laws in practice is equally important, as well as practices of evaluation of monitoring of their implementation, establishment of information offices within institutions, and creation of efficient internal information management systems. Practice of publishing court documents and decisions „reduces the opportunity for arbitrary or biased decisions, ensuring instead the law is applied equally in cases with similar facts ... Systems should also be established to make court records in general more regularly maintained and readily...[f]or example, establishing a case tracking system, collecting data on court caseloads and monitoring case outcomes...”⁶²

The implementation of freedom of information laws in B&H is quite endemic: only small percentages of requests submitted to public institutions receive responses. Sanctions are difficult to implement, making it easy for authorities to deny access to information to citizens and NGOs. 83% court respondents to the B&H national survey indicate that they have legal information available for citizens, which they can obtain through one to two different means of information-sharing.⁶³ Finally, 17% court respondents admit of not having any kind of legal information available for citizens. It is important to add that court records and decisions are not regularly published. Only supreme and constitutional courts publish their decisions online. Recently conducted survey of NGO Alternative in courts of Zenica-Doboj Canton reveals that citizens – even if the information might be available – do not know where to find it.

b. Capacities

Effective social accountability requires the sustained participation of a vibrant civil society with capacities to actively partake in decision-making processes. Without knowledge about policy processes and issues, roles of various institutions, regulation, civil actors cannot participate or contribute to social accountability. This is particularly relevant for the judiciary, where public’s lack of knowledge how the system functions is more present than in other branches of the government.

The same is relevant for public officials as well. Without knowledge about civil society and social accountability mechanisms they cannot instigate nor retain civic engagement. Thus, introduction of social accountability mechanisms in institutions presents „a transition that will necessitate broad education and training of judicial personnel”⁶⁴ and representatives of civil

⁶⁰ Description of information-sharing tools is given in Appendix A.

⁶¹ Johnson, Bradford P. And others. „Assessment of the Administrative Legal System in Bosnia and Herzegovina.”

⁶² McIlvain, Ashley. „Toward a more sustainable democracy: Public Participation in Justice Sector Reform.”

⁶³ Brochures and promotional materials available in court facilities; Court website; News billboard; Request for free access to information; Open court day or weekly reception of citizens by court president; Court library; and Electronic access to cases.

⁶⁴ Ibid.

society. Education and capacity-building remain a necessary precursor to civic engagement. This process should include all stakeholders and enable them to use existing mechanisms and know their role in it as well roles of others. Particularly important for capacity-building is broad inclusion of citizens and civic groups, especially hard-to-reach populations such as internally displaced persons, refugees, rural residents, minorities and women.⁶⁵

⁶⁵ Capacity-building and civic education processes should also involve learning opportunities for the public on various policy issues that should be framed in language understandable to common citizens and „in terms of issues that are immediately relevant to people’s daily lives.”

National survey results indicate that capacity-building present the most important prerequisite for effective civic engagement in the B&H judiciary. Many courts find that most NGOs need to develop legal capacities to actively partake in justice sector, while justice sector representative should become familiar with different modes of civic engagement and its role in the society.

c. Readiness for cooperation

Introduction of social accountability mechanisms into justice sector institutions requires changes in regulation and working practices. Therefore, an important issue to consider when any changes and reforms are in question is readiness of stakeholders to implement them. Without this commitment to change not much can be achieved. Particularly when judiciary is concerned, this issue is relevant as this sector has been characterized as reluctant to any changes in many states, particularly in developing and transition countries, mainly due the position the judicial branch of government has.⁶⁶ Additionally, the principle of judicial independence that requires independence and autonomy in making decisions can isolate the judiciary from the civil society and make it hard for judges and prosecutors “to hear the views and experiences of ordinary citizens and business owners... [and thus] leave the courts believing all is well when the community believes that reasonable change is long overdue.”⁶⁷ Finally, justice sectors institutions are very busy – as is the case in B&H as well – and judges constantly get pressured to resolve cases making it difficult to anybody to focus on anything else. Aside reluctance to challenge traditional practices and institutions, skepticism about the value of engaging citizens and about their capacity to participate meaningfully in complex policy matters, as well as fear of citizens hijacking the policy process, can hinder application of social accountability mechanism. Thus, social accountability initiatives need to address and mitigate these issues as well.⁶⁸

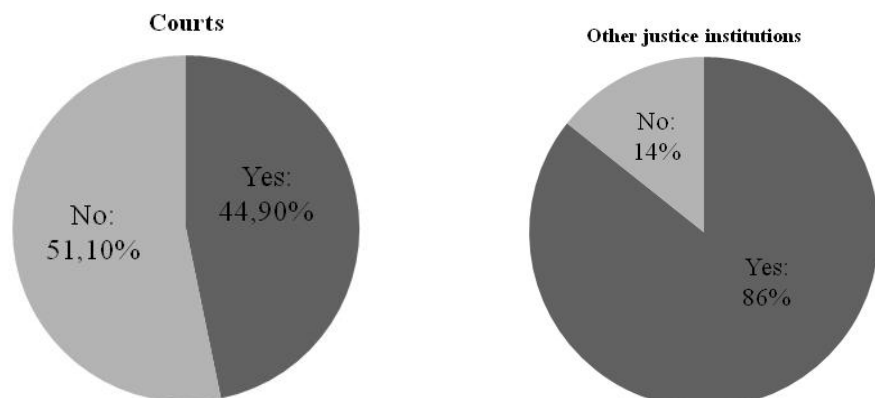
⁶⁶ Harahan and Waleed note that „[e]ach judiciary assumes to have a national monopoly in matters of the administration of justice. As a monopoly, the judiciary is not subject - except perhaps to a limited extent - to competition in its functions.” Harahan, F. Samuel and Waleed H., Malik. „Partnerships for Reform - Civil Society and The Administration of Justice: Learning By Doing.”

⁶⁷ Ibid.

⁶⁸ Gauvin, Francois-Pierre and Abelson, Julia. „Primer on Public Involvement.”

Results of conducted national survey in B&H indicate that trust and dialogue between the civic and justice sectors are needed. Some courts and justice institutions have established cooperation with the civic sector.

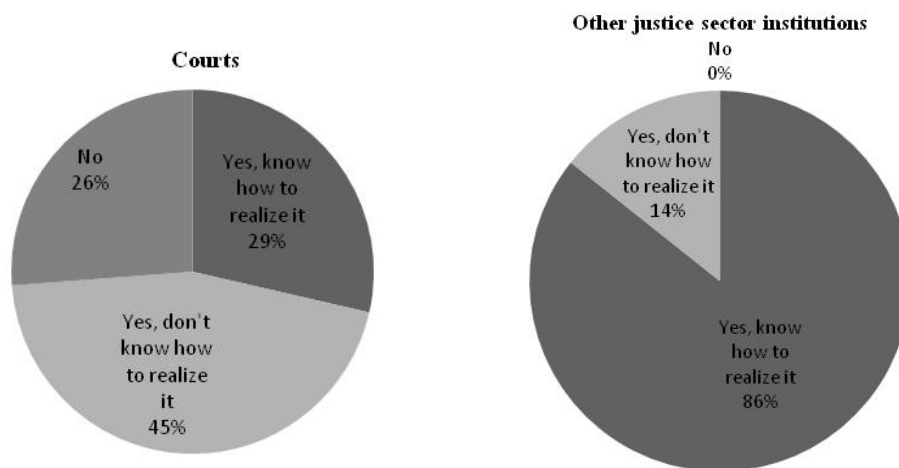
Graph 1: Established cooperation with NGO





However, this cooperation is quite passive. For 70% of court respondents from courts, this cooperation primarily takes in the form of NGO monitoring of their work. Five courts stated that NGOs deliver and provide information to court in relation to certain cases, while 4 courts state that NGOs provide free legal aid, and 2 courts indicated that NGOs provide mediation services. Several courts also stated that cooperation with NGOs takes place in exchange of information: court delivers information upon received requests from NGOs. Civic engagement in other justice sector institutions takes place in form of monitoring their work and provision of information upon request. Thus, most civic engagement in the B&H judiciary is initiated from the NGO side and involves judicial institutions passively.

Nevertheless, courts and other justice sector institutions in B&H are interested in establishing better cooperation with NGOs. 74% of courts are interested in establishing better cooperation with NGOs, although 45% of courts are not sure how to realize it. All other justice sector institutions that responded to the survey are interested in establishing better cooperation with NGOs, but 85% of them are not sure how to realize it as well.



Graph 2: Interest in development of better cooperation with NGOs

Courts find that better cooperation could be initiated through more frequent communication between courts and NGOs, better and timely information-sharing, and through establishment of partnerships. These partnerships should be created, according to courts, by creation of legal framework for civic engagement in courts and its realization in practice through implementation of joint activities. Other justice sector institutions find that civic engagement in the judiciary could be enhanced by development of mutual respect, dialogue, better exchange of information, and work synergy where their goals overlap in order to use more efficiently limited resources. Civic engagement could be improved through better application of existing legislation, particularly *Rules on Consultations in Creation of Legal Regulation* and the *Justice Sector Reform Strategy (JSRS)*.

NGOs and trade union find that both sides – civic sector and judicial institutions – need to start to trust each other and consider themselves as partners and not as opposing sides. Particularly, judicial institutions need to open up for contact and cooperation with NGOs, use expertise NGOs have in specific areas and take into consideration reports/requests/actions they receive from NGOs more seriously. Judicial institutions need to provide requested data and explanations, and communicate with citizens, media, trade unions and NGOs more frequently and readily and respect law on freedom of access to information. On the other side, NGOs should profile themselves to work in the judiciary, become more transparent in their work as well, and inform and involve judicial institutions in their activities. Furthermore, NGOs need to become

more studious and analytical in approaching and researching specific judicial issues. According to NGOs, these objective can be achieved through:

- capacity-buliding and education of both sides about their roles and activities;
- systematic and institutionalized cooperation that will provide regular contact regulated by rules and not based on ocaasional events;
- full application of already existing legislation that regulates cooperation between NGOs and judicial institutions;
- appointment of NGO contact officers or PRs in judicial institutions;
- involvement of NGOs and professional associations in decision-making process;
- public support/solidarity in particular endeavours;
- initiation of investigations based on data and evidence NGOs provide
- organization of joint events
- establishment of permanent coordination body within the Justice Network in B&H to act contact point between NGOs and justice sector institutions.

d. Institutionalization

For effective social accountability to take place, building an institutionalized framework - creating legal basis for social accountability mechanisms and incorporating them into formal public institution's procedures - is a prerequisite. Malena and Singh find that "the effectiveness and sustainability of social accountability mechanisms is improved when they are "institutionalized ... and linked to existing governance structures and service delivery systems."⁶⁹ Furthermore, McIlvain comparative analysis of public participation initiatives in the judiciary shows that chance of successful execution of various initiatives improves when they are integrated into existing judicial reforms.⁷⁰

Institutionalization is important because it is "the process by which organizations acquire value and stability."⁷¹ Institutionalization generates formation of long-term relationships with community stakeholders, which are requirements for effective social accountability.⁷² In other words, civic engagement must become a regular activity, and not just a one-time event⁷³ - it should be "a to-be-expected component of the policy development processes."⁷⁴ Institutionalized forms of social accountability generate greater trust of citizens and NGOs in governments and policies because civic engagement is seen as part of regular a decision-making process, and not something that happens only then "when it is convenient and instrumental to a larger political agenda."⁷⁵ Social accountability mechanisms are particularly beneficial if they are institutionalized government-wide as opposed to be concentrated in certain departments or agencies.

However, long success of institutionalized social accountability mechanisms requires serious and substantial consideration of public input. Participants must have a real impact decision-making process and policies: if the government does not make use of the input received, or citizens and NGO activists feel that their voices are being drowned out by interest groups, lobbyists, experts, then civic engagement will be seen as superficial or token gestures. Furthermore, civic groups should get involved in the participation process as early as possible. They should be enabled to contribute to definition of the civic engagement processes as well. Civic engagement processes have to be independent from political influence and fair: everybody should have a chance to express himself/herself including those who hold diverging views. In this way, particular attention should be given to representativeness in civic engagement, which must reflect the population as much as possible in order to avoid exclusion. "If citizens and participants are not

⁶⁹ Malena, C, Forster, R. and Singh, J. "Social Accountability: An Introduction to the Concept and Emerging Practice."

⁷⁰ McIlvain, Ashley. „Toward a more sustainable democracy: Public Participation in Justice Sector Reform."

⁷¹ OECD. "Engaging Citizens in Policy-making: Information, Consultation, and Public Participation."

⁷² Livingston, Armytage. „Book Overview: Searching for Success in Judicial Reform: Voices from the Asia Pacific Experience."

⁷³ OECD. "Engaging Citizens in Policy-making: Information, Consultation, and Public Participation."

⁷⁴ Sheedy, Amanda. „Handbook on Citizen Engagement: Beyond Consultation."

⁷⁵ OECD. "Engaging Citizens in Policy-making: Information, Consultation, and Public Participation."



selected representatively, but are chosen because of their closeness to the government or its officials, then results will be flawed and the exercise may lead to mistrust rather than more trust in government.”⁷⁶ Clear participation rules need to be set, published and followed. Finally, social accountability – particularly its institutionalized form - requires financial resources as any other governmental activity. Aside willingness of governmental institutions to establish social accountability, readiness to provide funding to sustain them is equally important. Thus, resources must be made available to allow the meaningful participation of the public.

Following chapter will provide more detailed overview of initiatives in social accountability in B&H judiciary. It will show that most NGO engagements in this sector are limited in scope and time: they are usually initiatives that are based on an objective to attain a specific policy or project change. In few instances, NGOs worked with justice institutions on creation of institutionalization social accountability mechanisms.

V SOCIAL ACCOUNTABILITY INITIATIVES IN THE B&H JUSTICE SECTOR

Bosnia and Herzegovina has about 12 800 registered nongovernmental organizations (NGOs), whereas about 3000 NGOs are active.⁷⁷ They can be divided into two groups: great number of grassroots organizations that are established to pursue a specific objective, but don't have capacities to significantly affect policies; and professional NGOs that have capacities but are mostly project-driven.⁷⁸ Most NGOs do not have staff and operate through work of volunteers. NGOs primarily rely on international funding and strong presence of international community in B&H.

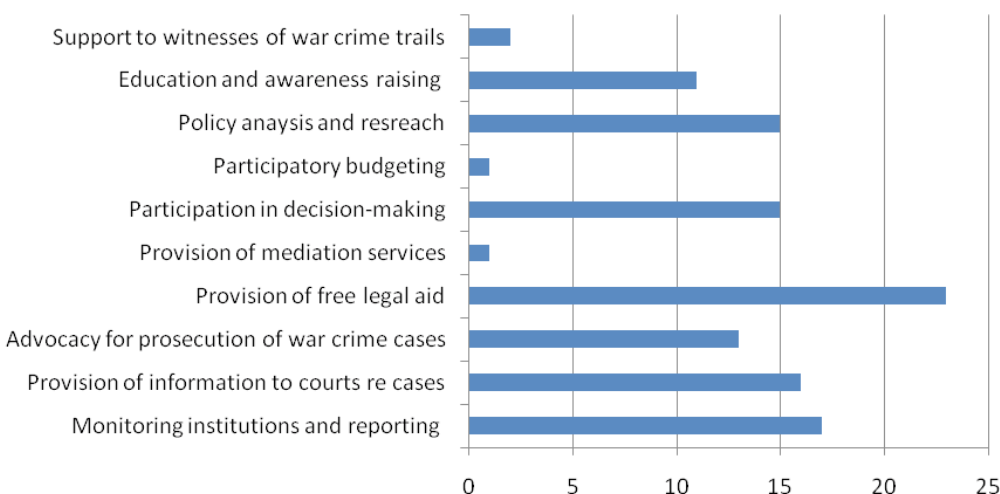
Nevertheless, slowly NGOs are starting to build stronger relationships with governmental institutions and use various forms of NGO participation in policy decision-making, monitoring work of governmental institutions, and implementing policy campaigns.⁷⁹ A positive example of such involvement in B&H is the justice sector, where several NGOs have profiled themselves as relevant and policy-focused and many others interested to join. Consequently, importance of civic engagement and social accountability in the B&H judiciary has been recognized. Recent reforms of the judiciary system have made ground for active participation of civil society representatives in the justice sector of B&H. According to the national survey, most NGOs that are active in the justice sector provide free legal aid to citizens or specific social groups. They are active in monitoring and resreach activities, as well as in provision of information to courts in relation to specific court trails.

⁷⁶ Ibid

⁷⁷ Numbers are based on estimates of several institutions, since reliable data are not available as registration of NGOs is governed by several laws and can be performed at different institutions. Recently, B&H Ministry of Justice prepared a framework law on creation of common registry of nongovernmental organizations in B&H, that should be sent into adoption procedure.

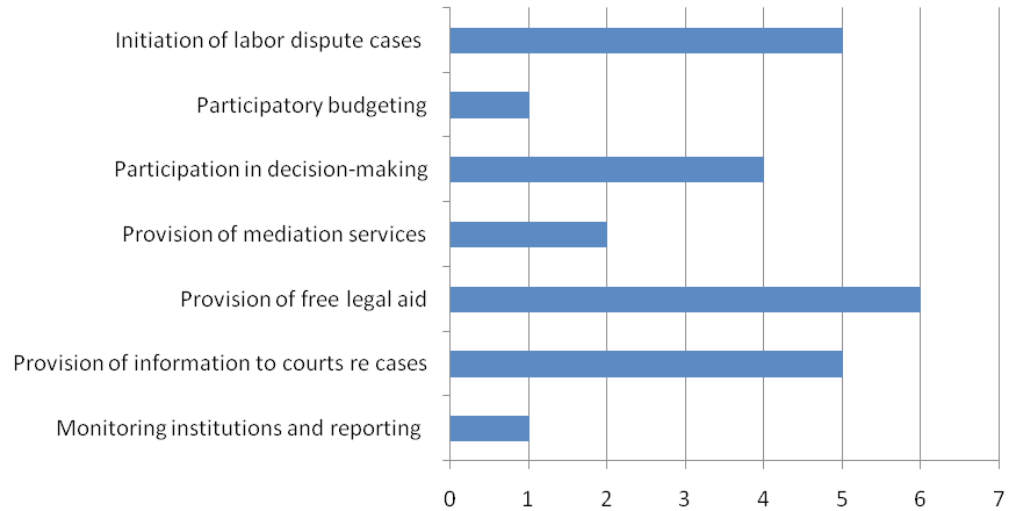
⁷⁸ Barnes, Catherine and others. „Civil Society Assessment in Bosnia and Herzegovina: Final Report.”

⁷⁹ Pearson, Brenda Lee and Robertson, Lawrence. „Evaluation of Civil Society Programs in Bosnia and Herzegovina: Final Report.”



Graph 3: CSO activities in the justice sector

Trade unions – when legal issues are concerned – are active also in provision of legal aid to workers and in initiation of labor dispute trails and provision of information in court proceedings.



Graph 4: Activities of trade unions in the justice sector

Regulatory basis for civic engagement in the justice sector exists. *Agreement on Cooperation between the Council of Ministers of BH and the Non-Governmental Sector in Bosnia and Herzegovina*⁸⁰ adopted in 2004 provides general framework for civic engagement and cooperation between national institutions and non-governmental organizations: it calls for establishment of procedures for public consultations and policy development, as well as creation of transparent funding rules and provision of grants based on strategic planning process. *B&H Strategy for Public Administration Reform* incorporates recommendation to public agencies on all levels of government to include the public in decision-making processes and incorporates measures on capacity-building of public institutions in holding public consultations. Republika Srpska also adopted *Directions for Practice of RS Administrative Bodies on Participation of Public and Consultations in Creation of Regulation. Fundamental partnership principles with citizens in Brcko District* provide basis for inclusion of NGOs in decision-making processes in the District. *Common rules for drafting legal regulation in B&H* stipulate mandatory obligation of national ministries to hold public consultations. In addition, *Rules on Consultations in Creation of Legal Regulation of the Council of Ministers* adopted in 2006 prescribe that national B&H institutions, including the Ministry of Justice in B&H, organize at least minimal (online) public consultations on each regulation adopted on the national level. All mentioned documents provide general framework for civic engagement in public institutions, including the justice sector. However, this engagement relates only to executive institutions (such as ministries of justice), not judicial of course, such as court and prosecutors’ offices. Although these mechanisms for civic engagement are in place for several years already, their use has been quite limited.

Aside mentioned regulation, another mechanism provides basis for inclusion of civil society in decision-making processes on state, entity and local level in the judiciary. The Justice Sector Reform Strategy of B&H (JSRS) incorporates reform measures for inclusion of civil society organizations in policy and law development processes. However, although the Strategy sets the ground for greater participation of civil society actors with an objective to improve social accountability in the judiciary, it does not incorporate clear measures of such involvement or identifies social accountability mechanisms. In this instance, the Strategy includes a single

⁸⁰ NGO Coalition “To Work and Succeed Together” „Agreement on Cooperation between the Council of Ministers of BH and the Non-Governmental Sector in Bosnia and Herzegovina.” Sarajevo, 2004.



measure: “Explore modalities for a more active engagement of the NGO sector in B&H in monitoring the justice sector work in B&H.” The Action Plan for implementation of the Justice Sector Reform Strategy in B&H – that provides more detailed instructions for reform activities – includes four reform activities within the above-defined reform measure:

1. Apply positive experiences and standards of justice institutions which promote increased cooperation between civil society and the judiciary;
2. Enable CSOs to monitor the justice sector and court proceedings, including allowing them access to court proceedings and facilities where incarcerated individuals and suspects are kept;
3. Ensure ongoing publication of information on the rights of all the parties to the proceedings;
4. Establish a system of providing grants for CSOs that are in line with the strategic priorities of the ministries of justice and justice institutions.

Implementation of these reform activities, particularly the first one, has been very limited in three past years.

a. Participatory public policy making

When participatory decision-making in executive justice sector institutions is concerned, i.e. justice ministries, it has been primarily taken place through the framework that mentioned *Rules on Consultations* provide. According to the Rules, each national ministry has an obligation to conduct public consultations on each law the national ministries prepares, including the Ministry of Justice, before they submit it for adoption to the Council of Ministers and later to the Parliamentary Assembly of Bosnia and Herzegovina. The Rules prescribe two kinds of public consultations, the minimum and broader ones, which should be organized between national ministries and “the public, legal entities, and groups of citizens which do not belong to the government structure”, in the process of adopting regulations. Minimum consultations include the obligation of a relevant body to post a draft regulation on their official website, with the possibility of providing comments to a draft by interested parties, as well as solicitation of comments by persons who are on the consultation list of the relevant institution. Broader public consultations should be held when laws and regulation are of particular importance. This type of public consultations entails minimum consultations, as well as publication of law proposal in public media, submission of a law proposal directly to relevant organizations and individuals. Broader consultations also include an option for commissioning working groups to include „experts and representatives of organizations” to prepare a draft law or regulation.⁸¹ Obligation to hold public consultation should not subject to any exceptions. Ministry of Justice of B&H is the only national ministry that complies with the Rules and regularly conducts minimal consultations. It has implemented all activities prescribed by the Rules: appointed the public consultation officer; created and publishes a list of annual planned legal-normative activities; conducts assessment of policy and relevance of each legal regulation; developed internal consultations procedures; and conducts minimal consultations. However, Ministry of Justice rarely, if at all, conducts broader public consultations. In addition, the Ministry has not signed a single agreement with a civil society organization to conduct public consultations jointly, as the Rules prescribe but do not oblige national ministries.

Since justice institutions have commenced with implementation of the JSRS, only one instrument has been established in the Ministry of Justice in December 2009⁸²: *Memorandum on Establishment of Mechanisms for Monitoring and Evaluation of Implementation of the Justice*

⁸¹ Golubovic, Dragan. “Citizen Participation in Legislative Processes: a Short Excursion through European Best Practices.”

⁸² Ministry of Justice of BiH. „Public call to organizations of civil society to express their interest and apply for systematic monitoring and evaluation of implementation of measures set in the Justice Sector Reform Strategy in BiH.”

Sector Reform Strategy in Bosnia and Herzegovina incorporates participation of five civil society organizations in monitoring and reporting on implementation of the JSRS, which will be described in more detail later in the paper.

Aside the opportunity to participate in creation and implementation of strategic activities within the scope of the JSRS, B&H Ministry of Justice provided prospect to NGO representatives to participate in strategic decision-making through working groups for creation of strategic plans and regulation, such as the Strategy for Care of Court Users in B&H; Strategy for Solving War Crime Cases; Strategy for Transitional Justice⁸³. Professional associations, such as associations of Judges in B&H, FB&H and RS participated in creation of the Strategy for Care of Court Users in B&H. Creation of Strategy for Solving War Crime Cases and Strategy for Transitional Justice included representatives of associations of civil victims of war and other NGOs that dealing with transitional justice issues.

⁸³ Consultations on issues that should be addressed by the B&H Strategy for Transitional Justice has been organized by the B&H Ministry of Justice and the UNDP in 2008.

In addition, B&H Ministry of Justice, through its Civil Society Department, conducts consultations of NGOs in process of identification of priorities for EU programs for civil society in B&H, and informs potential EU funds applicants with procedures, grant openings and technical requirements. A related process to this one is a series of consultation workshops that B&H Directorate for European Integrations and Aid Coordination Sector in the B&H Ministry of Foreign Trade and Economic Relations organize in cooperation with the European Commission with an objective to identify strategic objectives, expected results, indicators and activities for the Multi-annual Indicative Planning Document (MIPD) – that sets priorities for EU assistance to B&H - in several areas, including the judiciary. These processes should enable civil society to participate in B&H – EU level decision-making enabling them to advocate for their priorities. However, these mechanisms have been established recently and require certain expertise and capacity to participate in consultations, making them not accessible to many NGOs, particularly grassroot organizations.⁸⁴

⁸⁴ Slijepčević, Tatjana. „Uloga civilnog društva u procesu Evropskih integracija.“ [Role of civil society in the process of European integrations.]

⁸⁵ In charge for overseeing the nomination, transfer, evaluation, inspection, termination and training of judges.

Aside the B&H Ministry of Justice, B&H High Judicial and Prosecutor's Council (HJPC) – an independent judicial institution on the national level – has rulemaking authorities on the national level.⁸⁵ HJPC recently initiated few meetings with NGOs representatives and media in order to build better relations with the public. It also included NGO representatives in expert groups for preparation of certain judicial regulations. Nevertheless, the public is not part of the HJPC. HJPC incorporates five attorneys as representatives of this profession, whereas two of them are representatives from entity Bar Associations. HJPC members who are judges and prosecutors are directly appointed by courts and prosecutors' offices (entity and state ones), whereas associations of judges, as well as associations of prosecutors do not have a role in any HJPC appointments or any other HJPC activities: public participation in developing personnel policies, professional selection criteria, appointment procedures, performance standards, and processes for promoting and disciplining judges and prosecutors within the HJPC has not been recorded. Mentioned associations of judges and prosecutors in B&H – that are registered and function as nongovernmental organizations - have representative membership and could provide an important input for judicial policies and foster reforms.⁸⁶

⁸⁶ For more detailed discussion on role and examples of public participation in judicial councils see McIlvain, Ashley. „Toward a more sustainable democracy: Public Participation in Justice Sector Reform“ and Cooper, M. James. „A Window Opens: Importing Horizontal Systems of Justice during a Time of Judicial Reform.“

Another example of involvement of NGOs in decision-making processes on lower levels of government are public consultations on the *Draft Rulebook on Work for Public Good* organized the Ministry of Justice, Administration, and Local Self-Governance in Herzegovina-Neretva Canton and consultations on similar Rulebook by the Judiciary Commission of Brcko District,



which these institutions organized in cooperation with NGO Association for Democratic Initiatives (ADI). Namely, ADI contacted mentioned institutions and proposed to organize public consultations for them on law proposal or issue they find important in order to motivate local justice institutions to use public consultations in their work and to their build capacities in use of this civic engagement instrument.

When other justice institutions are in question, such as courts and prosecutors' offices on all levels of government, participation of civil society in decision-making has not been institutionalized or applied in practice. Initiatives where citizens and NGOs participate in the development of an ethics code for judicial personnel or court or prosecutors' office procedures have not been noted. However, such lack on involvement is understandable in decision-making processes of judicial institutions as their work should be independent from any interference of the public and other forms of government, and ways how to involve the public without interfering with the impartiality principle has not been clear to stakeholders.⁸⁷

Although not representing internal or institutionalized participatory decision-making mechanism, creation of policy analyses and studies by NGOs to support their objectives presents an instrument more often used in B&H that attempts to affect externally decision-making processes and their outcomes. 15 NGOs that participated in conducted national survey on civic engagement in the B&H judiciary state that they prepare policy research and analysis on justice sector issues. B&H Justice Network – a network of 58 NGOs established in 2010 through USAID grant – recently published two compilations of policy papers that deal with access to justice in the country from various perspectives and judicial protection of human rights, including the review of judicial independence.⁸⁸ Human Rights Bureau Tuzla published several papers on juvenile delinquency, while NGO Alternative from Kakanj published a policy analysis on reforms in several courts in Zenica-Doboj Canton. NGO Pravnik established International Journal of Rule of Law, Human Rights and Transitional Justice, which includes various papers on legal issue. Association for Democratic Initiatives (ADI) published a compilation of analyses on mediation, free legal aid, informatization of judiciary and judicial aspect of EU integrations. NGO Medica from Zenica and Association "Gerc Sumejja - Center of Concentration Camp Victims Vojno" Mostar conduct research on protection of women and men who were victims of sexual violence and abuse in trial processes for war crimes, and provide policy recommendations to Prosecutors' Office of B&H and Court of B&H. Many other policy papers and analyses have been published, but it is quite difficult to locate them as they are not broadly distributed or published online.

In sum, participation in decision-making in the justice sector has been institutionalized on the national level and several initiatives have been realized, mostly by the B&H Ministry of Justice. Number of NGOs that participate in public consultations and strategic planning of B&H Ministry of Justice is quite small. Particularly, strategic planning on the national level - including the planning that takes place through the JSRS framework - involves usually few NGOs, whereas professional associations, such as associations of judges, prosecutors, notaries, etc., have not been part of these processes. Expanding the circle of participation is clearly a challenge, but it is necessary to achieve broad-based civic acceptance and ownership in justice initiatives. In other instances, inclusion of civil society happens occasionally, if at all⁸⁹. Therefore, development of civic engagement in decision-making processes needs to be further supported and institutionalized on lower levels of government.

⁸⁷ Please see section on Preconditions.

⁸⁸ "Access to Justice in Bosnia and Herzegovina" published in May 2011 by the Justice Network in B&H. NGOs that participated in preparation of these analyses are: Association for Democratic Initiatives (ADI); NGO Women to Women; Center for Informative-Legal Aid Zvornik; Association for International Law; Center for Legal Aid at the Foundation for Local Democracy; Center for Human Rights in Mostar; and PRONI Center for Youth Development Brčko. Online access at: <http://www.mrezapravde.ba/mpbh/latinita/txt.php?id=15>

⁸⁹ Although 37% of NGOs that responded to the national survey indicate that they participate in processes of creation of public policies (working groups, public consultations, etc.), this mode of civic engagement rarely takes place in the justice sector. Many NGOs participate in various public consultations and working groups of ministries on all levels of government, however these are rarely organized by the justice ministries. Review of justice ministries websites – where they would usually publish such calls – supports this claim.

b. Participatory budgeting

Participatory budgeting within the B&H judiciary – including the activities of formulating budgets, public expenditure tracking, and budget analysis/review – does not take place. Judicial budget preparation and monitoring is complicated by the fact that 14 judicial budgets exist and that executive branches of the government have strong say in how these budgets will look like. Consequently, judiciary is extensively influenced by the executive branch of the government and is under political influence that questions its independence. Reform of judicial budgeting is an ongoing process since 2008, but little has been done in that respect primarily as political will for reforms is lacking.

Center for Civil Initiatives (CCI) and Agency for Local Development Initiatives (ALDI) have in past years conducted public expenditure tracking, and budget analysis/review of all parts and levels of the government. However, their reports do not concentrate particularly on the judiciary and it is hard to find relevant data for this sector. Association for Democratic Initiatives (ADI) included in its last JSRS implementation report for its pillar – judiciary – a shorter budget analysis. However, results are also limited as executive and judiciary institutions do not follow established financial regulations and report differently across different jurisdictions.

c. Citizen monitoring and evaluation of public policy and service delivery

Mentioned *Memorandum on Establishment of Mechanisms for Monitoring and Evaluation of Implementation of the Justice Sector Reform Strategy in Bosnia and Herzegovina* allows civil society organizations to monitor and evaluate work of justice sector institutions in B&H through preparing and writing monitoring reports on implementation of the Justice Sector Reform Strategy in B&H. Ministry of Justice of B&H, as representative of all justice sector institutions in B&H signed Memorandum with five NGOs that monitor and report on implementation of five JSRS strategic pillars:

Pillar 1 – Judiciary: Association for Democratic Initiatives

Pillar 2 – Execution of Criminal Sanctions: Helsinki Committee for Human Rights of B&H

Pillar 3 – Access to Justice: Your Rights B&H

Pillar 4 – Support to Economic Development: Human Rights Office Tuzla

Pillar 5 – Well-Managed and Coordinated Sector: Center for Civil Initiatives.

Until now, these NGOs have produced three reports following the JSRS implementation reporting cycle by relevant justice sector institutions. At the Conference of Ministries of Justice – coordination body through which JSRS implementation is monitored - several recommendations identified in NGOs reports were recognized and adopted into the official JSRS Action Plan. Nevertheless, majority of recommendations made in NGO reports have not been considered. Furthermore, this monitoring activity includes rather a small group of NGOs and does not include professional associations that could provide significant input on implementation of JSRS in practice, such as association of judges, prosecutors, mediators, legal administrators, etc.⁹⁰ Furthermore, wider public understanding and evaluation of the ongoing reform is lacking. International experiences in social accountability of justice sector indicate „that community participation is essential to success in judicial reform. Not only is the community central to identifying the problems and developing solutions, it is also critical to sustaining implementation and monitoring results...The lesson of these experiences suggests that stakeholders

⁹⁰ McIlvain finds that „[j]udges provide the best allies in achieving democratic judicial reform and thus every effort should be made to include all judges in the consultation process that develops the reform program itself... If judges feel invested in the process, they will be more likely to defend and sustain it. On the other hand, if judges feel ostracized or personally attacked by externally-imposed reforms, they could easily become the staunchest opponents of reforms...If it has not already occurred, the formation of judicial associations could play a key role in solidifying the support of, and for, reform-minded judges.“ McIlvain, Ashley. „Toward a more sustainable democracy: Public Participation in Justice Sector Reform.“



should be centrally involved as reform partners and have a real sense of ownership in developing access to justice solutions.”⁹¹ Wider evaluation of the JSRS could take place directly through creation of review boards, or indirectly through surveys, which is also less expensive method.

NGOs monitor implementation of other justice sector strategies as well. Transparency International conducts monitoring of implementation of B&H Strategy for Fight against Corruption that incorporates elements related to the judiciary. Helsinki Committee for Human Rights in RS monitors implementation of national Strategy for work on War Crime Cases.

Several NGOs, members of the Justice Network in B&H – Association for Democratic Initiatives, the Center for Information and Legal Aid of Zvornik, the Human Rights Centre of the University of Sarajevo, the Helsinki Committee for Human Rights in BiH, the Helsinki Committee for Human Rights in Republika Srpska, the Youth Initiative for Human Rights, the Association of associates and advisers in the courts and prosecutor offices in BiH, the BiH Association of Judges, the Association of Women Judges of BiH, and the Association “Women to Women” – conducted monitoring activities and published a report on implementation of UN Universal Periodic Review (UPR) recommendations on human rights issues pertaining to the judiciary. They reported on effectiveness of the B&H judiciary in protection of human rights in relation to processing human rights abuses, discrimination, hate speech, war crimes, and review functioning of internal mechanisms of judicial independence, and record keeping of human rights abuses. Since 2005, Center for Human Rights in Sarajevo conducts monitoring of protection of human rights, including the judiciary.

Another monitoring initiative in the B&H judiciary has been conducted by the Helsinki Committee for Human Rights of B&H that monitors and reports on institutes for sanctions and correction (prisons) through making visits to these institutions and conducting interviews with prisons’ staff and inmates. These monitoring reports provide important insight into work and conditions in prisons with relevant policy recommendations. However, these monitoring reports are published annually and most recent ones are missing due to lack of financial support to this institution.

Several NGOs have been active in conducting monitoring and reporting on court proceedings. Balkan Research Network (BIRN) monitors and reports on court trials of war crimes in courts in BiH. Association of Prijedor Women ‘Izvor’ monitors war crime trials in Court of B&H, District Court in Banja Luka and Cantonal Court in Bihać, and organize group visits to monitor those trials. *Alternative* monitored and reported on several Zenica-Doboj Canton courts in relation to application of freedom of access to information laws. Several women NGOs, such as NGO *Lara* from Bijeljina and *United women* from Banja Luka monitor court trials in basic and district courts in Bijeljina and Doboj in which women are victims. Center for Civic Cooperation in Livno monitors court trials that deal with labor disputes and advocate for fair and timely trials through organization of meetings with presidents of municipal and cantonal courts and request efficient trials in specific cases.

Some NGOs monitor specific court trials and comment court decisions or proceedings. Center for Investigative Journalism continuously conducts research in judicial matters as well and publishes stories in daily newspapers and web portals. Similarly, BIRN conducts investigative journalism and analysis in field of transitional justice. Association ‘Citizen Action’ commented

⁹¹ Livingston, Armytage. „Book Overview: Searching for Success in Judicial Reform: Voices from the Asia Pacific Experience.”

⁹² Association "Citizen Action". „Kakvu će poruku u ponedjeljak uputiti naše pravosuđe potencijalnim mladim kriminalcima?“ [What message will our judiciary send on Monday to potential young criminals?].

court decisions of a Sarajevo case of juvenile delinquency and murder calling the Supreme Court of B&H for harsher sentences for the accused.⁹² Another example is work of Alternative Club from Trebinje that follows the work of judicial institutions in their municipality and publishes regularly public statements in which they openly disclose cases of power abuse, corruption and public misconduct particularly related to war crimes and organized crime. Associations of civil victims of war, such as associations of concentration camp detainees, associations of families of missing persons, associations of raped women, etc. have been in active in monitoring and advocacy activities in relation to transitional justice issues: they call authorities to faster prosecution of war crime cases and demand harsher sentences.

Despite these initiatives, comprehensive civic oversight over courts and prosecutors' offices, which could generate stronger civic demand for transparency and accountability is still lacking. Specific courts and prosecutors' offices, as well as particular cases, need to be monitored regularly and continuously in order to effectively monitor for corruption, abuse of power or political pressures. Furthermore, systematic monitoring of selection, appointments, and disciplinary measures of judges and prosecutors by civil society is not present as well. These are quite important as they provide means to advocate for inclusion of marginalized populations into justice system and eliminate corruption. Since B&H key problem is not the existence of judicial standards, but lack of their implementation in practice, external public oversight over judicial institutions and procedures will be crucial.

d. Raising public awareness about citizens' legal rights and public service

Awareness of citizens about their rights and available legal mechanisms for their protection proves to be one of the pressing issues in the B&H judiciary. Following table illustrates opinions of courts and NGOs that provide legal aid on level of legal awareness of citizens in B&H. Evidently, both sides find that citizens are only partially educated about their rights and even less about legal mechanism for their protection. Legal aid organizations establish even lower citizen awareness than courts:

Table 1: Level of citizen awareness about rights and legal system: opinions of courts and NGOs

How well citizens are aware of their rights?	
Courts	NGOs that provide free legal aid
7,7% fully	0% fully
90,4% partially	68,9% partially
1,9% not at all	31,3% not at all
How well citizens understand legal system in protection of their rights?	
5,8% fully	0% fully
92,3% partially	60% partially
1,9% not at all	40% not at all

Many NGOs are active in this area. NGOs that fight for human rights of particular vulnerable social groups (i.e. women, youth, poor, consumers, workers, etc.) oftentimes provide trainings and counsel to their target groups, and even legal aid in certain matters. For example, NGO 'Rights for all' from Sarajevo is currently conducting a project through which they are educating 20 local Roma communities on rights and legal mechanism of their protection in terms of the



Law on protection from violence in families. Balkan Research Network (BIRN) conducts trainings and education in war crimes reporting and monitoring trails. Mediacentar in cooperation with associations of judges and prosecutors organized educative workshops in schools on B&H legal system and the rule of law. Youth Initiative for Human Rights implemented a project through which they educated law students about current justice sector issues. Certain NGOs provide training and organize seminars for NGOs and justice sector officials on various judicial issues. La Strada from Mostar regularly educates judicial personnel in women trafficking issues in order to instigate better investigation and prosecution of these crimes. Association of Deaf and Near Deaf of Republika Srpska educate court experts/forensics in sign language. Nevertheless, level of awareness about rights and legal mechanism is quite low.

It is important to note that NGO educative initiatives remain outside the formal training system. Although the Center for Training of Judges and Prosecutors in Federation of B&H reports on organizing seminars and trainings in cooperation with NGOs, these initiatives are rare. Moreover, participation of judicial personnel in NGO educative activities is not part of the formal education system for judges and prosecutors. In many countries, professional associations have an important role in training, by mentoring, training, and examining new judges. However, this role of professional association in B&H has not been recognized.

Within this category of civic engagement, NGOs in B&H are also conducting advocacy campaigns, such as in area of transitional justice. In 2005, Support Network to the B&H Court was created by five NGOs – Center for Civil Initiatives, Association 'Women to women', Helsinki Committee for Human Rights in RS, Citizen Forum Tuzla, and Association of Prijedor Women 'Izvor' – with an objective to act as a referent group to ongoing war crime trials and present to the public work of B&H Court and B&H Prosecutor's Office on war crimes. The Network was active about a year.⁹³ Another NGO network in area of transitional justice – Peacebuilding Network - was created recently by the Catholic Relief Services and Caritas with an objective to gather associations of civil victims of war and instigate reconciliation processes. Activities of this Network include organization of educative activities, such as workshops and conferences, and public advocacy in relation to transitional justice issues. Professional associations⁹⁴ conduct advocacy on issues pertaining to their profession and better working conditions, but also organized and participate in various educative and expert trainings and meetings.

e. Provision of public service (justice) by civil society organizations

NGOs in B&H have also been involved in providing justice through provision of paralegal and legal aid; provision of alternative dispute resolution services, primarily mediation in disputes; delivery of information to courts and prosecutors' offices in relation to certain cases; and initiation of court or administrative procedures.

Many NGOs in B&H have been involved in provision of legal aid.⁹⁵ Nevertheless, several NGOs stand out: Your Rights B&H, Helsinki Committee for Human Rights in B&H, Center for Informative Legal Aid Zvornik, Center for Human Rights Mostar, Agency for Local Development Mostar, and Human Rights Office Tuzla. Certain NGOs provide legal aid only to particular social groups: Center for Legal Aid to Women in Zenica provides legal aid for women; NGO Lara from Bijeljina provide free legal aid to women who are victims of violence; Association of Prijedor Women 'Izvor' provide support to families of missing persons and civil victims of war in prepa-

⁹³ Popović, Dragan and others. „Assessment of condition and needs of cantonal / district prosecutors' offices and courts in area of witness support and protection in war crimes cases in B&H.“

⁹⁴ Association of Judges in B&H; Association of Judges in FB&H; Association of Judges in RS; Association of Prosecutors in B&H; Association of Prosecutors in FB&H; Association of Prosecutors in RS; Association of Court Forensics; Association of Expert Associates and Advisors in Courts and Prosecutors' Offices in B&H; Bar Association in RS; Bar Association in FB&H; Association of Women Judges in B&H; Association of Bankruptcy Administrators in B&H; Notary Association of FB&H.

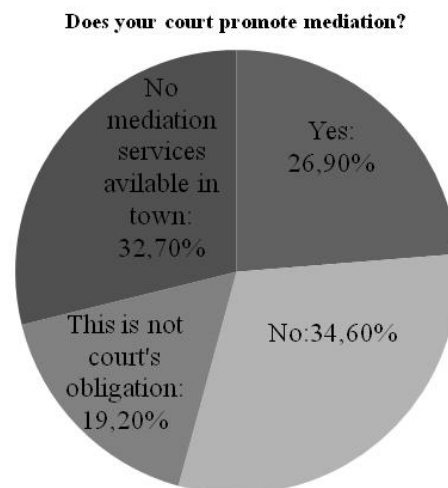
⁹⁵ 51,9% of NGO respondents of the national survey state that they provide free legal aid to all citizens or only to their targeted social group (women, people with disabilities, workers, etc.)

ration of appeals in Constitutional Court of B&H. Association of Concentration Camp Detainees in Brcko District provides free legal aid in civil case trails for reparation of damage that occurred during the time of captivity during the war. Since conflict ended in 1995, through support of international donors these organizations emerged and today employ lawyers who assist vulnerable social groups in legal issues.

Legislation that governs provision of legal aid does not exist on the state level and Federation of B&H and in several cantons. Proposed law on free legal aid on the national level has been twice returned from the Parliamentary Assembly to the B&H Ministry of Justice. Second entity, Republika Srpska, District Brcko and four cantons in the Federation (Tuzla Canton, Western Herzegovina Canton, Zenica Doboje Canton and Posavina Canton) adopted legal aid laws. In Herzegovina-Neretva Canton as well as in Una-Sana Canton legal aid bills have been developed and are in adoption procedure. As a consequence, provision of legal aid is quite different across the country and not harmonized. Existing laws define even different providers of legal aid: while in some jurisdictions legal aid providers are public agencies that have been established as the result of legal aid law adoption and NGOs, in others providers are solely public agencies, which is in contradiction with international standards and B&H obligations. NGOs claim that under strong influence of lawyer lobby groups, NGOs have been pushed out from delivery of this service although a real need for that exists. Namely, newly established public agencies are poorly staffed and equipped, and oftentimes do not provide legal aid for all applicants because of the great number of citizens who need these kind of services. According to the recently published UNDP Report on Social Inclusion in B&H, about 28% of citizens in B&H are socially excluded – meaning they are poor or extremely poor - and in condition of need for legal aid. Current system does not nearly cover the need for legal aid nor does it provide overall legal framework for this service.

Mediation in legal disputes has been institutionalized since 2005 and civic sector has been identified by the law as mediation service provider. Leading NGO that works in this area – Association of Mediators of B&H – operates in all parts of the country. They offer mediation services through their members, who can work only by receiving training and get certificated. Judiciary institutions recognized the need and importance of this instrument and even included measures that should strengthen the Association in the JSRS. However, this initiative has not been followed by planned allocation of financial resources and support to the Association and promotion of mediation.

Graph 5: Promotion of mediation in courts





Data illustrate low promotion and use of mediation services overall. Although courts are obliged to promote mediation to parties in dispute, survey shows that 19,20% court respondents consider that they do not have this obligation. Trade unions also rarely use mediation in solving labor disputes: only 3 trade unions indicated in the survey that they have used mediation in 1 case; while 1 trade union used mediation in several cases. As a consequence, even with excellent starting results, the Association is not able to expand more quickly and participate in solution of more than 2 million delayed court cases, out of which 90% present utilities cases, labor and property disputes, which can easily and effectively get solved through mediation.

In relation to the problem with backlogs and court delays in B&H, citizen volunteer groups as well as associations of law students have not been recognized as well. In many countries, volunteers, including law students, participated in reducing court delays and backlogs by assisting with case management, case tracking and record maintenance. Volunteers also can provide translation services or assistance to people or social groups with limited access to justice. Provision of internships and volunteering opportunities are rare in the B&H judiciary.

Aside mentioned modes of civic engagement, another civic activity can be included in the scope of provision of justice. Several associations active in area of transitional justice, such as associations of concentration camp detainees, associations of families of missing persons, associations of raped women, etc. gather and provide war crime evidence to courts and/or provide assistance to court witnesses/victims of war crimes during their participation in trials. Association of Prijedor Women 'Izvor' provides support to prosecutors' offices and investigative agencies during their investigative activities and evidence gathering, and establishes contacts and support witnesses, in relation to war crimes trials. Similar work does the Association of Concentration Camp Detainees in Brcko District. Association of Concentration Camp Detainees of Trebinje Region prepares witnesses that have been victims of war crimes. Similarly - although not in transitional justice area - Women NGO Lara provides data to courts in proceedings of human trafficking and cooperate with the Prosecutor's Office in B&H in proceedings when witness of human trafficking is somebody they assist. This role certain NGOs want to preserve in the future. Aside educative, awareness-raising activities and provision of assistance to court witnesses/victims of war crimes, NGOs see also their role in processing war crimes through provision of evidence and witnesses for war crimes trials to courts and prosecutors.⁹⁶

⁹⁶ During consultations organized by the UNDP and the B&H Ministry of Justice in 2008 on issues that should be addressed by the B&H Strategy for Transitional Justice, role of nongovernmental organizations in area of transitional justice was analyzed and defined.

Trade unions provide evidence for court proceedings as well, but also initiate and participate in court trials. 93,3% of trade union respondents to the national survey indicate that they have initiated and/or participated an individual or collective labor dispute case in courts. Transparency International in B&H initiates administrative procedure disputes in order to ensure transparent operation of justice institutions in accordance with Law on Litigation Procedure and Law on Free Access to Public Information.

VI Conclusion and Recommendations

Since the end of war in Bosnia and Herzegovina, local and international stakeholders have invested great effort in establishing structural and procedural mechanisms that should bolster the effectiveness of the judiciary and institute the rule of law. Undertaken justice sector reforms have resulted in increased efficiency and professionalism of the judiciary. Nevertheless, abundance of problems remains on the judicial agenda, which threaten to undermine successful parts of the reform. Most reforms have not resulted in real changes in people's lives due to failure of the judiciary to act in the interests of the people it is meant to serve. To date, the judiciary as a whole is weak when compared to other branches of the government, and lacks popular understanding and support. Understanding the importance of the judiciary in protection of citizens' rights, civil society has initiated various activities and projects that should increase the transparency and effectiveness of the judiciary. These social accountability initiatives have already resulted in improved access to justice. Many NGOs have carried out tremendous work where justice sector initiative is lacking, such as free legal aid, mediation, raising legal awareness, and processing war crimes. However, these civic actions should not reduce duties of the judiciary to do the work they are responsible for. On the other hand, civic engagement that focuses on strengthening accountability of justice sector institutions and personnel - such as monitoring, oversight, participatory decision-making and budgeting - is in its commencement phase. Much of existing legislation that regulates cooperation between the judiciary and NGOs has not been applied in practice. Finally, civic engagement related to the rule of law remains sporadic and unsynchronized reducing the benefits of such action. In general, justice sector institutions need to:

- open up for meaningful communication and cooperation with NGOs allowing for partnership to develop based on systematic and institutionalized approach
- make special effort to apply and implement existing participatory legislation in practice make it part of their regular working procedures of judicial institutions
- share and provide information and establish better communication with citizens, media and NGOs through more efficient publication, distribution and availability of legal information, appointment of PR officers and fully respect law on freedom of access to information
- involve civil society, particularly NGOs with capacities and expertise, trade unions and judicial professional associations, in decision-making processes and ensure broad representation of population with meaningful use of received input.
-

On the other hand, civic sector needs to:

- develop further its legal capacities
- initiate contacts with justice sector institutions and regularly include their representatives in its activities
- network with each other in order to avoid redundancies and increase impact, through already established NGO networks, such as Justice Network, Support Network to the B&H Court, or smaller local initiatives. Particular attention should be paid in establishing cooperation between NGOs, trade unions and professional associations.
- further civic education efforts in relation to legal awareness, role of judicial institutions and specific legal services.

In specific, strengthening social accountability in the B&H justice sector should involve following activities:



Participatory public policy making

1. **Broaden public participation in decision-making and consultation processes at the national level.** B&H Ministry of Justice should work on implementing broader public consultations – particularly in areas of specific interest to NGOs such as free legal aid, mediation, access to justice, etc. - and sign contracts with different NGOs (that work in scope of its various authorities) in order to conduct consultations jointly as envisaged in the Rules on consultations in writing legal regulations. Furthermore, in its strategic planning processes, B&H Ministry of Justice should ensure wider public participation. Additionally, within planned changes to the Law on the B&H High Judicial and Prosecutors Council (HJPC), the B&H Ministry of Justice should conduct broad public consultations on the proposed Law and institutionalize instruments for civic participation, particularly of professional associations, within the HJPC.
2. **Develop and include clear measures pertaining to civic engagement into the Justice Sector Reform Strategy of B&H (JSRS).** B&H Ministry of Justice should initiate changes to the JSRS Action Plan in relation to civic engagement in the judiciary and include measures proposed in this policy paper. Institutions need to speed up implementation of activities pertaining to civic engagement.
3. **Instigate public participation at entity and cantonal level.** Ministries of justice on entity and cantonal level need to make changes to their rulebooks on internal procedures in order to institutionalize instruments for civic participation into their work, particularly those related to public consultations and inclusion of civic stakeholders into working groups responsible for preparation of regulations. In addition, these new rules should incorporate clear financing, sanction, evaluation and monitoring measures in order to ensure their application in practice. Broad public consultations need to be held on regulation that deals with issues of specific interest to NGOs such as free legal aid, mediation, access to justice, etc.
4. **Create country-wide promotion of public consultations.** B&H Ministry of Justice, in cooperation with entity and cantonal justice ministries, could initiate country-wide promotion of existing consultation mechanisms. This campaign could be implemented in partnership with NGOs.
5. **Initiate and include the public into revision of ethics codes for judicial personnel and court and prosecutors' office procedures.** Justice ministries should initiate changes to the JSRS Action Plan and incorporate measure of revision of ethics codes and judicial institutions' procedures. The revision processes should include consultations with the public, with an objective to instigate better service delivery and reduce corruption.
6. **Compilation of justice sector legal and policy analyses.** Justice Network in B&H, particularly its website, presents a valuable resource where various legal studies and policy papers could be gathered, published and promoted to justice stakeholders.

Participatory budgeting

7. **Justice sector institutions need to prepare and executive budget in accordance with adopted financial regulations, i.e. program budgets.** This measure is important not only for civic engagement in budgeting, but for the overall performance and efficiency of the justice sector.
8. **Conduct public consultations on justice budgets.** Justice ministries should use public consultations as a mechanism for civic participation in the budget preparation and adoption processes, particularly in the phase before their budget proposals are sent to finance ministries.

Citizen monitoring and evaluation of public policy and service delivery

9. **Establish formal procedures for review of NGO JSRS monitoring report.** Create obligation in JSRS Action Plan that each recommendation made by NGOs needs to be considered with an additional obligation towards justice institutions to provide justification when certain recommendations are not included in the JSRS Action Plan.
10. **Broaden NGO JSRS monitoring activity.** Invite additional NGOs with capacities to participate in JSRS monitoring and reporting activities, especially professional associations.
11. **Conduct public survey on JSRS implementation.** B&H Ministry of Justice should conduct nation-wide survey on JSRS implementation in order to measure effectiveness of implemented reforms and receive input for future priorities.
12. **Initiate external judicial oversight activities.** NGOs should initiate monitoring and evaluation activities pertaining to court procedures and work of prosecutors' offices as well as continuous monitoring of selection, appointments, and disciplinary measures of judges and prosecutors.

Raising public awareness about citizens' legal rights and public service

13. **Develop strategic plans for promotion of citizen's rights and legal mechanisms.** Justice institutions need to initiate broad advocacy campaigns on specific rights and legal mechanisms for their protection. Aside engagement with media, these should incorporate more accessible information on websites and premises of justice institutions. Furthermore, such campaigns could include NGOs as partners.
14. **Revise formal training system for judges and prosecutors in order to enable NGOs to provide trainings.** Trainings that NGOs provide in areas of their expertise, such as human rights, mediation, free legal aid, environmental law, etc. should become part of the formal training system for judges and prosecutors. In addition to provision of trainings, NGOs can participate in education of judicial personnel by providing materials or actual instructors. Aside regular NGOs, professional associations, bar associations and legal academies need to be included in the system as well.

Provision of public service by civil society organizations

15. **Adopt national framework law on free legal aid and incorporate NGOs as legal aid providers.** Lacking legislation on free legal aid, particularly national framework law, needs to be adopted as soon as possible. In accordance with international standards and B&H obligations based on signed conventions, NGOs, including professional associations and legal universities, need to be incorporated into the law as legal aid providers.
16. **Implement JSRS activities pertaining to mediation.** Implementation of reform measures on mediation in the JSRS has been constantly delayed. This practice needs to be changed and serious commitment to mediation needs to be demonstrated through promotion of mediation and allocation of necessary financial resources. Special effort should be made in creation of mediation services in communities throughout the country, and strengthening capacity of holders of judicial functions to promote and carry out mediation.
17. **Develop nation-wide mediation promotion campaign.** Ministries of justice and courts need to develop and facilitate extensive promotion campaign for mediation.
18. **Incorporate mediation in the Strategy for Solving Delayed Court Cases.** Mentioned Strategy should give a considerable role for mediation in resolving backlogs, while B&H Association of Mediators should be included as provider of mediation services within mentioned Strategy. Financial resources should be allocated for implementation mediation activities.



19. **Extensive internship program for courts and prosecutors' offices should be developed.** Justice ministries in cooperation with judicial institutions need to develop and realize broad internship programs that will provide institutionalized means for participation of law students and volunteers in solving backlogs and court delays.
20. **Create civic support networks for courts and prosecutors' offices.** Justice ministries in cooperation with judicial institutions, as well as NGOs, need to initiate creation of civic support networks that would provide support to courts and prosecutors' offices in relation to their work. These civic networks should be based on issues or existing needs (transitional justice, corruption, labor, organized crime, human trafficking, etc.).

Appendix A.

List of Institutions and Organizations that Participated in the National Survey

Courts

Supreme Court of FBiH; Supreme Court of Republika Srpska; Appeal Court in Brcko Distrikt; Basic Courts in Banja Luka, Bijeljina, Brcko, Derventa, Doboj, Foca, Kotor Varos, Sokolac, Teslic, Trebinje, and Vlasenica; Cantonal courts in Bihac, Gorazde, Livno, Novi Travnik and Sarajevo; District Courts in Banja Luka, Bijeljina, Doboj, Istocno Sarajevo, and Trebinje; District Trade Courts in Banja Luka, Doboj, Istocno Sarajevo, and Trebinje; Higher Trade Court in Banja Luka; Municipal Courts in Bosanska Krupa, Bugojno, Cazin, Foca, Gorazde, Gradacac, Kakanj, Kalesija, Kiseljak, Konjic, Livno, Ljubuski, Mostar, Orasje, Tesanj, Travnik, Tuzla, Sanski Most, Sarajevo, Siroki Brijeg, Velika Kladusa, Visoko, Zavidovici, Zenica, and Zepce.

Other justice sector institutions

Ministry of Justice of BiH; Prosecutors' Office of BiH; Prosecutors' Office of FBiH; Prosecutors' Office of Brcko Distrikt; Center for Education of Judges and Prosecutors in FBiH – CEST; Ministry of Justice, Administration and Local Self-Government of HNK; and Ministry of Justice and Administration of Tuzla Canton.

Non-governmental organizations

Association for Entrepreneurship and Work – LINK, Mostar; Association for help to persons with special needs 'Svitac', Brcko; Association for Sustainable Return in Podrinje, Zvornik; Association "Gerc Sumejja - Center of Concentration Camp Victims Vojno";, Mostar; Association KULT, Sarajevo; Association Milicanin, Milici; Association Srebrenica 99, Srebrenica; Association of Agriculture Workers in BiH, Sarajevo; Association of Bankruptcy Administrators in BiH, Sarajevo; Association of Blind of Republika Srpska, Banja Luka; Association of citizens with damaged sight, Tuzla; Association of Concentration Camp Detainees "23.10.1993", Vares; Association of Concentration Camp Detainees of Brcko District, Brcko; Association of Concentration Camp Detainees of Trebinje Region, Trebinje; Association of Consumers "Klub potrosaca" in Tuzla Canton, Tuzla; Association of Deaf and Near Deaf of Republika Srpska, Banja Luka; Association of Dystrophy Survivors in Una-Sana Canton, Bihac; Association of Families with Missing Persons of Municipality of Vogosca; Association of Judges of Republika Srpska, Banja Luka; Association of Prijedor Women 'Izvor', Prijedor; Association of Prosecutors of FBiH, Sarajevo; Association of Returnees "Gornji kraj Ljubljena", Stolac; Association of student with disabilities and volunteers, Tuzla; Association of Youth "Ruzicnjaka Los Rosatosa"; Association of Women Diagnosed with Breast Cancer "Narcis", Orasje; Association of Women Derventa; Balkan Research Network – BIRN, Sarajevo; Center for Civic Cooperation, Livno; BH Journalists, Sarajevo; Center for Civil Initiatives, Tuzla; Center for Human Rights Mostar; Center for Information and Legal Assistance Zvornik; Center for Investigative Journalism, Sarajevo; Center for Local and Regional Development, Derventa; Center for Responsible Democracy Luna, Rudo; Croatian Association of Concentration Camp Inmates in Home War of Canton Central Bosnia, Busovača; Environmental association „DRIN-tim“; Višegrad; Fondation INTERPRIMUS, Tuzla; Helsinki Committee for Human Rights in BiH, Sarajevo; Helsinki Committee for Human Rights in RS, Bijeljina; Humanitarian Organization "Altius"; NGO 'Key of Future', Ključ; NGO 'Land of children', Tuzla; NGO Narkone, Sarajevo; NGO Pravnik, Sarajevo; NGO Prima Natura, Doboj; proMENTE Social Research, Sarajevo; Rights for all, Sarajevo; Roma Association "Heart of Truth", Zavidovići; Roma Association "Romano drom", Živinice; Tolerance against Diversity – ToPeeR, Doboj; Transparency International, Banja Luka; Youth Center Busovaca; Youth Resource Center Tuzla – ORC, Tuzla; Women Organization "Lara", Bijeljina; Women to women, Sarajevo; Woman - Victim of War, Iliđa.



Trade unions

Confederation of Trade Unions of Republika Srpska; Independent Association of Trade Unions of BiH; Independent Association of Trade Unions of FBiH; Independent Trade Union of Primary Education and Upbringing of BiH; Independent Trade Union of Traffic and Communications in BiH; Trade Union of Chemistry and Non-Metal in FBiH; Trade Union of Commerce Workers of BiH; Trade Union of Croatian Telecommunications; Independent Trade Union of Communal Industry in FBiH; Trade Union of Health Sector and Social Protection of RS; Trade Union of PZS "Agrosemerija"; Trade Union of Railway Engine Worker in FBiH; Trade Union of Trade, Catering, Tourism and Services in RS.

Appendix B.

List of Justice Sector Institutions in B&H

State Level	Constitutional Court of B&H Court of B&H Prosecutor's Office of B&H High Judicial and Prosecutors Council of B&H Ministry of Justice of B&H Office of Attorney General of B&H Judicial Police of B&H Ombudsman for Human Rights of B&H (Institute for Execution of Sanctions, Detainment and Other Measures of B&H) ⁹⁷ The Registry		
	Federation of B&H	Republika Srpska	Brcko District
Entity/District	Supreme Court of FB&H Constitutional Court of FB&H Prosecutor's Office of FB&H Ministry of Justice of FB&H Office of Attorney General of FB&H Judicial Police of FB&H 5 Institutes for Sanctions and Correction (Prisons) Center for Education of Judges and Prosecutors in FB&H	Supreme Court of Republika Srpska Constitutional Court of RS Prosecutor's Office of RS Ministry of Justice of RS ⁹⁸ Office of Attorney General of RS Ombudsman for Children of RS Judicial Police of RS 6 Institutes for Sanctions and Correction (Prisons) Judges and Prosecutors in RS	Judicial Commission of Brcko District Appellation Court of Brcko District Prosecutor's Office of Brcko District Office for Legal Aid of Brcko District Judicial Police of BD
Cantonal / Regional	10 cantonal courts 10 cantonal prosecutors' offices	5 regional courts 5 regional prosecutors' offices ⁹⁹	N/A
Local	28 municipal courts	21 basic courts	1 basic court

⁹⁷ Commonly known as State Prison. Although regulation on establishment of this institution exists, State Prison is still in process of construction.

⁹⁸ Within the Ministry a special administrative unit was established: Center for Investigation of War Crimes in RS.

⁹⁹ Within Regional Court of Banja Luka Special Prosecutor's Office for Fight against Organized and Serious Forms of Economic Crimes has been established.



This process can be passive or active, depending on the nature of contact between civil society and public institutions, and used tools. Following table provides an overview of forms and tools public institutions can use in provision of information to citizens and NGOs:

Appendix C. Information-Sharing Process

Mode	Form	Mean	Tools
Passive provision of information of citizens and NGOs	Access to official documents upon request - for instance under provision of a freedom of information law	Interfaces for citizens' access	E-mail Photocopy of the documents Letters
		Internal information management system	Catalogues, archives, registers and indexes Electronic Databases
Active provision of information of citizens and NGOs	Information products	Official documents	Webistes Publications Direct mailing Electronic kiosks (online public information through electronic kiosks and computer terminals located in public buildings free for citizens to use) Telephone services (call public institutions directly in order to receive information on a specific question or issue) Statements and speeches Information centres and information stands Newsletters Special events and exhibitions Advertising Press releases, press conferences, press interviews, etc. Co-operation with NGOs: Public institutions team up with NGOs in order for them to channel information to citizens
		Preparatory policy and legal papers, i.e. white paper, green paper, etc.	
		Reports	
		Handbooks, guides, brochures, leaflets and posters	
		Audio tapes, films and games	

Source: OECD. "Engaging Citizens in Policy-making: Information, Consultation, and Public Participation."

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