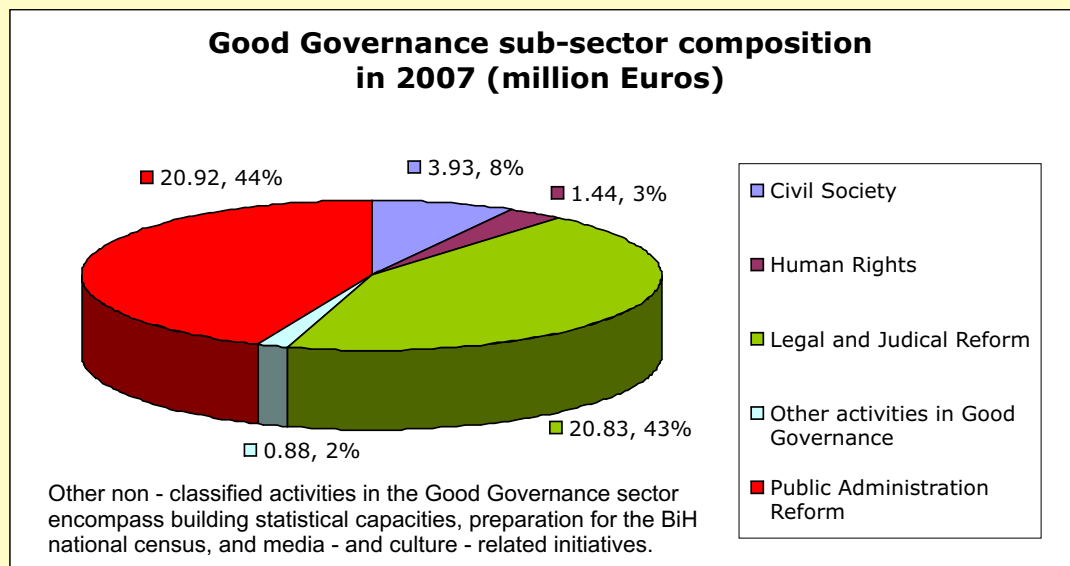


GOOD GOVERNANCE AND INSTITUTION BUILDING

Good governance as an idea and a process presupposes that decision-making takes place in a transparent and accountable manner, in accordance with the rule of law, and by ensuring the participation of all stakeholders. This last condition is especially important as it guarantees the involvement of institutions from the governmental and civil sectors alike, but it also allows for the opportunity to engage individuals as well as informal groups in the decision-making process. Good governance aims to achieve greater inclusiveness and equity, while also ensuring greater effectiveness. By taking into account the views of minorities, good governance protects and promotes their human rights. An independent judiciary system and police force are preconditions for the development of good governance practices, as is the existence of independent civil society organizations and media. Furthermore, a public administration staffed with professional and ethical civil servants needs to be in place in order to implement consensus-based good governance of the country.

Keeping in mind the above-mentioned essential features of Good Governance, the current chapter focuses on four subject areas: Legal and Judicial Reform, Human Rights, Public Administration Reform (PAR), and Civil Society. As will be demonstrated below, the legal-judicial and public administration sub-sectors have enjoyed sustained donor support and consistent interest on the part of national authorities. The former of these has developed a draft, whereas the latter already adopted its own state strategy in 2006. Conversely, the diversified, cross-cutting Human Rights and Civil Society sub-sectors have witnessed over the last several years both gradual donor withdrawal and insufficient commitment on behalf of the Bosnia and Herzegovina (BiH) authorities, resulting in a lack of tangible results towards developing the respective state strategies.



Before presenting in detail the current situation in each of the four sub-sectors as well as the donors and their activities in 2007, it is important to highlight that BiH is characterized by a rather complex political and administrative structure. The central government has limited implementation power while most of the administrative authority rests in the Entities. This breeds difficulties especially in the Legal and Judicial Reform and PAR sub - sectors. Yet local authorities and donors alike find ways to overcome these challenges, thus bringing about economic development and leading the country nearer to European Integration.

Legal and Judicial Reform

Sector definition	<p>Based on DAC definitions, the Legal and Judicial Reform sub-sector comprises the following elements:</p> <ul style="list-style-type: none"> • Constitutional development, legal drafting; • Institutional strengthening of legal and judicial systems; • Legal training and education; • Legal advice and services; • Crime prevention. <p>DAC code: 15130.</p>
DCF donors	Austria/ADA, Canada/CIDA, France, Germany/GTZ, Italy/IC, the Netherlands, Norway, Spain/AECID, Sweden/SIDA, UK/DFID, USA/USAID, the EC and UNDP.
Other key international organizations (IOs)	The Organization for Security and Cooperation in Europe (OSCE) and the Office of the High Representative (OHR).
Key government partners	The BiH Ministry of Justice, RS Ministry of Justice, the FBiH Ministry of Justice, the BiH Prosecutor's Office, the High Judicial and Prosecutorial Council (HJPC), and the BiH Court.
Total donor allocation to the sector in 2007	€ 20.83 million.
Sector strategies	Draft Justice Sector Reform Strategy has been developed, but not yet adopted.
Donor coordination	Bi-monthly meetings chaired by BiH MoJ's Sector for Strategic Planning, Aid Coordination, and European Integration (SSPACEI).

Overview

The Legal and Judicial Reform sub-sector covers four subject areas: the prosecution service, the court system, legal aid, and the execution of criminal sanctions in BiH.⁵⁸

In accordance with BiH constitutional arrangements, the Prosecutor's Office (PO) is organized at the state, entity and cantonal levels as well as at the Brčko District level. The state-level PO has limited jurisdiction and the two Entities' prosecution systems are fully disassociated from each other. With the exception of proceedings regarding war-related crimes, there are no hierarchical links between the state-level and entity offices. The transition from a civil law towards a common law system in BiH has significantly changed the role of prosecutors by giving them much more power and therefore responsibility for the instigation of legal cases. Hence, prosecutors report that they need more training on skill-based, justice-related issues.

Since 2002, the court system has undergone significant reform, largely with the support of donors. Thus, the court system was restructured, the number of judges was reduced, and court administration was also reformed. With the support of donors, courts are being computerized and alternative dispute resolution methods have been introduced following the recent adoption of the Law on Mediation. These achievements notwithstanding, the lack of a Supreme Court at the state level as well as the absence of a single Criminal Code make for the unequal treatment of crimes and the extremely limited possibility of sending a case to an appellate court.

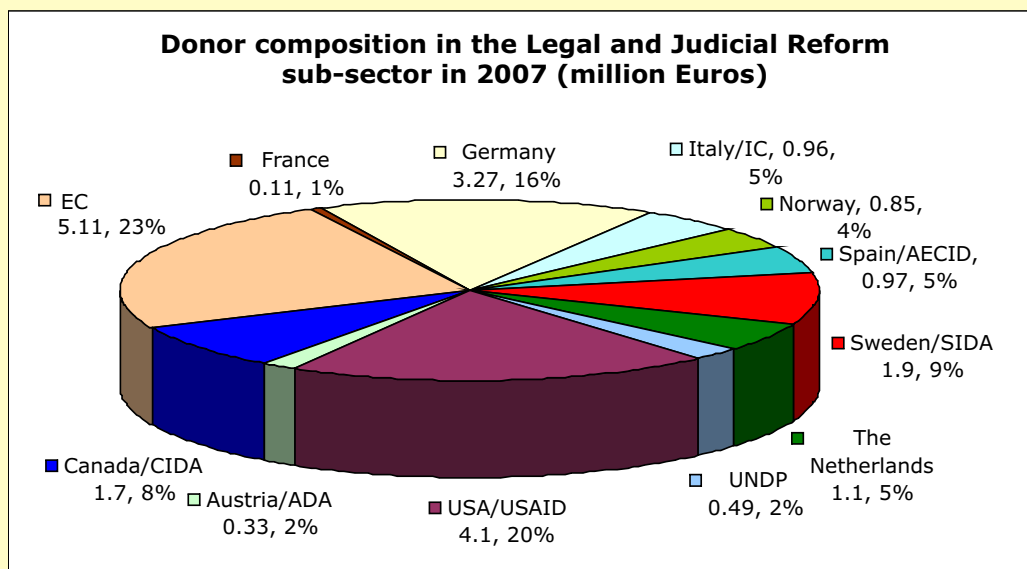
It is often argued that the training of lawyers constitutes the weakest link in the system of Judicial Reform. Furthermore, free legal aid is still in high demand and meager supply in the whole country. Indeed, some local and international NGOs do offer free legal advice. However, these efforts cannot make up for the lack of institutional means to cater to BiH citizens' right to free and equal access to legal aid. The 2007 agreement on a state-level Law on Legal Aid in Civil Matters is a step in the right direction.

Currently there are functioning prisons only at the entity level. A state prison is planned to be built. The gravest problem with the prison system, however, lies in the lack of specialized institutions for female and juvenile prisoners, and prisoners with mental impairments. The insufficient staffing of medical wards coupled with the dearth of medical facilities further exacerbates the problems of the BiH prison system.

⁵⁸Issues regarding police forces will be dealt with in the Conflict Prevention and Resolution, Peace and Security chapter in this report.

Donor activities in 2007

Keeping in mind the key function performed by the legal and judicial system in building a just and accountable state in a transitional country, this sub-sector has justifiably attracted a lot of attention from international agencies. For example, the development of the Justice Sector Reform Strategy (JSRS) has been supported by several donors, with a prominent role played by UK/DFID. Currently the donors in the Legal and Judicial Reform sub-sector are Austria/ADA, Canada/CIDA, France, Germany/GTZ, Italy/IC, Netherlands, Norway, Spain/AECID, Sweden/SIDA, UK/DFID, USA/USAID, the EC, and UNDP. Together, these donors allocated € 20.83 million to this sub-sector, all in the form of grants. The sub-sector is likewise assisted by non-DCF organizations, such as the OSCE. Generally, donors provide not only financial, but also technical and capacity-building support to the sub-sector.



Most donors work on several levels within the Legal and Judicial Reform sub-sector. For example, **Sweden/SIDA** sponsors state-level institutions and it plans to assist in the reform of criminal sanctions, including prisons. In 2007 Sweden/SIDA also published the detailed and instructive *Justice Chain Analysis Bosnia and Herzegovina*, which seems to have at least partially informed the development of the draft JSRS.

Since 2004, **UNDP** has been seeking how best to move from the retributive justice approach towards other complementary mechanisms of Transitional Justice, and to build a constituency on the way forward in this complex and sensitive area. In the area of retributive justice, UNDP's focus has been gradually shifting from the state-level court to judges and prosecutors in lower-level courts in dealing with war crimes. In this, UNDP is supported by **Japan/JICA** and **Spain/AECID**. UNDP is also involved in the work to develop a strategy for processing war crime cases and for war crime recovery. **Norway** is involved in similar work, financing the monitoring and prosecution of war crimes cases.

In addition to its involvement in transitional justice issues, Spain/AECID also assists the state judicial institutions and the PO, and works to establish a Centre for Judicial Documentation. Another significant donor, the **EC**, is concerned not only with making sure that the Judicial Reform is aligned to EU standards, but it also assists in the reform of the current penitentiary system. The EC, Sweden/SIDA and **the Netherlands** also support the computerization of courts.

Canada/CIDA advocates for the introduction of alternative dispute resolution methods, especially mediation. In addition, Canada/CIDA assists in several other areas, like providing training to judicial associates, working on utility case backlog reduction, improving policy dialogue, facilitating access to justice and prison reform, and providing specialized treatment for prisoners with mental impairments. It is worth noting that Canada/CIDA has a very strong gender component in its projects related to the Legal and Judicial Reform sub-sector.

UK/DFID has been providing support to the state Ministry of Justice, in particular its Sector for Strategic Planning, Aid Coordination, and EU Integration (SSPACEI), in the areas of strategic planning, donor coordination, performance management, and stakeholder management. The project has also been providing formal training and mentoring in key technical areas of strategic planning, and donor coordination as well as soft skills such as team work, meeting management, presentation and facilitation skills. Its main achievement to date is the development of a draft JSRS, which has been developed based on unprecedented collaboration from political and technical justice sector stakeholders across all levels of government and other important stakeholders such as the international community and civil society.

USA/USAID has several ongoing activities. For example, the *Justice Sector Development Project* aims to strengthen the High Judicial Prosecutorial Council (HJPC), support the state Ministry of Justice (MoJ), institute uniform policies and practices in court administration, and enhance the independence and accountability of the judiciary. USA/USAID also works to strengthen legislative processes, assists the State Court Registry in general, and in particular by financing a resident legal advisor to enhance counterterrorism mechanisms, institutionalize criminal procedures, and improve prosecution capacity.

Other donors supporting the State Court include **Austria/ADA**, France, Italy/IC, the Netherlands and Sweden/SIDA. These international agencies also have other activities within the sub-sector. **France** focuses on providing training for judges and prosecutors on juvenile justice issues, as well as assisting the reform of the Secretary of Court status. Moreover, France is involved in the establishment of a Diplomatic Academy within the Ministry of Foreign Affairs (MFA). This donor also organizes cooperation activities between the Paris Bar Association and the Bar Association of BiH. **Italy/IC** contributes to the creation of a judicial capability within Legal Institutions, such as the State Court of BiH and the PO of BiH. Italy/IC is also supporting the establishment of a witness protection programme.

Germany/GTZ provides support to the sub-sector through the Open Regional Fund Legal Reform, which aims to aid projects that improve the economic framework, serve regional integration within South East Europe and assist with EU integration. The Netherlands assists in the provision of free legal aid and the establishment of a case management system.

Sector strategies

As mentioned above, UK/DFID has been the major donor working towards the development of the JSRS in BiH. The draft Strategy has been created through a collaborative process among the main stakeholders. It was finished at the end of 2007. The JSRS-based reform of the justice and legal system should be implemented between 2008 and 2012. The draft JSRS contains five key pillars of reform. One of the main aims of the first pillar, called Judicial System, appears to be the establishment of single substantive and procedural laws in criminal and civil matters. The second pillar, the Execution of Criminal Sanctions, includes, for example, the reconstruction of prisons to provide for the treatment of minors and women. The third, named Access to Justice, in addition to establishing a free legal aid system and cooperation with NGOs, propagates the need to pass a new law on international legal aid and cooperation in criminal matters in BiH. The fourth priority identified by the JSRS is Support to Economic Growth, which among other things promotes the introduction of a system of mediation services. Finally, the fifth pillar, called Well-managed and Coordinated Sector, envisions the long-called for strengthening of the BiH MoJ's coordinating role. It should be pointed out here that the prosecution of war crimes cases and juvenile justice are expected to be detailed in specific strategies.

In accordance with CoM's recently adopted rules for conducting public consultations regarding the passage of legislation, the Legal and Judicial Reform Sector Strategy was the first to go through such a process. This also means that donors were consulted and therefore could have a say regarding the final version of the JSRS.

Positive developments and challenges in the sector in 2007

Donors are generally content with the fact that the BiH MoJ has completed the draft JSRS. They also express their satisfaction with the improved work of the HJPC and the BiH Court. International agencies likewise commend the establishment of the War Crimes Recovery Working Group headed by the BiH PO, as well as the progress made towards building a state prison. Donors' involvement in the reform of the legal and judicial system has certainly fuelled some of these positive developments.

However, donors admit that some priorities like fund-raising for the building of the state prison had long been identified by BiH authorities before receiving adequate financial support. Although on the whole donors gave the progress achieved in the field of legal and judicial reform a positive assessment, they admit that occasional disagreements among agencies have caused some frustrations in project implementation. Also, some interviewees express concern that the OSCE reports on courts' monitoring should be more commonly taken into account by donors, in order to assure that projects remain targeted.

Nonetheless, the gravest obstacle towards implementing successful reforms in this sub-sector has been the long-postponed police reform. The current stalemate with police reform also breeds practical problems, like the difficulties prosecutors encounter when trying to lead the process of criminal investigations.

Courts encounter problems of a different nature. For instance, in spite of the substantial salary increase for judges, during the process of reappointment many experienced judges opted for private practice or retirement. The good news is that students at the Faculty of Law are already trained according to a new curriculum. For the time being, however, in spite of the on-going process of computerizing the courts, an effort assisted by Sweden/SIDA, the Netherlands, and the EC, there is a backlog of about 2 million cases, which hinders courts' efficiency.⁵⁹ Besides, there is still a lack of witness protection within the courts of BiH on all levels, which especially impacts the processing of war-related crimes.

Last but not least, as hinted above, donors are concerned with the role of the BiH MoJ and its capacity to coordinate the work of the rest of the ministries at entity and cantonal levels. At the same time, international agencies are content that the BiH MoJ has started to coordinate donor activities.

Coordination and ownership

The main mechanism for coordinating agency activities is bimonthly meetings called by the BiH MoJ's SSPACEI. In the case of donor coordination, UK/DFID's involvement in the legal and judicial reform sub-sector once again proved crucial as they assisted in the establishment of this Unit. SSPACEI still receives ongoing capacity-building support from UK/DFID. Once the Unit's capacities are further strengthened, it should be able to independently function and effectively fulfill both its strategic planning and coordination role. For the time being, SSPACEI's strength lies in the latter of these functions. Nonetheless, the Unit was already successful in drafting the JSRS after involving the donors in the consultation process.

Donors commend the HJPC's and the International Commission on Missing Persons' (ICMP) progress towards full national ownership. In general, donors are of the opinion that the Legal and Judicial Reform sub-sector will continue to need assistance from the international community in the future. At the same time, some donors admit they should adjust their expectations regarding the speed of the reform in the sector and exhibit more confidence in the work of BiH authorities.

Towards more effective coordination A best practice example

In 2007, a Joint Financing Arrangement was signed between the BiH MoJ, the Registry of the Court and PO of BiH and the Foreign and Commonwealth Office, Austria/ADA, Sweden /SIDA, the Netherlands, Norway, UK/DFID, and Spain/AECID. This agreement aims to increase the effectiveness of aid provided by donors to the Court and PO of BiH.

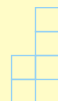
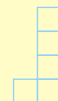
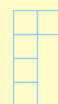
Due to successful donor coordination, the Court's effectiveness has increased and now the Court of BiH and the PO are processing war crimes cases (including cases transferred from The Hague) as well as organized crime cases. This is possible, in part, due to the support of international legal experts. In order to ensure domestic handover, a transitional plan has been established, including a scheduled withdrawal of international expertise and financing, with the final adoption of budgeting by the state in 2010.

⁵⁹The majority of these cases, however, involve unpaid utility bills.

Future activities

International agencies agreed that the legal and judicial system has been an attractive sub-sector to support. However, they indicate that their assistance should gradually move from grants to loans as some of the projects like the construction of the state prison would require significant resources. As BiH moves closer to European Integration, the EC's greater involvement in the sub-sector will also affect positive changes in the legal and judicial reform process. Donors are unanimous that the success of the restructuring of the Legal and Judicial sub-sector is contingent upon the police and constitutional reforms in BiH. Yet they are also well-aware that the latter of these reforms is a point of contention, the resolving of which would be a long-term process. Nonetheless, the establishment of a much-needed Supreme Court, for example, is a constitutional issue.

Donors agree on the need to further strengthen the level of education at law faculties in BiH. Commentators also point out that the links between prosecutors' offices and the non-governmental organizations haven't been sufficiently exploited. Close cooperation between the legal-judicial system (including the police) and the NGOs, especially those dealing with human rights, minority and vulnerable groups' issues, would benefit both sides.



Sector definition	Based on the DAC definition, the Human Rights sub-sector comprises elements of the following: <ul style="list-style-type: none"> • Monitoring of human rights performance; • Support for national and regional human rights' bodies; • Protection of ethnic, religious and cultural minorities. <p>DAC code: 15162.</p>
DCF donors	Austria/ADA, France, Italy/IC, Norway, and the EC.
Other key international organizations (IOs)	The Council of Europe (CoE), International Commission on Missing Persons (ICMP), the Office of the High Representative (OHR), the Organization for Security and Cooperation in Europe (OSCE), and UNICEF.
Key government partners	The BiH Ministry of Human Rights and Refugees (MHRR), the FBiH Ministry of Refugees and Displaced Persons, and the RS Ministry of Refugees and Displaced Persons, and Ombudsman Institutions.
Total donor allocation to the sector in 2007	€ 1.44 million.
Sector strategies	There is no state-level Human Rights strategy. The Strategy of BiH for the Implementation of Annex VII of the DPA deals with refugees and internally
Donor coordination	No regular donor meetings; only ad hoc bilateral initiatives.

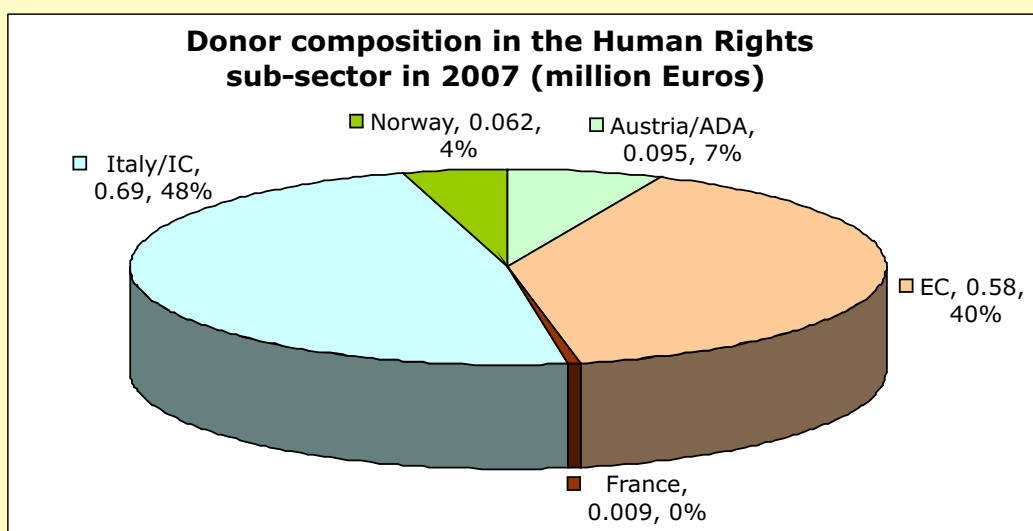
Overview

The Human Rights sub-sector covers several cross-cutting issues like gender and youth issues, access to justice, refugees' rights, access to legal aid, the prison system, freedom of expression and the media, and civil society organizations. These are addressed in the respective chapters of this report. This sub-chapter deals with the promotion and enforcement of human rights in general, including social justice, the prevention of torture and ill-treatment, freedom of religion, children's rights, the rights of socially vulnerable groups and people with disabilities, labor rights, anti-discrimination policies, property rights, minority and cultural rights.

Donor activities in 2007

The donors in the Human Rights sub-sector are Austria/ADA, France, Italy/IC, Norway, and the EC. In 2007 they contributed a combined € 1.44 million to this sub-sector. Non-DCF agencies, such as the OSCE and CoE also play a crucial role.

The EC's programme *European Instrument for Democracy and Human Rights*, which was launched in 1996, has three levels: micro (country-specific, small funds), macro (worldwide, with the selection finalized in Brussels), and targeted (finances provided for international organizations active in human rights and democracy such as the Council of Europe (CoE), the Office of the High Representative (OHR), the Organization for Security and Cooperation in Europe (OSCE)).



Given the wide scope of activities that go under the human rights umbrella, there are quite a number of other donors, which provide one-time grants to this sub-sector.⁶⁰ For example, **USA/USAID** has a programme that offers small grants to domestic NGOs and independent media. **Norway** and **Italy/IC** also support smaller projects dealing with human rights issues. Since 2007, a master's degree programme in Human Rights Practice has been jointly offered by Roehampton University in the UK, Tromsø University in Norway, and Göteborg University in Sweden. The master's programme is part of the EU-Commission's *Erasmus Mundus* programme within which there are generous scholarships available for applicants from third countries including BiH. **Austria/ADA** supports anti-trafficking activities. **Sweden/SIDA** assists the Swedish Helsinki Committee (SHC), which works on civil society development in BiH, focusing on rule of law, freedom of expression and non-discrimination. SHC provides capacity building and funding to local NGOs and projects. **UNICEF**'s work in this sub-sector supports the national government and civil society organizations' capacity to monitor violations of children's rights through the development of a set of core national quantitative and qualitative indicators for children's rights. **France** finances a project which aims to counter trafficking in human beings.

The OSCE and CoE are not members of the DCF, yet their roles in monitoring and promoting human rights issues merit attention as these two organizations' statutory goals are directly related to this sub-chapter's topic. The **OSCE**'s case is special as its role "to monitor closely the human rights situation in BiH" has been set in the Dayton Peace Agreement (DPA). Thus, the OSCE promotes and protects human rights by focusing on economic and social rights, judicial and legal reform, war crimes, trafficking of human beings, and rights of national minorities. The OSCE also assists the strengthening of national human rights institutions. **CoE** has been training representatives of the judiciary and civil society as well as lawyers and public attorneys by organizing seminars on the application of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Additionally, the CoE had a pilot project to train prison staff on human rights related issues. Finally **OHR**'s involvement with human rights needs to be mentioned, too, as it continues to provide technical support to Ombudsmen, the BiH Ministry of Human Rights and Refugees (MHRR), International Commission on Missing Persons (ICMP) and the Republika Srpska (RS) Government. OHR is in the process of establishing closer cooperation with the Federation of BiH (FBiH) Government.

Sector strategies

There is no state-level strategy regarding the Human Rights sub-sector. Some donors noted that the BiH Government has promised to incorporate human rights issues into the relevant strategic documents, but has not done this so far. The BiH MHRR adopted the Strategy of Bosnia and Herzegovina for the Implementation of Annex VII⁶¹ of the DPA in 2003, which was meant to be fully realized by the end of 2006. Towards the end of 2007, the Minister of Human Rights and Refugees, Safet Halilović, noted that in spite of achievements made towards the implementation of Annex VII of DPA, plenty remains to be done, especially regarding sustainable return. At this point it needs to be mentioned that the strategy for the implementation of Annex VII is in the process of revision. This issue will be discussed in detail in the Return and Reintegration chapter.

Currently, the MHRR is working on a draft of a state strategy addressing human rights. Plans for the Country Development Strategy (CDS) and Social Inclusion Strategy (SIS), 2008-2013, which are supposed to substitute for the Medium-Term Development Strategy, were publicly presented towards the end of 2007. The SIS will deal with human rights issues.

BiH has ratified all major United Nations and international human rights conventions, including the European Convention for the Protection of Human Rights and Fundamental Freedoms. However, the implementation of these conventions requires further work. BiH has been repeatedly criticized for not subscribing yet to the Decade of Roma Inclusion 2005-2015. BiH is expected to do so in 2008.

Positive developments and challenges in the sector in 2007

The finalization of the National Gender Action Plan and the development of the draft JSRS have been among the more significant achievements made in the Human Rights sub-sector in 2007.

⁶⁰Many of these projects are classified as 'Civil Society' support and therefore the donors financing them do not appear in the graph above.

⁶¹Annex VII to the DPA is otherwise known as the Agreement on Refugees and Displaced Persons. According to this agreement, all refugees and displaced persons have the right to freely return to their homes of origin.

These two documents are discussed in the relevant parts of this report. Another positive development that took place in 2007 was the drafting of an Anti-Discrimination Law by a coalition of NGOs supported by the OSCE.⁶² The ongoing process of setting up the Councils for National Minorities at the state- and entity-levels has been a step in the right direction, too.

As the Human Rights sub-sector is fairly large and diversified, the problems that remain to be tackled are more numerous than the successes achieved in 2007. This statement also concerns cases where only one segment of a particular issue has been adequately addressed. For instance, as far as the rights of marginalized groups are concerned, the continuing privileged treatment of war veterans inversely affects the situation of other vulnerable groups. Thus for example Roma and especially Roma women have been and still are the most disadvantaged minority group among the 17 officially-recognized minorities in BiH. Currently the EC is working closely with the MHRR to finalize the Action Plan for Roma, which is a requirement of European Integration. As mentioned above, BiH remains the only country in the region that is not part of the Roma Decade and that has not finalized action plans to this end. Donors finance the Roma Coordinator at the MHRR and hope the Coordinator will speed the process of inclusion for Roma BiH citizens. In addition to that, Spain/AECID implements a project aiming to enhance Sarajevo Romas' chances of getting employed.

According to the law adopted in April 2006, all existing Ombudsmen institutions were supposed to merge into one from the beginning of 2007. However, the implementation of this law has not yet taken place, which means that the recruitment of all three state-level Ombudsmen has to begin from scratch.

Being a post-conflict country, BiH has to tackle war-related human rights issues. Specifically, there are still about 13,000 missing persons who have not been found or identified yet. Some 120,000 people are officially registered as refugees and displaced persons wishing to return. Witness protection in war crime cases has not been secured, which further exacerbates the backlog of criminal cases in the country. Children's rights are not fully secured and sexual minorities' rights are often violated. The nominal existence of the death penalty in the RS Constitution is at odds with the European Court of Human Rights Protocol 6. Although BiH has ratified most major human rights conventions, human rights issues have not been incorporated yet in the curricula of law faculties. Also, there is no state institution to provide human rights-related trainings to prison staff. The employees in public administration likewise need to be trained in the European Convention for the Protection of Human Rights and Fundamental Freedoms to tackle the lack of awareness of the Convention and what its ratification implies.

Coordination and ownership

In 2007, coordination took place in terms of bilateral meetings between donors, but there have been no regular gatherings involving all stakeholders. Coordination in the field of human rights is said to be contingent on a number of factors. An important determinant in this respect is the lack of a clear-cut definition of the sector. In order to improve coordination, first the sector needs to be defined in a way acceptable to all donors and compatible with their programmes. Second, BiH institutions should become actively involved in the process in a sustainable way. This means ownership of the process has to be assumed by the respective domestic institutions rather than by a number of committed employees in these institutions. Also, international agencies call for BiH institutions to support their active and committed personnel and promote their employees on a merit-based approach.

Towards more effective coordination A best practice example

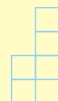
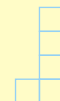
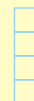
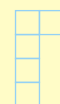
In the area of juvenile justice, donor coordination meetings have been ongoing since December 2007. France, UNICEF, and non-DCF members Save the Children UK and the OSCE have been part of this initiative. One of the outcomes of these meetings was a joint open letter, sent to the government, in order to advocate for the implementation of a juvenile offenders' strategy. Donors have also used these meetings for sharing information about ongoing and planned projects.

⁶² Actually it is the BiH Gender Equality Agency that has mandate by MHRR to prepare and present this draft Law. This Agency has likewise started working on the draft law and is expected to finalize it in 2008.

Future activities

The donor-identified issues that need more work also constitute the future priority areas in the Human Rights sub-sector. Again international agencies underlined the need to involve NGOs and their personnel in the work of BiH institutions catering to human rights issues.

Clearly, much remains to be done in the area of human rights and international donors' assistance in this respect remains in demand. Safet Halilović argued that donors' financial involvement has shrunk to 20% of what it was during the after-war years. From donors' point of view, their withdrawal is due to the fact that the Human Rights sub-sector has reportedly been the most exploited one since the war. It seems, however, that domestic authorities are not yet ready to independently tackle all human rights issues. Nevertheless, in addition to relying on ongoing support on behalf of donors, BiH authorities could also consider addressing professionals working in human rights NGOs as well as involving the most competent and experienced individuals from these organizations in the work of state institutions. The human capital to be found in civil society organizations is a huge asset BiH authorities still need to recognize and find ways to utilize.



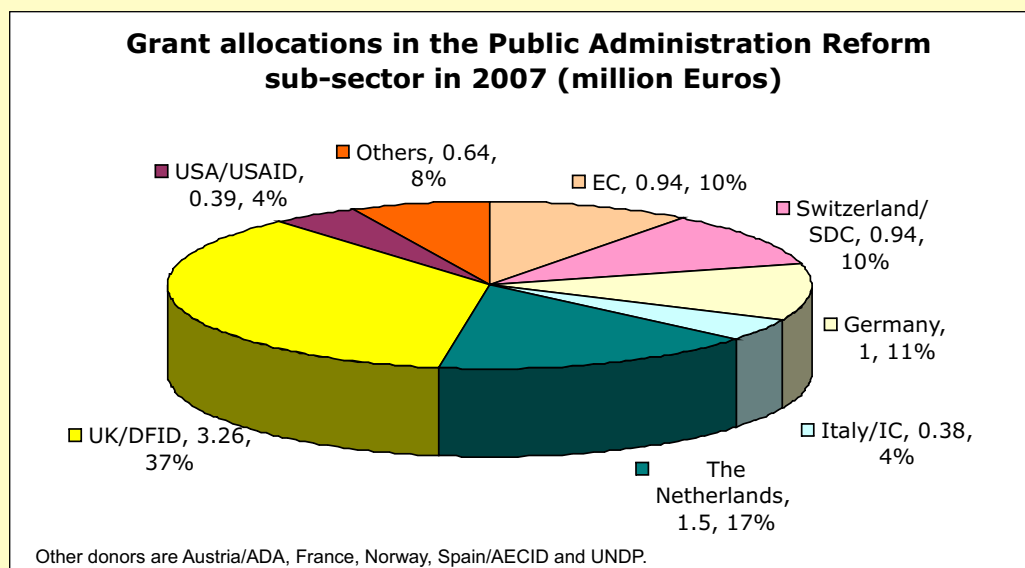
Sector definition	Based on DAC definitions, Public Administration Reform (PAR) sub-sector encompasses the following: <ul style="list-style-type: none"> • Reform of government institution including but not limited to the parliament, local government, civil service, administrative buildings, etc.; • Public sector financial management. <p>DAC code: 15140, 15120.</p>
DCF donors	Austria/ADA, France, Germany/GTZ, Italy/IC, the Netherlands, Norway, Spain/AECID, Sweden/SIDA, Switzerland/SDC/SECO, UK/DFID, USA/USAID, the EC, UNDP, and the World Bank.
Other key international organizations (IOs)	The Organization for Security and Cooperation in Europe (OSCE) and The Office of the High Representative (OHR).
Key government partners	The BiH Public Administration Reform Coordination Office (PARCO) and the Council of Ministers (CoM).
Total donor allocation to the sector in 2007	€ 20.9 million (of which € 4.5 million is for the PAR Fund).
Sector strategies	Public Administration Reform Strategy and Action Plan.
Donor coordination	PARCO-chaired coordination group including donors; coordination group of donors supporting the PAR Fund.

Overview

Public Administration Reform (PAR) remains a pressing issue in BiH. Public opinion polls have consistently shown that during the last several years trust in governmental institutions and public administration alike is rather low.⁶³ The need to adequately address PAR was recognized by both BiH authorities and the donors. As the subsequent overview of the sub-sector will demonstrate, both sides have invested significant efforts and resources into forwarding the reform.

Donor activities in 2007

The composition of donors in the PAR sub-sector has not significantly changed since the 2006 Donor Mapping Report. Currently the donors in this field are Austria/ADA, France, Germany/GTZ, Italy/IC, the Netherlands, Norway, Spain/AECID, Sweden/SIDA, Switzerland/SDC/SECO, UK/DFID, USA/USAID, the EC, UNDP, and the World Bank. Together, these donors have contributed € 20.9 million, of which € 11 million is a loan by the World Bank to the *Land Registration Project*.



⁶³The conclusions of the 2003 UNDP survey of governance perception in BiH, according to which an average of 50% of citizens, entrepreneurs, and civil servants alike hold unfavorable view of the work of public administration, still seem to be relevant. The more recent *The Silent Majority Speaks* (UNDP, 2007) uncovered that people trust municipal authorities the most (53%) to be followed by entity governments (44%). They trust BiH governmental institutions least (23%).

UK/DFID has provided assistance towards the introduction of an international standard budget process system across all levels of government in BiH through its *Strengthening Public Expenditure Management* (SPEM) programme. This initiative has achieved considerable harmonization in budget processes across all levels of government in BiH. UK/DFID also supports the implementation of the national PAR Strategy and Action Plan through a capacity building project implemented by the UK National School of Government (NSG). UK/DFID is also a signatory to the Memorandum of Understanding (MoU) which governed the establishment of a PAR Fund on 12 July 2007. This a flexible, joint donor financial instrument funded by UK/DFID, **Sweden/SIDA** and **the Netherlands**, which will also support the nation-wide PAR strategy.

The **EC** provided capacity building and technical assistance to PARCO, the Office for Legislation of the Council of Ministers (CoM), the General Secretary of CoM, and the entity governments. In 2007 the Netherlands, Sweden/SIDA and **USA/USAID**, supported the *Governance Accountability Project* (GAP), which addresses municipal and entity-level governance issues. Moreover, Sweden/SIDA also contributed to UNDP's *Municipal Training System* project. These initiatives will be discussed in more detail in the Local Governance chapter of this report.

In 2007, **UNDP** focused additionally on civil service reform, coordination of development resources within public finance management, Information and Communication Technology and e-governance, as well as institutional capacity building, including strategic planning and policy development. UNDP's projects in this sub-sector are cost-shared by the EC, the Netherlands, and **Norway**. In 2008, UNDP plans to implement the *Strategic Planning and Policy Development* (SPPD) programme. In doing so, UNDP and the governments of the Netherlands and Norway will support a broad-based project to strengthen planning, analytical work, and public resources management by defining, providing and institutionalizing organizational and human resource capacities for strategic planning and policy development. This will improve linkages between planning and budgeting in line ministries at the State and Entity levels.⁶⁴

Spain/AECID focuses on strengthening the institutional capacities of BiH by assisting the National Agency of Civil Servants and Ministry of Transport of BiH.

Switzerland/SDC/SECO finances the *Governance Project in Municipal Water and Environmental Development* (GOV-WADE) project implemented by the Una-Sana Association, which aims to increase capacities of municipal authorities and civil society in 17 municipalities in northwestern BiH by improving practice in governance, management, and municipal services in the field of water and environmental sanitation. The project also advocates for enabling framework conditions towards superior levels.

PAR strategy's six core reform areas and their priorities:

- **Policy-making and coordination capacities:** to improve central policy capacity on all government levels and coordination across various levels of government; to enhance the policy capacity at the level of individual institutions; and to strengthen the link between policy development and budgeting.
- **Public finance:** to consolidate and further existing efforts in the public finance sector; to establish an efficient financial management system; and to strengthen the control environment within which the administration operates.
- **Human resources:** to develop a professional, politically impartial, ethical, stable, and responsive public service that is respected and able to deliver effective services to governments and citizens; to ensure that the principle of equal representation of the three main ethnicities in BiH will serve as an affirmative action strategy in the recruitment of civil servants.
- **Administrative procedure:** to strengthen administrative decision-making, as a key component of interaction between the administration and the citizens; to make it a functional, reliable, efficient, transparent, accountable, and coherent tool of a modern, client-oriented public administration, better able to join the European Administrative Space.
- **Institutional communication:** to strengthen public relations capacities in public institutions, gain citizen support, create positive attitudes towards public institutions, and encourage active civic participation in the decision-making process.
- **Information technologies:** to increase information technology utilization in public administration, thus making the government more accountable, transparent, and effective.

⁶⁴Other donors are likely to join this project in 2008.

Several donors are supporting efforts to reform the land administration and registry system. Implemented by **Germany/GTZ** and co-financed by Germany/GTZ, **Austria/ADA**, and Sweden/SIDA, the *Land Administration Project* aims to educate the court staff, equip courts with adequate EDP databases, support courts in transferring data into the new electronic system, and link the cadastre and the land registry. Likewise, the **World Bank's Land Registry Project** seeks to facilitate the orderly development of transparent land markets, through the registration of real estate rights, and complementary policies that enable transactions to be made with security and efficiency. **Italy/IC** and the Netherlands finance an initiative aiming to develop an inventory of postwar land resources, implemented by the Food and Agriculture Organization. These projects are linked to activities within the Agriculture and Forestry sector.

Sector strategies

The PAR Strategy has been developed by PARCO with the support of experts from the EC, UNDP, and OHR, as well as a number of domestic institutions' representatives. The CoM of BiH, Entities' and Brčko District governments adopted the Strategy in 2006. In July 2007, the PAR Fund was established by UK/DFID, Sweden/SIDA, the Netherlands, and the EC to support the implementation of the PAR Strategy by providing technical assistance up to the beginning of 2009. Currently there is € 4.5 million earmarked by these donors for the PAR Fund.⁶⁵

PAR is one of the few sectors guided by a state-level strategy as well as a government office in charge of its implementation (PARCO). The development of the PAR Strategy took place with external experts' involvement and it is considered by many donors to be a comprehensive tool, though some regard the document as rather vague in places. Furthermore, as donors' technical assistance is supposed to end in 2008,⁶⁶ PARCO will be left with the responsibility to manage the implementation of the PAR Strategy by itself, which may create problems as PARCO's mandate needs to be strengthened.

These future concerns notwithstanding, until the end of 2007 no projects had yet been deployed through the PAR Fund because the rules of procedures of the decision-making mechanism are yet to be rewritten, following debate by stakeholders.⁶⁷ In spite of these technical drawbacks, the PAR Strategy has been the first and most important step towards putting PAR into practice.

Positive developments and challenges in the sector in 2007

Donors are generally satisfied with the progress made towards the implementation of the PAR Strategy and the Action Plan. For example, they commend the establishment of the PAR Fund, the signing of the MoU, the adoption of the Common Platform by all four governments (the implementation structure of the Action Plan), as well as the endorsement of the SPPD project by the government, which is the first activity in that particular pillar of the Action Plan. The endorsement of the SPPD is also an example of successful donor coordination as UNDP, the EC, and the Netherlands and Norway have come together to harmonize their approaches on this issue.

One of the most significant achievements in 2007 was the introduction of the Budget Coordination Board, which is a semi-formal forum for cross-entity coordination. In the future, the Board will become a part of the Fiscal Council and will assist in establishing the basic assumptions of assessing the fiscal and macroeconomic conditions. In addition, the ten-step, three-year rolling budget process has been introduced in BiH through the UK consulting firm PKF. UK/DFID hired PKF to assist the state, entity and cantonal Ministries of Finance and Treasury to modernize budget planning processes and systems in BiH as part of a project to strengthen Public Expenditure Management (PEM) in the country.

Another success story in 2007 that warrants attention is the signing of a MoU by UNDP and the BiH Ministry of Communications and Transport (MoCT) in the area of e-governance. UNDP has taken leadership in the area of e-governance while the EC cost-shares projects implemented by UNDP.

Domestic institutions' willingness to strengthen their permanent technical capacity has also been recognized and positively assessed by donor agencies. An example of this tendency is the rising number of twinning projects.

⁶⁵ Out of that amount, to date only Sweden had paid € 1.5 million, with the Netherlands and UK/DFID contributions expected shortly.

⁶⁶ UK/DFID TA will end in February 2009 as the EC/IPA assistance is expected to follow up.

⁶⁷ Early in 2008, the PAR Fund became fully operational and several projects were approved by the Steering Board.

The creation of a professional, merit-based civil service has been one of the priorities of PAR strategy. In 2007 the UK/DFID, EC, and UNDP supported civil service reform in general and civil service agencies in particular. Although the civil service area of reform has been criticized for receiving a reportedly undue amount of attention at the expense of some of the other core areas of PAR, it has to be admitted that the systematic focus on Human Resource Management has yielded results. Donors are explicitly satisfied with the positive developments in this direction although some of them also identified the need to improve their own strategy towards the civil service reform by focusing on overlooked issues like civil servants' accountability towards their institutions' beneficiaries. The Governance Perception Survey conducted by UNDP in 2003 indicated that there is a need to change the persisting and predominant emphasis on training civil servants to improve their knowledge, skills and abilities. Instead the Survey recommended moving towards improved service delivery and greater accountability on the part of civil servants.

Towards more effective coordination A best practice example

In order to support the implementation of the PAR Strategy, several donors, such as UK/DFID, the Netherlands, Sweden/SIDA and the EC, established a joint funding mechanism, called the PAR Fund. Donors have so far committed € 4.5 million to this Fund for a period of three years. International agencies that support the PAR Fund have been meeting regularly since 2005. In addition to the donors, representatives of relevant state- and entity-level institutions take part in these meetings.

The PAR Fund is a good example of donors employing a harmonized approach in supporting the implementation of projects that fall within the framework defined by the PAR Strategy. The PAR Fund will be managed by PARCO, which will decide how to prioritize and implement elements of the Strategy.

One of the most significant challenges identified by donors supporting the PAR has been the slow progress of putting the PAR Fund into operation. Donors are aware that technical obstacles in the PAR Fund's establishment especially the unanimous vote requirement for major decisions are largely to be blamed for this state of affairs. However, donor agencies were concerned because they had to explain to their governments why they had not been using these earmarked funds for more than two years, which in the long run might jeopardize the existence of the Fund itself. International agencies admit that the fact that each participating donor has its own regulations makes things additionally difficult. Yet, they appeal to both the donor community and domestic institutions to be more prone to compromise in view of the unanimous vote requirement, which has the potential to block all decisions, especially those which may unequally benefit the different levels of government.

Coordination and ownership

Donors are satisfied that there has been an increase in multi-donor activities and alignment in the PAR sub-sector. Furthermore, a large number of programmes are also becoming sustainable. These positive developments merit attention because the public administration process has often been criticized for lacking a long-term perspective.

As far as donor meetings are concerned, it has to be noted that up until the beginning of 2007 donor-only meetings took place. However, there has been a significant improvement in this regard as recently PARCO has assumed chairmanship at these meetings. Donor agencies are of the opinion that PARCO needs more time and experience to lead the gatherings in a way that would facilitate progress. At the same time donors admit they themselves need to overcome their tendency to withhold disagreements among each other. Currently international agencies are trying to cultivate synergy in what, they admit, used to be a very fragmented approach.

As before, coordination difficulties stem from divergent donor agendas. A way out of the stalemate is to let PARCO identify priorities. Eventually international agencies accede that they are partially to blame for PARCO's limited ability to play a leading role in coordination efforts, because some donors do not always find it necessary to inform PARCO of their activities. Furthermore, international agencies wish PARCO would choose the core areas donors themselves consider neglected. Another reason for concern is PARCO's rather limited ability to affect the CoM and line ministries' policy and decision-making in regards to PAR.

Besides PAR strategy-related coordination meetings of donors and domestic authorities, there are gatherings of agencies that aid the PAR Fund. These meetings have been taking place regularly since 2005. Donors supporting the PAR Fund as well as representatives of relevant

state- and entity-level institutions take part in the PAR Fund meetings. The PAR Fund is considered an example of successfully overcoming coordination challenges. Yet, as far as national ownership is concerned, donors admit that their veto right in the PAR Fund actually takes away from national ownership.

International agencies agree that more work needs to be done towards increasing the awareness of the importance of European Integration-related issues of PAR. Another potentially problematic area identified by international agencies is the lack of assessment mechanisms to guarantee the quality of the projects within the PAR Action Plan. To solve this problem, donors suggest that project developers within PARCO receive more training.

In general it should be pointed out that despite their differences of opinion regarding some issues, donors are unanimous about the fact that far too many processes, like the trainings for civil servants for example, have been supply-driven. Yet, international agencies agree that domestic institutions are in the process of being successfully weaned from donor-dependency in this respect. Thus, for instance, in the area of e-governance, over the years MoCT and UNDP have developed a joint decision-making process. In May 2007, UNDP signed an MoU with MoCT. The MoU established three levels of bodies: a joint steering board, expert team and a consultative board. All of these bodies are already functioning and have met several times during the course of 2007. Thus, the national ownership of the implementation of e-governance is regarded as full and satisfactory.

Future activities

When identifying priority areas, it becomes apparent that in spite of their critical comments, international agencies are satisfied with the general standing of PAR and to an extent with the progress of the reform. Donors' recommendations focus predominantly on striving towards further reforms in the field of PA. More concretely, they suggest working towards greater accountability of all institutions involved in the process of PAR, guaranteeing greater inclusiveness of indigenous civil society in monitoring PAR, speeding up the process of privatization, conducting more trainings in the six core areas of PAR, as well as trainings on project development. Donors also advocate for change in the perception of trainings for civil servants. As it takes a lot of time to develop higher education institutions that provide quality education in public administration, it is necessary to reevaluate the prevailing attitude towards trainings as a kind of interim solution.

Furthermore, international agencies admit that despite the significant amount of funds already earmarked for PAR, the PAR Fund will need even more resources to be able to implement the Action Plan.

Lastly, donors need to coordinate their actions especially in areas where many of them focus their attention, i.e. trainings for civil servants. As far as domestic authorities are concerned, there is an urgent need to strengthen the capacity within the PARCO office.

Civil Society

Sector definition	<p>Based on DAC definitions, Civil Society encompasses the following elements:</p> <ul style="list-style-type: none"> • Community participation and development; • Co-operatives; grass-roots organizations; • Development of other participatory planning and decision-making procedures and institutions (like conflict prevention). <p>DAC code: 15150.</p>
DCF donors	Canada/CIDA, Italy/IC, the Netherlands, Norway, Spain/AECID, Sweden/SIDA, Switzerland/SDC/SECO, USA/USAID, and the EC.
Other key international organizations (IOs)	The Organization for Security and Cooperation in Europe (OSCE).
Key government partners	The Civil Society Board.
Total donor allocation to the sector in 2007	€ 3.93 million.
Sector strategies	No state sector strategy dealing specifically with civil society.
Donor coordination	Bimonthly meetings of the Civil Society Coordination Group as well as other ad hoc project-related meetings

Overview

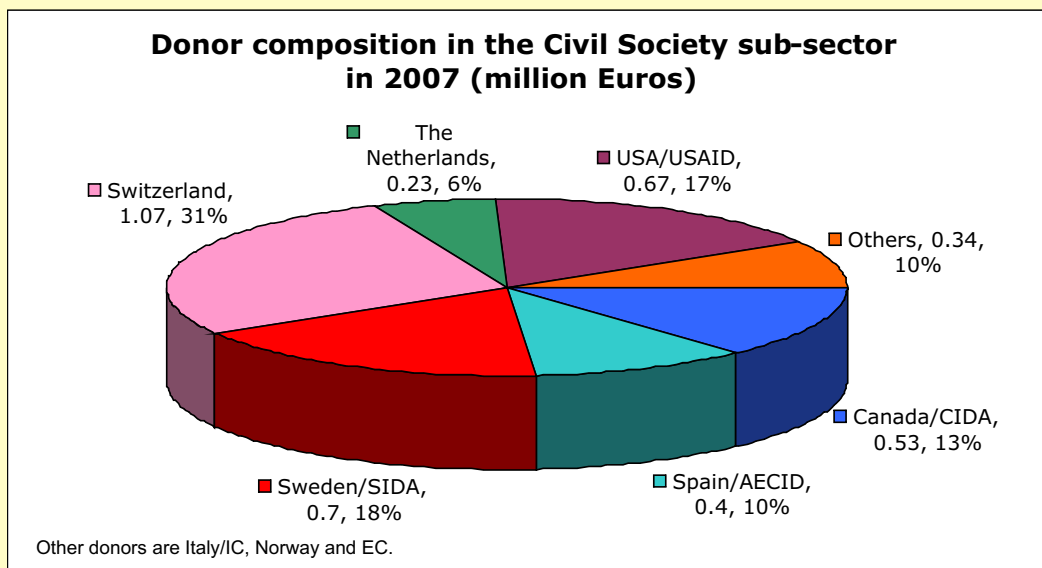
Civil society in BiH is usually, though not exclusively, equated with non-governmental organizations (NGOs) and as such is regarded as still fragile and largely donor-dependent. This definition of the Civil Society sub-sector is indeed very narrow as it does not take into account indigenous grass-roots initiatives which do exist in BiH. However, for international agencies, the narrow definition is more helpful as they can only support institutionalized initiatives, which possess the know-how needed to make use of resources provided by donors.

According to different estimations, currently there are about 8,000 to 9,000 NGOs registered in BiH (including almost 1,000 political parties and religious organizations, which are usually not considered civil society organizations). The number of *active* NGOs is much more difficult to establish; estimations vary between less than 1,000 and 4,500 NGOs. The baby-boom of new NGOs in BiH started immediately after the war ended in 1995. Reportedly it was sparked by the availability of foreign funding and the scarcity of other sources of employment in the postwar country. Since then, BiH civil society has undergone dramatic development to an extent that some donors think it has squeezed out the governmental sector, for example in the fields of gender equality, combating human trafficking or tackling youth issues. On the other hand, though, international institutions' prominent role and especially the power of the Office of the High Representative (OHR) to enact laws in BiH are alleged to have precluded the development of strong NGOs active in the fields of advocacy and lobbying, especially at the state level.

Donor activities in 2007

The donors supporting the Civil Society sub-sector are Canada/CIDA, Italy/IC, the Netherlands, Norway, Spain/AECID, Sweden/SIDA, Switzerland/SDC/SECO, USA/USAID, and the EC. Together, they contributed € 3.93 million in 2007, all in the form of grants. The Organization for Security and Cooperation in Europe (OSCE) and the Open Society Fund, which are not part of the DCF, assist civil society in BiH, too.

In the EC Instrument for Pre-Accession Assistance (IPA) 2007 there was about € 3 million earmarked for two civil society programmes in BiH. Both projects aimed at fostering dialogue between local and central authorities and civil society organizations. The EC has also provided support for youth organizations or NGOs which work with the disabled, elderly people, women's organizations, as well as NGOs protecting children's right to education and non-discrimination of children with special needs.



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In 2007, **Switzerland/SDC/SECO** focused on directly financing NGOs in cooperation with the Independent Bureau for Humanitarian Issues, especially those offering psychological support to disadvantaged groups, like elderly, Roma, and youth. Switzerland/SDC/SECO likewise supported initiatives aiming at strengthening the links between different NGOs dealing with similar issues, as well as between civil society organizations and the government. Perhaps the most tangible outcome of Switzerland/SDC/SECO's efforts in this respect has been their funding of a network of 22 NGOs, which drafted a platform for establishing the Social Inclusion Fund. This proposal is currently under public consultation. Support to NGO activities under this Fund is meant to be linked to the implementation of the Social Inclusion Strategy. This mechanism is expected to assure NGOs' sustainability and avoid donor-driven activities. Additionally, within the GOV-WADE Project, the network of 25 environmental NGOs EKUS is supported in order to contribute to sustainable environmental development in northwestern Bosnia

The Civil Society Fund developed three years ago by **the Netherlands** became operational in 2007. The Centres for Civic Initiatives (CCI) have been chosen to distribute sub-grants targeting issues related to the environment, health, youth, and education. The Fund also endeavored to strengthen the relationship between NGOs and their respective constituency. Also, CCI is receiving support to lobby for introducing tax benefits for NGOs in relevant legal acts.

Sweden/SIDA is another donor working towards fostering NGOs' issue-based cooperation. Sweden/SIDA however is best known for being the largest international organization supporting women's NGOs in BiH. Its two other focus areas have been human rights and the citizens' participation programmes.

The **US Embassy** has a fund for civil society, which includes small grants for civil society organizations as well as civic education and training courses for teachers through the CIVITAS programme. USA/USAID has systematically been involved in assisting the development of legislative framework for institutionalized civic initiatives in BiH. Back in 2001 and 2002, USA/USAID provided technical and financial support for the development of the Laws on Associations and Foundations on both state and entity levels, which enabled NGOs for the first time to register their activity on the territory of the whole country. USA/USAID also works closely with CCI and the Centre for Civil Society Promotion. USA/USAID provides CCI with sub-grants that it can distribute at its own discretion. It is important to note that USA/USAID's policy towards civil society has been steadily shifting from supporting capacity building to fostering NGOs' watchdog functions. Thus, for example, CCI developed a monitoring report of all 13 parliaments functioning in BiH.

Canada/CIDA assists the *Balkans Local Initiatives Programme* (2004-2009), which aims to contribute towards establishing more responsive, accountable, and competent national government institutions. They do so by supporting civil society organizations to actively engage in public policy dialogues and programme implementation through the development of their service delivery and advocacy capacities in the Health, Education, and Legal Reform sectors. Moreover, the programme encourages sustainable partnerships among governments and civil society. **Spain/AECID** aids institutions focused on social dialogue. While **Italy/IC** focuses on marginalized youth groups, encouraging their involvement in local decision making processes. Italy/IC's other civil society activity aims to establish a Resources Centre for enhancing the democratization process in the city of Mostar.

Sector strategies

To date there has been no fully-developed and adopted state strategy dealing explicitly with the Civil Society sub-sector. The only attempt at drafting a strategy for the sector was a grass-roots one. In 2004, the NGO coalition *Work and Succeed Together (Raditi i uspjesi zajedno)*, which represented some 300 NGOs, created a *Strategy for the development of the non-governmental sector in BiH*.⁶⁸ State strategies addressing civil society will be the state-level Country Development Strategy and the SIS for the years 2008-2013 as well as the entity-level Development Strategies. Some of the donors (Sweden/SIDA, Spain/AECID, and USA/USAID) have their own strategies that incorporate civil society components.

Positive developments and challenges in the sector in 2007

After three years of preparatory work, in May 2007 the Chairman of BiH Council of Ministers (CoM) signed an agreement of partnership with a representative of the NGO sector in BiH. This MoU has been identified by donors as one of the most significant positive developments for the Civil Society sub-sector that took place in 2007. The agreement is not a legally binding document, yet it was the first official step towards creating an institutional framework for cooperation between the governmental and the non-governmental sectors. The signing of this agreement was followed by the establishment of the Civil Society Board, which is a consultative body consisting of 31 members who advise CoM on issues related to civil society. The Board includes representatives of NGOs working on diverse fields of activities.

It has become common knowledge that, since the end of the war, NGOs in BiH have received a considerable amount of financial and other support from international public and private donors alike. However, the non-governmental sector has attracted a comparable amount of criticism on behalf of funders themselves, public opinion, governmental officials, and journalists. The donor-identified challenges facing civil society often involve its fragmentary nature, its detachment from the grass-roots efforts, and its dependence on international funding. Some international agencies admitted, however, that in many ways it was donors' policies towards civil society that have resulted in molding the sector as it has evolved during the last decade. Nonetheless, the network of 99 NGOs *Reference Group Tuzla* (RGT) is an example of a grass-roots network that has been supported financially by international agencies since its inception. The fact that RGT is an indigenous network which is not donor-driven and yet it has been financed by donors corroborates the argument that the relationship between international agencies and BiH NGOs is not necessarily one of cooptation, but of cooperation.

International organizations have increasingly realized that they also need to change their modes of support for the Civil Society sub-sector if they want to help domestic NGOs evolve into a sustainable, constituency-based sector with well-defined, issue-based coalitions. It should be pointed out, however, that donors' tendency to impose their agendas on local NGOs has been endemic and as such is not plaguing BiH civil society only. Nevertheless, it is important to note that international agencies are interested in their beneficiaries' feedback and are willing to change their policies to address the most pressing issues of civil society organizations. Furthermore, donors have identified the need to strengthen the relationship between domestic authorities and civil society. International agencies' flexibility in formulating policies aiming to support NGOs is laudable. It is indicative of donors' commitment to help establish a sustainable Civil Society sub-sector functioning in an NGO-friendly state and only then gradually withdraw their aid for civic initiatives in the country.

⁶⁸ For more information see www.civilnodrustvo.ba/files/docs/biblioteka/publikacije/5%20Nacr%20strategije%20razvoja%20NVO%20sektora.pdf.

Coordination and ownership

In 2007, there were no significant changes in the composition of donors assisting the Civil Society sub-sector. Reportedly it has been *sectoral* donor coordination meetings that most often took place during this year. As of June 2007, Japan/JICA, Norway, Sweden/SIDA, Switzerland/SDC/SECO, USA/USAID, the EC, UNDP and the Association of Civil Society met every few months to discuss organizations and their assessment of the sector. The Civil Society Coordination Group meeting is held bimonthly. There has been no permanent chair; donors take turns and it is decided at each meeting who will host the next one. Nonetheless, donors identified the need to introduce some clear regulations as to who should lead these coordination meetings. In 2007, the Netherlands also organized several coordination meetings of international agencies assisting the Civil Society sub-sector.

Towards more effective coordination A best practice example

A project meant to both increase local ownership and institutionalize civil society's role in BiH is the USA/USAID *Sustainable Development of the Non-Profit Sector Project*. This activity seeks to promote public-private partnerships and to create an institutional role for civil society organizations.

The project involves 16 domestic NGOs and NGO networks, representing more than 300 organizations throughout BiH. USA/USAID's support of the civil society sector and lobbying of the government resulted in an Agreement on Cooperation between the NGO Sector and the CoM in April 2007. According to the Agreement, the Commission for Selection subsequently elected 31 members to the Civil Society Board. The signing of the Agreement opened the door for the creation of offices at different government levels to ensure better cooperation within the Civil Society sector. Governmental offices will enable greater and more organized NGO involvement in public policies and more transparent distribution of public funding for local NGOs.

In general, coordination among donors supporting civil society has been slowly emerging during the past year. The Civil Society Board is obviously the most recent example of both donor coordination and increasing national ownership of the process. However, donors are concerned that ownership reflects only the organizational level of civil society, i.e. that NGOs are not accountable to their constituency.

Future activities

Donors are most concerned about the long-term development and financial sustainability of NGOs. Both these crucial elements are found to be contingent upon NGOs' and local and central authorities' willingness to cooperate. International agencies appeal especially to governmental institutions to develop mechanisms to financially support the fledgling civil society in the country. At the same time, donors pinpoint the need to strengthen the watchdog function of civil society. Some donors suggest that the involvement of NGOs in the decision-making processes in BiH has not only to be encouraged, but also guaranteed by introducing relevant measures.

Much remains to be done in the sphere of legal regulations, though. For example, a law that would adequately address the financial needs of NGOs is still lacking. The same goes for a law on volunteering. National authorities, donors and NGOs alike need to invest more effort in promoting the idea and the practice of corporate responsibility. In addition to that, businesses should be granted incentives in the form of tangible tax deductions for supporting civil society organizations.

Donors also identified the need for undertaking a programme of civic education in the country. Civic education is seen as one of the ways to remedy the current situation where NGOs are seen as detached from their constituency and public opinion itself is openly critical of NGOs. It has to be brought to the hearts and minds of citizens that NGOs employ, propagate, and spread modern yet deeply humanitarian ideas like tolerance, solidarity with the poor and the marginalized, environmental awareness, health education, gender equality, human rights, and so on. What's more, the current image of NGOs could be remedied by promoting the idea and the practice of self-help types of NGOs. In other words, the implementation of the principle of *subsidiarity*⁶⁹ should start from citizens' level and only involve local, entity or state government when the particular problem cannot be solved with the resources of the local community.

Donors recognize the need for new approaches to tackle the problems already identified, i.e. apathy, mistrust, learned helplessness and lack of grass-roots initiatives. In spite of all the critical comments voiced by donors, it is worthwhile to note that the emergence of a highly qualified, professional corps of NGO activists bodes well for the future of civil society in the country.

⁶⁹ According to this principle, whose origins derive from the Catholic social sciences, authorities of higher rank should only intervene when the smaller unit cannot solve the problem by itself and by mobilizing its own resources.

Conclusion

Four of the basic constitutional elements of good governance have been presented in this chapter. International donors have been significantly engaged in all of these sub-sectors. Many of the successes achieved in these areas could also be attributed to donors' commitment and concrete measures to further the reform processes in the country. In all of the four sub-sectors donors have been involved in backing the reform processes by providing not only financial assistance, but also by strengthening the capacity of domestic institutions responsible for implementing these reforms.

As far as the positive developments in the Good Governance and Institution-Building sector are concerned, it seems that the sub-sectors that cover well-defined areas have adopted strategies or at least draft strategies in 2007. These are the PAR and the Legal and Judicial Reform areas. The former of these has a strategy developed with some donors' support. The latter has a draft strategy, which was the first one to pass through public consultation with all stakeholders including donors. The fairly large, diversified and cross-cutting Human Rights and Civil Society sub-sectors still have no government-originating strategies. What's more, unlike the PAR and Legal and Judicial Reform sub-sectors, those "softer" areas have been subjected to more noticeable, albeit gradual, donor withdrawal.

The pattern of ownership of the four sub-sectors discussed in this chapter appears to repeat the above-presented regularity. The two well-defined sub-sectors can boast greater ownership of the process. Also, in the case of the PAR and Legal and Judicial Reform, national institutions responsible for implementing the reforms and for coordinating donor activities are already in place. Conversely, the Human Rights and the Civil Society sub-sectors can be said to enjoy the ownership of NGOs dealing with these issues, but not state-level ownership. Indeed, parts of the Human Rights sub-sector especially those involving gender issues, some vulnerable groups, and national minorities are supported by the respective governmental institutions, too.

Nonetheless, the fact is these "soft" sub-sectors appear to be much more difficult to grasp with one single initiative, be it governmental or donor-instigated. This singularity of "soft" sub-sectors can perhaps explain the apparent lack of urgency on behalf of donors and domestic governmental institutions alike to give consistent, long-term priority to these areas. This is not to say that the Human Rights and the Civil Society sub-sectors have not attracted significant interest on behalf of international agencies since the end of the war. On the contrary, they have even been criticized for receiving allegedly undue donor attention. However, this initial support has long started to dwindle, especially in the case of the Human Rights sub-sector. Keeping in mind that national ownership of these "soft" sub-sectors has been lagging behind when compared to the PAR and Legal and Judicial Reform, it seems donors' withdrawal from the Human Rights and the Civil Society sub-sectors is premature. Indeed, in order for democracy to function, the respective state institutions and legal framework need to be in place. Nonetheless, the participatory aspect of democracy can only be guaranteed by paying equal attention to "soft" indicators, like the existence of strong civil society and the observance of human rights.

Here it should be noted that the initial considerable donor support did actually affect changes in both "soft" sub-sectors. It might be these positive developments are not that easy to discern and pinpoint, given that most of the issues included under the Human Rights and Civil Society areas are cross-cutting or difficult to measure in terms of strategic documents adopted or institutions established. Thus, for example youth-related issues as well as free legal aid have been among the areas covered almost exclusively by civil society organizations assisted by international donors.

The implications that emerge from the above-presented picture point to several possible solutions to current problems in the Good Governance and Institution-Building sector. For one thing, donors could find ways to continue supporting the "soft" sub-sectors in particular. This need not happen at the expense of the PAR and LJR areas. For example, the human capital potential of BiH NGOs is one of the indigenous resources that could be tapped in all of the sectors. Donors could encourage domestic institutions to work more closely with NGOs; in this way, their cooperation could benefit both the governmental and the non-governmental sectors. Also, by further strengthening the state institutions responsible for implementing human rights issues, donors would foster the development of the Human Rights sub-sector.

As far as donor coordination issues are concerned, international agencies appear to unanimously favor clear regulations regarding the meetings over the ad hoc mode that seems to have characterized the early years of donor coordination. Furthermore, international

agencies wish to transfer the responsibility of harmonizing coordination meetings and therefore donor activities to domestic authorities, thus increasing the ownership of the reform processes as well as guaranteeing the involvement of all stakeholders. In spite of the critical opinions expressed by donors regarding the functioning of some domestic institutions, international organizations are committed to working with BiH authorities in both the decision-making and the implementation stages of the reforms. In fact, donors' critical comments reflect their genuine commitment to affecting change in the country. In spite of the difficulties encountered by both international and domestic institutions, tangible results of their common efforts can be seen. These positive developments bode well for the future of the Good Governance and Institution-Building sector in particular and for the reform process in BiH in general.
