

REPORT – BOSNIA AND HERZEGOVINA

1. Institutional and legal framework

Institutional and legal framework for social economy (SE) in Bosnia and Herzegovina (BiH) is still in its nascent stage. There is no government body or institution in BiH exclusively in charge of coordination of the SE sector, nor is there a specific strategy adopted for SE development. The only document which addresses SE issues is the Strategy of Social Inclusion, developed in 2010 by the BiH Directorate for Economic Planning. In this Strategy, one of the measures proposes the development of recommendations and guidelines for social entrepreneurship at all government levels (state and entity).

The Action Plan, adopted by the government of the Federation of BiH, assigned the Federal Ministry of Labour and Social Policy, and the Federal Ministry of Development, Entrepreneurship and Trade, as the coordinating bodies in charge of creating an environment conducive to the development of social entrepreneurship. As part of the measures for the development of an inclusive labour market, the development of social entrepreneurship for persons with disabilities is encouraged through cooperation between the Federal Ministry of Labour and Social Policy, the Federal Fund for Vocational Rehabilitation and Employment of Persons with Disabilities (PWDs), the Federal and Cantonal Employment Office and the Federal Ministry of Entrepreneurship and Crafts.

Currently, there is no available data on the extent to which the Strategy made by the BiH Directorate for Economic Planning has been implemented.

In BiH, the SE and social entrepreneurship have been developing within the institutional and legal framework for non-profit associations, foundations and cooperatives. The government body responsible for the establishment and registration of foundations and associations in BiH is the Ministry of Justice at state, entity and cantonal level but at the Brcko District level the Basic Court of Brcko District of BiH is competent. The legal framework for associations and foundations in BiH at all levels regulates the possible types of organization that can be registered, (associations and foundations), and how they operate. The relevant laws are: The Law on Associations and Foundations of Bosnia and Herzegovina (BiH Official Gazette, 32/01, 42/03, 63/08 and 76/11); The Law on Associations and Foundations of the Federation BH (Official Gazette of the FBH, 45/02); The Law on Associations and Foundations of the Republic of Srpska (Official Gazette RS, 52/01 and 52/05); and The Law on Associations and Foundations of Brcko District (Official Gazette of Brcko District, 48/02).

In the context of the emergence of different types of social enterprises, the above-mentioned laws regulate possible economic activities of non-profit organizations (NPOs) (associations and foundations). From the perspective of social entrepreneurship two sources of funding are interesting, namely: economic activities closely related to objectives stated in the Statute (income-generating activities) and economic activities not related to objectives and performed by the establishing of a separate enterprise.

Analyzing the two mentioned sources listed in Article 4 of the above-mentioned Law on Associations and Foundations of BiH, related economic activities are defined as, “activities that are directly related to the achievement of the objectives set in the Statute, and all other economic activities that are not directly related to the objectives set in the Statute, are considered unrelated economic activities” (Deloitte Advisory Service, 2012). According to this article, civil society organizations (CSOs) conducting unrelated economic activities shall establish a separate legal entity in accordance with the Law on Enterprises in BiH. In accordance with these laws, possible legal forms that can be established by CSOs are joint-stock companies and limited liability companies.

The General Law on Cooperatives was adopted in 2003 at the state level (Official Gazette, No. 18/03, 55/06). In the area of the Republic of Srpska the Law on Agricultural Cooperatives was adopted in 2008

(Official Gazette of RS, 73/08). This law is in accordance with the General Law on Cooperatives, and is intended to connect members of agricultural cooperatives.

The General Law on Cooperatives prescribes that a minimum of five persons or legal entities may establish a cooperative. However, no amount of initial capital is prescribed. The law allows NPOs to establish cooperatives (at least five CSOs) in order to achieve their economic and social goals through joint cooperation. Non-profit organizations may establish various forms of cooperatives - social, cultural, agricultural, etc.

The BiH legal framework for cooperatives gives impetus to the development of the SE at large, and social entrepreneurship in particular. The Law on Cooperatives provides for the distribution of profit and the coverage of losses or shortfalls in business. According to Articles 57-61, a cooperative can use revenues only for material investments or for the permanent working capital of the cooperative. A cooperative is required to invest a part of the profit in reserve funds, and the rest of the surplus may be distributed among cooperative members.

One may say that the current institutional and legal framework in BiH does not limit the establishment of various structural models in the field of the SE and social entrepreneurship in particular. The institutional and legal framework is not sufficiently developed and we can conclude that the current one is still limited. However, the existing capacities of government bodies and institutions should be built up for more efficient coordination at all levels, as well as planning and monitoring of the sector. Currently the most important processes in the context of the development of the social economy are the reform processes defined by the signed Stabilization and Association Process. The reform agenda is coordinated by all levels of government in BiH and is divided into six areas: (1) public finances, taxation and fiscal sustainability; (2) the business climate and competitiveness; (3) the labour market; (4) reform of social protection and pensions; (5) the rule of law and good governance; (6) public administration reform.¹ The current reform process provides an opportunity to experts and practitioners of social entrepreneurship to put this issue on the agenda of priorities, especially in the areas of public finance, taxation and fiscal sustainability; business climate and competitiveness; the labour market and social protection and pensions.

2. Analysis of financial incentives and support mechanisms

In Bosnia and Herzegovina there are no comprehensive financial schemes or incentives specifically aimed at social economy development. The existing legislation provides tax relief for CSOs, which is regulated in the Law on Profit Tax in both entities² and the Law on Value Added Tax (VAT).³ Tax deductions are aimed at models of social enterprise (associations and foundations) that do not imply the establishment of a separate legal entity. In accordance with the laws on corporate income tax, associations and foundations that generate income through economic performance are exempt from tax. Also, in accordance with the Law on VAT, non-profit organizations are tax-exempt, in case of trade in goods and services which are directly connected to the services which political, trade union, humanitarian, charitable, disabled and other similar organizations provide to their members for a membership fee, in accordance with the regulations that govern such activities, under the condition that such exemptions do not lead to disruptions in market competition.

The laws do not offer clearly defined criteria for what constitutes a public good and there is no clear distinction between related economic activities and the concept of "disruption of competition on the

¹ Available at: <http://www.fbihvlada.gov.ba/pdf/Reformska%20agenda%20.pdf>, accessed on November 20, 2015.

² Official Gazette of FBiH, No. 97/07, 14/08, 39/09 and Official Gazette of RS, No. 25/01, 80/02, 43/03, 84/04, 18/10, 101/11, 119/12, 47/13, 108/13, 94/15, 60/15.

³ Official Gazette of BiH, No. 09/05, 35/05, 100/08

market." This lack of clarity in the mentioned fiscal law creates space for discretion and interpretation by representatives of the tax administrations at all levels, which can lead to different approaches.

Organizational models of CSOs based on the establishment of separate legal entities are not subject to the aforementioned tax relief. The current fiscal policy does not recognize the merger of separately established companies with CSOs, an organizational model that was created for the purpose of advancing the public good or social values.

In the previous period, new laws on corporate income tax and personal income tax in the Republic of Srpska⁴ have been passed. The key change in the fiscal laws of the Republic of Srpska is a broader definition of the public interest as opposed to the previous very limited recognition of activities of associations and foundations of public interest. However, the Law on Corporate Income Tax RS does not recognize the activities that the organizations realize on a market basis, and the revenues realized through the private business enterprises are not exempt from income taxes.

As part of its agricultural policy the state (entity level and Brcko District) provides funds for agricultural cooperatives for the development of agricultural products (crops, milk products, fruit and vegetables). Some of the key challenges to the agricultural policy at all levels are: inconsistencies in the implementation of the adopted strategy of agricultural development, the low prices of primary agricultural products, violations of the system of protective pricing, the low level of investment in agriculture in relation to its share in the GDP, the risk of monopoly in production and transport, the lack of legislation and especially of a General Law on Cooperatives in BiH - the part relating to the registration and return of cooperative property (Sava, 2011).

NPOs, foundations and cooperatives can make use of opportunities provided by entity laws regarding persons with disabilities (PWDs).⁵ The laws allow legal entities (associations, foundations and cooperatives) to establish separate companies for the employment of PWDs which are eligible for certain benefits. These entities are exempted from customs duties and taxes according to the customs and tax regulations. Also, utility costs, such as telephone and electricity, are charged at the same rates as applied to households. They can claim rebates on payroll taxes, and the Law regulates that the requirements of other entities for goods and services should be met with products and/or services produced by associations focused on the employment of PWDs, which offers the possible stimulating of their sustainability. In the Federation, there are even more incentives designed to encourage this kind of business model and thus reduce the exclusion of PWDs.

Currently, support for social entrepreneurship in particular is reflected in several ad hoc initiatives and programmes awarded by certain government bodies or public institutions for projects initiated by CSOs. This financial support is often based on co-financing projects and programmes in partnership with local or international organizations (e.g. the Foundation for Social Inclusion BiH, the Mozaik Foundation, USAID and the EU). Some of the most common state authorities are municipalities, public institutions and the Ministry of Labour and Social Policy at the entity level (Federation and Republic of Srpska). However, there is not a unique database of resources for co-financing such projects and initiatives, so the amount of the annual support is difficult to estimate.

According to data compiled in 2014, 244 international and local donors who fund various activities operate in BiH (Bubalo, 2014). The availability of funds aimed at the development of social entrepreneurship in BiH is very limited and can be classified as funds focused on capacity development through start-up support, technical assistance and the promotion of the concept of social entrepreneurship.

⁴ Official Gazette of RS, 94/15, 60/15

⁵ Law on Vocational Rehabilitation, Training and Employment of Disabled Persons (Official Gazette of RS No. 59/09) and the Law on Vocational Rehabilitation, Training and Employment of Persons with Disabilities (Official Gazette of FBiH, No. 2/10)

The following table presents some of the most important programmes in BiH for CSOs that operate in the field of social entrepreneurship.

Table 5: Support programmes for social entrepreneurship

Donor	Name of the programme	Types of support
Delegation of European Union in Bosnia and Herzegovina	Instrument for Pre-Accession Assistance (IPA) and European Instrument for Democracy and Human Rights (EIDHR)	Consulting and promotion
Embassy of Sweden	The Challenge	Start-up support, consulting and promotion
World Bank	Programme for Youth Entrepreneurs	Start-up support, consulting and promotion
UniCredit Foundation	Social Inclusion Fund and Social Business Fund	Start-up support, consulting and promotion
Embassy of Czech Republic	Initiative under support of economy development	Start-up support
Foundation Mozaik	Regional Social Business Fund	Start-up support, consulting and promotion
Foundation for Social Inclusion BiH	Social inclusion through support of CSO sector	Start-up support and promotion

* *The listed programmes are annual*

There is new financial and non-financial support for the SE sector in BiH: The *Yunus Social Business Balkans* accelerator programme is available for the first time for entrepreneurs from Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia. The YSB offers a powerful combination of financial support, but most importantly through training, coaching and mentoring, as well as access to local and global networks.⁶

The Mozaik Foundation created a ten-year strategy aiming to build a generation of entrepreneurial and innovative youth - a value-driven force that spurs social and economic development, creates successful social businesses and serves as a role model to other youth. Mozaik's *Social Entrepreneurship Programme* (SEP) will provide such a safe and supportive environment to most promising youth to further advance through the competency model and curriculum. The SEP will consist of a social business incubator and accelerator. In 2016, Mozaik will support 10 young people to create a social business.⁷

One of the positive developments in the creation of a supporting environment is the establishment of incubators specifically designed to meet the needs of the SE sector and social entrepreneurship in BiH. The combination of financial and consultancy support can contribute to increasing the number of individuals and organizations in the development of social business. In general, such programmes can contribute to the promotion of the social economy in BiH.

3. Analysis of the current situation within the sector

The concept of the SE in BiH is still at an emergent stage. Bosnia and Herzegovina has made positive changes in the promotion of the SE among key actors of CSOs, business and government sectors. There

⁶ Available at: <http://www.yusbalkans.com/>, accessed on November 20, 2015.

⁷ Available at: <http://www.mozaik.ba/bs-lat/>, accessed at November 20, 2015

have been a number of promotional events and one of the most important is a two-day conference on Social Entrepreneurship organized by TACSO BiH in June 2015⁸.

The conference served as a platform for the development of recommendations and guidelines for creating a supportive environment for the social economy. Some of the key recommendations of the Conference for the Development of the Social Entrepreneurship in BiH are: promotion of good practices; access to start-up funds for small and medium enterprises; financing pilot projects at the municipal level; promotion of public-private partnerships in this field; strengthening the links between corporate social responsibility and social inclusion; development of strategic documents modelled on the region - both vertical and horizontal coordination of policies; provision of technical support by resource centres for CSOs; promotion of voluntary activities; the inclusion of social entrepreneurship in the curricula of universities and the creation of coalitions and networks and their interconnection with similar networks in the region and the EU.⁹

There is no systematic collection of data on the size and capacity of the SE sector. This is particularly the case with social enterprises, which are not legally recognized. Social enterprises are still marginalized in public debate and only partially integrated into the legal framework. Most social enterprises in BiH operate within the Law on Associations, Foundations¹⁰ and Cooperatives.¹¹ Some CSOs have started to develop the concept of social entrepreneurship, and have started specific business initiatives in an attempt to raise funds for the missions of their organizations. Information from 2011 indicates that there is a trend for starting new revenue-generating activities (related or unrelated) by CSOs, as, at that time, 23% of the total number of surveyed associations were partially funded through revenue-generating activities.

According to a study conducted in 2011, over 12,000 civil society organizations operate in BiH (Papic, 2013). However, this data on the size and capacities of the sector should be treated cautiously due to the fact that there are four laws on associations and foundations, and there is no single registry of associations. The figure of 12,000 includes all types of organizations including political parties, religious organizations, sports organizations, cultural organizations and other associations. Registered associations primarily operate at the local level and most are registered at the entity level (Federation of BiH and cantonal level), while only 19.2% of associations are registered at the state level. The most common fields of interest of associations are education, activities in the local community, consulting, lobbying, advocacy and monitoring of public policies and government institutions (Papic, 2013). Also, according to data from the Cooperative Association of BiH, there are around 850 cooperatives – 367 in the Republic of Srpska and 237 in the Federation of BiH.

Overall, the existing network of CSOs in BiH recognizes the importance of the development of the social economy. One of them is the Coalition of Marginalized Groups in BiH, which has established a body for advocacy, to promote a process of adopting new policies and measures in the field of social entrepreneurship.¹²

⁸ Conference report is available at: <http://tacso.org/doc/P2P%20SB%20Report%20BH%20SE%20Conference.pdf>, accessed November 18, 2015.

⁹ Pravni i institucionalni aspekti socijalnog preduzetništva: Komparativni pregled i stanje u Bosni i Hercegovini, TACSO BiH – People to People

¹⁰ The Law on Associations and Foundations of Bosnia and Herzegovina (BiH Official Gazette, 32/01, 42/03, 63/08 and 76/11); The Law on Associations and Foundations of the Federation BH (Official Gazette of the FBH, 45/02); The Law on Associations and Foundations of the Republic of Srpska (Official Gazette RS, 52/01 and 52/05); and The Law on Associations and Foundations of Brcko District (Official Gazette of Brcko District, 48/02)

¹¹ The General Law on Cooperatives (Official Gazette no. 18/03, 55/06) and the Law on Agricultural Cooperatives of the Republic of Srpska (Official Gazette of RS 73/08)

¹² Available at: http://koma.ba/category/kampanje/socijalno_poduzetnistvo/, accessed on November 18, 2015

Out of the total number of cooperatives, 20% achieve a level of accumulation of income which is important for their development, 50% operate on the verge of profitability, and 30% operate with losses, for one year or more (Sava, 2011). There is no data available on the number of employees in cooperatives, the amount of annual revenue or their total share in the GDP. Although there is no official data on the total number of established cooperatives, it can be assumed that over 80% of them are agricultural cooperatives.

Based on the available publications of the organizations that explore or support projects in the field of social entrepreneurship, there have been a wide range of activities following a social enterprise model. They can be seen in agriculture, information technology, graphic and web design, the preservation of traditional crafts, manufacture, service delivery to marginalized groups and their recruitment through various types of support to small businesses, etc. (TACSO, 2012; Mozaik Foundation, 2012; Human Rights Office Tuzla, 2013). There has been an increasing trend in the number of agricultural initiatives run by CSOs and cooperatives, aimed at the economic empowerment of households. According to the UNDP, agriculture can make a significant contribution to the overall economy of the country, but it cannot be its main driving force (UNDP, 2013). The motivation for launching such models is to improve the quality of life of various marginalized groups because BiH society is burdened with the problem of social exclusion.

So far, almost all projects in the field of social entrepreneurship have been launched by CSOs, thanks to available financial resources and professional skills. Although models of CSOs, based on the concepts of social entrepreneurship, testify to the inventiveness of BiH CSOs and cooperatives, in most cases they are managed in improvised and inefficient ways, without much planning or preparation, and with a lack of capital and support to strengthen the capacities necessary for expansion and empowerment. There are many reasons for this - lack of understanding of the term social entrepreneurship, lack of capacities, human resources and entrepreneurial skills and expertise characteristic of the business sector that are essential for the development of models of social enterprises (TACSO, 2012).

Observing the previous period, we can conclude that CSOs recognize the importance and opportunities in the development of the social economy. There are new actors who are working to promote social entrepreneurship. However, there are still a very small number of initiatives for the launching of different models of social businesses or social economy organizations.

4. Summary with recommendations

According to the data and the performed analysis, we can conclude that there are changes that partially contribute to creating a supportive environment for the development of the SE in BiH. Broadening the definition of public interest in the fiscal laws of the Republic of Srpska and the launching of incubators and programmes for the development of social entrepreneurship represent small but significant changes.

Some of the main obstacles in creating a supportive environment are: inadequate institutional support; a limiting legal framework for the development of a model of social economy organizations by CSOs and cooperatives; lack of financial mechanisms (start-up); limiting tax reliefs; there is no clear coordination or defined agenda to develop the social economy among the key stakeholders (relevant ministries at all levels, CSOs, cooperatives).

Based on the current analysis, some recommendations may be made for creating a supportive environment for SE development in BiH:

- The adoption of a strategy for the development of social entrepreneurship in BiH. The strategy should promote social entrepreneurship and create a stimulating environment for its development. This will contribute to more clear coordination of the key stakeholders in the development of these areas (line ministries at all levels, CSOs and cooperatives);

- The defining of measures and activities for the development of social entrepreneurship in the framework of existing activities - implementation of the Agreement signed between the Council of Ministers and the NGO sector in BiH. For example, an advocacy initiative to create a supportive environment for the development of individual and corporate philanthropy is not accompanied by proposals for possible measures of tax exemptions for social entrepreneurship.
- The involvement of social entrepreneurs in the implementation of reform processes led by the relevant ministries. Through existing communication channels to promote the importance of developing social entrepreneurship/economy especially in the reform of public finances, taxation and fiscal sustainability; the business climate and competitiveness; the labour market and social welfare and pensions.
- The exchange of experience through the promotion of successful models of social enterprises should be encouraged. It is necessary to involve the academic community, the private sector, CSOs, cooperatives and the government sector in these activities. This will lead to a better understanding of the concept of the SE among key stakeholders in order to create an appropriate definition and guidelines for the development of this field.
- Since there is no register of the SE sector as a whole, it is necessary to establish one. The data on size, structure and impact of the sector will make it possible to plan adequate measures for the development of this field.

Suggestions to **strengthen dialogue among key partners in cross-border** networking and cooperation:

- The promotion, within the existing regional networks of civil society organizations and cooperatives, of the importance and significance of the SE within the context of solving social issues and the development of sustainable organizations and cooperatives.
- The establishment of an informal body, for example a Forum of Social Entrepreneurs and Innovation, may improve the harmonizing of the needs, as well as propose solutions and lobby for social economy interest with legislators and representatives of international donors (EU, USAID and others) to adopt strategic measures and recommendations that will enable a supportive environment, both nationally and regionally.
- Funding for different forms of SE organizations should be more accessible. To start with, the establishment of some sort of regional fund for the development of SE initiatives in the region should be largely encouraged.

In order to ensure the implementation of the proposed recommendations, we suggest several mechanisms for monitoring as follows:

- The creating of a newsletter by representatives of social economy organizations and scholars to promote activities and initiatives for the development of social entrepreneurship. The newsletter would be distributed to all relevant stakeholders for the development of social entrepreneurship at national and regional level;
- The submission of measures and recommendations for the development of social entrepreneurship to representatives of the campaign for the creation of a more favourable legal, institutional and tax framework for the development of NGOs in BiH at all levels. The campaign includes advocacy initiatives to change the fiscal policy of the Federation of Bosnia and Herzegovina in the year 2016;
- The organization of forums or conferences at the regional level to promote social entrepreneurship, e.g. the use of existing coalitions at the regional or national level: "Coalition for Social Entrepreneurship Development (CoSED)" and Coalition of Marginalized Groups in Bosnia and Herzegovina (KOMA).