

THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY BOSNIA AND HERZEGOVINA

ARTICLE 13 UNCAC

PARTICIPATION OF SOCIETY

BOSNIA AND HERZEGOVINA (SEVENTH MEETING)

In relation to participation of society (article 13 (1) (a)), various initiatives have been launched in cooperation with the Office of GIZ within the “Programme for Strengthening of Public Institutions in Bosnia and Herzegovina” in order to implement administrative reform measures in the inter-institutional working groups focusing on a professional exchange of experience and mutual learning. The project activities focus on three areas, aiming to improve the conditions for implementing administrative reform, fostering an exchange of experience with administrative reform, encouraging learning in inter-institutional working groups and support the implementation of standards in the administrative reform strategy in selected institutions. This also includes an initiative on the manner how the public sector communicates with the general public. Another initiative focuses on use of digital media.

Since March 2016 TI B&H started the project “Open Government Partnership – Support the Open Government Partnership Initiative”¹². This initiative comprehensively contributes to the achievement of the open government through defining specific obligations in the process of preparing an action plan to implement the standard of open government and participation of the citizens in decision-making procedures. The general objective of the project is to ensure a joint action of the government as well as the civil society in Bosnia and Herzegovina in the establishment of the open government through promoting proactive transparency in the work of public institutions and strengthening of their capacities. The OGP platform helps to join forces, capacities and resources of the society in order to achieve better results in all planned activities.

The planned activities for the implementation of the defined objective will be conducted through three mutually related components:

1. Support to the OGP initiative through the education of the lower government levels in B&H;
2. Advocacy activities and promotion of the OGP initiative principles to the lower government levels in B&H;
3. Research and analytical activities that will result in 5 policy analyses (policy memos or policy briefs) and monitoring of the anti-corruption strategy focused on identifying priorities relevant to the OGP.

In the previous period, the Ministry of Justice of Bosnia and Herzegovina has vested significant efforts to improve the system of transparency, cooperation and openness to citizens and civil society organisations. The highlight of these efforts is the web platform “eKonsultacije”¹³, developed with the expert support provided through the project “Capacity Building of Government Institutions to Participate in Dialogue with Civil Society” (CBGI) funded by the European Union.

The platform enables citizens and civil society organisations to access via the Internet the complete and timely information on the legislature processes. It also provides a reliable communication channel for citizens' participation in public policy making. The ideas, suggestions and additional information collected in this way will be used for improvement of public policies under the jurisdiction of the B&H institutions.

In relation to ensuring that the public has effective access to information (article 13 (1) (b)), the latest tendencies related to the free access to information are seen in the insistence on the proactive transparency as a new quality i.e. a necessary standard that only can ensure an effective and complete access to all information controlled by public authorities and of importance for the public and democratic participation in political processes.¹⁴ TI B&H has also prepared an analysis of the Transparency, Accountability and Integrity in the public administration within the project "Public Administration Reform Monitoring (PARM)"¹⁵. The result of the analysis does not record desired dynamics.

In the period from January to March 2016 Transparency International B&H conducted a survey aimed at assessing the readiness of institutions in the Federation of Bosnia and Herzegovina to open data policy, while the subjects to the analysis are the current situation and the existing capacities at this level of government, as well as definition of needs in trying to implement the agenda of open data. In general, the results of this survey indicate that the successful initiative for the open data in the Federation of Bosnia and Herzegovina shall require the following:

- . ○ Strengthening the role of federal institutions in the activities within the field of the OGP initiative, and their capacities in order to readily and successfully address the challenges and obligations of the OGP initiative.
- . ○ Strong political orientation and leadership of the entity authorities in support to the openness.
- . ○ Centralized unit, with expertise regarding technical, legal and strategic implications of open data, responsible for the implementation of the open data initiative and providing education on open data to the civil servants in different departments, agencies and ministries.
- . ○ Adoption of clear policies on the right to re-use the data owned by the government.
- . ○ Launch of the initiative aimed at activating critical mass of citizens who are familiar with the fact that data are published and that they are allowed to re-use them.

In relation to undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula (article 13 (1) (c)), the University "ITC-Interlogos Center" in Kiseljak organized several seminars in cooperation with the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) within the project "Education against Corruption"¹⁶ with the aim to provide information on the nature, causes and consequences of corruption in higher education, as well as to offer ideas and values of what could be done in a

synergy of higher education institutions and universities in terms of concrete plans to combat corruption. In this regard they published the study “Corruption in Higher Education: Fiction or Reality?”¹⁷, as one of the results of this project. The overarching goal of this project was to contribute to the reduction of the number of corruption cases within universities in B&H through amendments of existing rules, and trainings.

Another project „Curriculum for Transparency, Curriculum for Accountability“¹⁸ was focused on awareness raising through TV programs for children on BHRT¹⁹, trainings in ethic and integrity in several educational institutions in B&H from elementary to secondary schools. As one of the results of the project a Handbook was prepared in the field of ethics and integrity²⁰.

In relation to respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption (article 13 (1) (d)), in the past few years a number of civil society organizations contributing to the fight against corruption significantly increased in B&H. This process culminated in 2012 when ACCOUNT – Network of Non-Governmental Organizations, Institutions and individuals active in fight against corruption – was established. ACCOUNT now has more than 120 members (including APIK) and its main goal is to speed up anti-corruption reforms in Bosnia and Herzegovina through various actions and advocacy.²¹ Among other, they are informing the general public about the manifestations and problems of corruption, particularly through convening meetings of experts, publishing studies and issuing reports. ACCOUNT and TI B&H are only organizations exclusively devoted to curbing corruption, but there are many organizations which are contributing to the fight against corruption through various projects aimed to increase transparency and accountability in the public administration.²²

Media is also playing a significant role in fight against corruption, particularly those media outlets focusing their research on corruption, public spending, administration, organized crime and similar topics. Media is often serving as a bridge between civil society and citizens, providing channels for easier communication among stakeholders. Among other, three organizations are recognized as leaders when it comes to reporting on corruption. Centre for Investigative Reporting (CIN) is dedicated to providing fair and unbiased information on organized crime and corruption and the negative effect they have on the lives of ordinary citizens.²³ So far, CIN published a large numbers of investigative stories and research studies on corruption in various areas, such as police, education system, employment processes, judiciary, health system, financing of political parties, public procurements, assets of politicians²⁴ and the others topics. CIN stories have led to the firing or resignation of prime ministers, judges and ministers. Their stories have led to indictments against politicians. It led to organized crime figures and police alike being jailed. It led to changes in the law and the procedures of ministries. It led to closing of a university. Centre for Media Development and Analyses through online magazine “Žurnal”²⁵ is contributing to the freedom of speech, provides access to truthful information, objective analyses and recommendations for decision makers in the community.

They are founders of the ACCOUNT network. “Žurnal” has also implemented the project „Stop wastefulness in public spending“ as well as a project aimed toward combating corruption in economy, public institutions and administration. Apart from reporting on corruption issues, “Žurnal” is promoting transparency and accountability of public officials. In 2013 they published “Extensive research – Who, how and how much steals in the public procurement” – a survey on corruption in public procurements among 300 procurers – people from institutions, public and private companies.²⁶

In accordance to article 13, paragraph 1, (d) there are also restrictions necessary,

(i) For respect of the rights or reputations of others; pursuant to the B&H Election Law²⁷, the Central Election Commission (CEC) collects the assets declarations from the candidates for election to office at the State Level and Entities and from the elected members of government bodies at all other levels of government based on a special form and makes the forms containing the assets declarations available to the public. Pursuant to the Decision of the Agency for the Protection of Personal Data in B&H²⁸, the CEC has removed the published assets declarations of the candidates and elected members of the authority from the official website. The assets declaration forms are thus available to the public in accordance with the Law on Freedom of Access to Information in B&H and the Law on the Protection of Personal Data. In order to have access to the assets declaration of the candidates, it is necessary to submit a request to the CEC which will be approved in accordance with the Law on Data Protection. The largest number of requests for access to the assets declaration of candidates has been submitted by the non-governmental sector and the electronic media.

In regard to article 13, paragraph 2, the Law on Protection of Whistle-blowers in the Institutions of B&H²⁹ was adopted in December 2013 on the state level. This Law provides that the key implementing bodies are the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption (APIK) and the Administrative Inspectorate of the Ministry of Justice of B&H. According to the Law, APIK shall assign a status of a whistleblower to a person reporting corruption within 30 days from the date of report being filed. In case that employer endangers the status of a whistleblower in any way (firing, suspension, transfer to a lower work position), he would be fined with 10.000 to 20.000 KM. Fine in range of 1.000 – 10.000 KM is prescribed for a whistleblower who deliberately report false corruption. In addition to aforementioned, APIK has developed the Rulebook on whistleblowing and the protection of whistle-blowers. In direct coordination with all institutions and based on the uniformed Rulebook, APIK has monitored and coordinated the process of adopting such rulebooks (the rulebooks have been adopted in 64 institutions of B&H). Furthermore, the Instruction for the implementation of the Law on Protection of Whistle-blowers in the Institutions of B&H has been developed. Pursuant to the Law, APIK had received ten requests in total for the status of a protected whistle-blower. After the analysis of the submitted documents, the status of a protected whistle-blower was granted in three cases. In one case, APIK developed the Instruction on elimination of untoward actions taken against a protected whistle-blower, and, in that regard, at the beginning of June 2015

APIK was notified that Instruction had been obeyed, and that the protected whistle-blower in the aforementioned case had returned to work, after previously losing the job as a consequence of retaliation due to the reported corruption. At the end of July 2015, the Prosecutor's Office of B&H initiated an investigation on spending the budget reserve of B&H, on the basis of a request of APIK, with an annex to the report of the Audit Office of the Institutions of B&H, which refers to distribution and usage of the current reserve.

With the purpose to promote the protection of whistle-blowers in the general public APIK has prepared promotional leaflets and material, in cooperation with the Centre for Social Research "Analitika". In this regard a free whistle-blower hotline (080054321) was established for employees in the institutions of B&H with the intention to help them reporting wrongdoing confidentially and anonymously. In order to improve the processing of reported corruption, APIK, in cooperation with the UNDP B&H, has designed a database and software for reporting corruption and providing protection to the whistle-blowers.

In order to facilitate an effective reporting of corruption in the Republika Srpska (RS), the RS Ministry of Internal Affairs has developed an application for reporting suspected corruption and other irregularities in the work of the RS administrative bodies, local self-government units, public companies and public institutions. The reports are submitted to the specific institution of the RS Government and the person reporting corruption has the opportunity to check the progress of the investigation.³⁰ On the other hand the Federation of B&H (FB&H) has adopted the Draft Law on Protection of Persons Reporting Corruption on 15th November 2013.³¹ However, the respective Law itself never come into force.

¹² <http://ti-bih.org/projekti/partnerstvom-za-otvorenu-vlast-podraska-inicijativi-partnerstvo-za-otvorenuvast/?lang=en>, Project duration:

01.03.2016-28.02.2017, Donor: Open Society Fund Bosnia and Herzegovina ¹³ <https://ekonsultacije.gov.ba/>

¹⁴ „Freedom of access to information in B&H“, the document has been produced within the project „Support to the creation of the National Action Plan of B&H within the Open Government Partnership“, implemented by TI B&H, with the financial support of the Open Society Fund B&H.¹⁵ The project was implemented by TI B&H and CIN with the support of the Swedish International Development Cooperation Agency (SIDA) and the Government of the Kingdom of Denmark.¹⁶ The project which ITC implemented during a period between December 2013 and October 2015 was funded by the European Union.

¹⁷ <http://www.itc.edu.ba/wp-content/uploads/2015/10/Corruption-in-Higher-Education-Fiction-or-Reality.pdf> ¹⁸ Within the EU funded project “Strengthening anti-corruption capacities and CSO networks in the area” ¹⁹ <http://www.znanjenijeroba.org/ss/>

²⁰ http://znanjenijeroba.org/admin/uploads/BOS_srednja_WEB1.pdf ²¹ <http://account.ba/stranica/pocetna> Source: CORRUPTION

²² ASSESSMENT REPORT B&H; seldi.net/fileadmin/public/PDF/.../CarBiH_eng.pdf ²³ <http://www.cin.ba/en/about/>

²⁴ <http://imovinapoliticara.cin.ba/> ²⁵ <http://www.zurnal.info/>

²⁶ <http://account.ba/novost/9672/veliko-istrazivanje-ko-kako-i-koliko-krade-na-javnimnabavkama> ²⁷ „Official Gazette of B&H“, No.: 23/01, 7/02, 9/02, 20/02, 25/02, 4/04, 20/04, 25/05, 52/05, 65/05, 77/05, 11/06, 24/06, 32/07, 33/08, 37/08, 32/10, 18/13 and 7/14

Number: UP1 03-1-37-3-18/11 dated 5 July 2011 ²⁹ “Official Gazette of B&H”, No.:100/13, in force since 1 January 2014,

²⁸ <http://www.apik.ba/zakoni-i-drugi-akti/Zakoni/drugivaznijizakoni/LAW%20ON%20WHISTLEBLOWER%20PROTECTION%20IN%20THE%20INSTITUTIONS%20OF.pdf>

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EUROPEAN INTEGRATION PROCESS DRAFTED ACCORDING TO THE NEW REPORTING METHODOLOGY, Council of Ministers, Sarajevo August 2015³¹ at the 18th regular session of the House of Peoples of the Federation of B&H, held on 15 November 2013