

**Bosnia and Herzegovina: Civil Society Report
by Transparency International Bosnia and Herzegovina**

An input to the UNCAC Implementation Review Mechanism:
First year of review of UNCAC Chapters II and V

14 November 2023

This is the executive summary of a civil society parallel report from June 2023 reviewing Bosnia and Herzegovina’s implementation and enforcement of selected articles in UN Convention against Corruption (UNCAC) Chapter II (Preventive Measures). The report was supported by the UNCAC Coalition and is intended as a contribution to the UNCAC peer review process of Bosnia and Herzegovina covering those two chapters. The full report is available on the UNCAC Coalition's website.¹

Bosnia and Herzegovina has put in place provisions for the prevention of corruption (Chapter II of the UN Convention against Corruption – UNCAC), but a lack of political will and limited capacities of institutions hinder their effective implementation in practice.

Assessment of the Review Process

Has the government disclosed information about the country focal point?	Yes	
Was the review schedule published somewhere?	Not available	The APIK published a press statement on the day the peer reviewers were in town for the country visit.
Was civil society consulted in the preparation of the self-assessment checklist?	Not available	
Was the self-assessment checklist published online or made available to civil society?	No	

¹ The report was published on the UNCAC Coalition website in June 2023:
<https://uncaccoalition.org/uncacparallelreportbosniaandherzegovina/>.

Did the government agree to a visit to the country?	Yes	
Was a country visit undertaken?	Yes	The visit took place from 2-6 October 2017.
Was civil society invited to provide input to the official reviewers?	Yes	Seven anti-corruption and access to information CSOs participated.
Was the private sector invited to provide input to official examiners?	Yes	Six representatives of the private sector participated.
Has the government committed to publishing the full country report?	Yes	The executive summary and full country report are published on Bosnia and Herzegovina's UNODC country profile page, while information and the link to the executive summary and full report were published at the official website of the Agency for Prevention of Corruption and Coordination of the Fight against Corruption.

Main Findings and Recommendations (R)

Preventive Anti-Corruption Policies and Practices

Each entity in Bosnia and Herzegovina has its own constitution, president, government, parliament and judiciary. Anti-corruption policies and strategies are adopted following this decentralized system. Until the end of 2019, all levels of governance adopted Anti-Corruption Strategies and Action Plans. In a process consulting representatives of institutions from all governance levels, academia and civil society, the Agency for Prevention of Corruption and Coordination of the Fight against Corruption drafted a new Anti-Corruption Strategy and Action Plan at the state level for 2020-2024. However, there is an absence of political will for anti-corruption reforms. The new Anti-Corruption Strategy is still not adopted and there is no valid Anti-Corruption Strategy at the state level.

R: Urgently adopt an Anti-Corruption Strategy and Action Plan at the state level.

Preventive Anti-Corruption Bodies

The Agency for Prevention of Corruption and Coordination of the Fight against Corruption (APIK) is an autonomous administrative organization that serves as a central corruption prevention body, reporting to the Parliamentary Assembly of Bosnia and Herzegovina. Besides the APIK, there are anti-corruption bodies at the lower levels of governance in charge of creating, monitoring and implementing anti-corruption policies and strategies, but these lack adequate independence and capacity.

R: Ensure that the necessary material, human and financial resources are available to the APIK and other anti-corruption bodies on entity and cantonal levels to carry out their functions.

Public Sector Employment

Civil service laws at state and entity levels regulate the legal status of civil servants in institutions at all levels. The legislation stipulates that civil servant recruitment and professional career advancement is based upon open competition and merit, and rotation in civil service is only possible through promotion or transfer. Civil service agencies provide training for public officials with anti-corruption responsibilities, however, there are no clear procedures for selecting and training officials for jobs identified as vulnerable to corruption.

R: Implement an analysis of the vulnerable sectors/departments and adopt clear procedures for selecting and job training for jobs identified as vulnerable to corruption based on that analysis.

Political Financing

The Office for the Audit of Political Parties Financing within the Central Election Commission (CEC) is responsible for political financing. The Election Law establishes expenses ceilings for political parties, coalitions and candidates participating in election campaigns. Under the Law on Political Financing, political parties must submit annual financial and post-election financial reports to the CEC. As the CEC only has the authority to verify the accuracy of income, it is necessary to establish an audit of expenses. However, legal loopholes allow space for abuse of public resources.

R: Improve monitoring of political party financing and election campaign funding by strengthening the capacities of the Audit Department within the Central Election Commission. Adopt clear legislation regarding the abuse of public resources in election campaigns.

Codes of Conduct, Conflicts of Interests and Asset Declarations

The Code of Conduct governs civil servant conduct, with similar regulations at lower levels of governance. Conflicts of interest are governed by legislation enacted at the different governance levels. The Commission for Deciding on Conflicts of Interest is the state level authority; however it is extremely politicized. The state-level law does not provide for an independent body to decide on conflicts of interest in accordance with international standards. Elected and appointed government officials must submit asset declarations to the CEC which are publicly available online, however the CEC is not responsible for the accuracy of this information.

R: Publish online information on assets and interests of elected officials, executive office holders and advisors who fall under the Law on Conflict of Interest, and public servants. Strengthen the legal framework related to conflicts of interest by establishing independent bodies for deciding on conflicts of interest at all levels of governance.

Reporting Mechanisms and Whistleblower Protection

Whistleblower protection is regulated at state, entity and Brčko District levels. The Law on Whistleblowers Protection in institutions of Bosnia and Herzegovina foresees protection provided by a special independent institution, the APIK. Brčko District follows a similar system. In the Republika Srpska, whistleblower protection is regulated by the entity law which guarantees protection for all employees in the public and private sectors. There is no adopted law on whistleblower protection in the Federation of Bosnia and Herzegovina. There is a need for amendments to the Law on Whistleblowers Protection at the state level to bring it in line with international standards.

R: Adopt a law on whistleblowers protection at the level of Federation of Bosnia and Herzegovina in accordance with international best practices and adopt necessary changes of legislation to establish protected reporting channels for whistleblowers at all governance levels.

Public Procurement

The Public Procurement Agency is responsible for the overall coordination of procurement under the decentralized procurement system. The legal framework defines clear procedures for participation in the tender procedure and defines the bidder verification process and qualification conditions. However, information on the implementation of contracts is frequently lacking.

R: Increase the capacities of the Public Procurement Agency and Procurement Review Body in charge of monitoring the implementation of the law. Harmonize criminal laws with regard to criminal offenses of abuse in public procurement, with emphasis on the equal responsibility of contracting authorities and bidders.

Access to Information and the Participation of Society

Legislation on access to information exists at state and entity levels. There is a proactive transparency policy at the state level and Bosnia and Herzegovina is part of the Open Government Partnership initiative. The application “eKonsultacije”² provides citizens and civil society representatives with information about certain legal acts and provides a reliable communication channel for civil society participation in public policy. However, there are concerns about the effectiveness of proactive disclosure of information and responding to citizens’ requests, and there is no special independent body that decides on appeals in cases where applicants’ requests are rejected.

R: Establish an independent specialized body address access to information requests. Adopt changes in the law at all levels to include obligatory proactive transparency, in accordance with the Policy and Standards of proactive transparency; harmonize laws on access to information at all levels of governance. Implement the “eKonsultacije” application at lower levels of governance to oblige institutions to undergo public consultation processes for all legal acts prepared by the institution.

Judiciary and Prosecution Services

² <https://ekonsultacije.gov.ba/>.

The High Judicial and Prosecutorial Council (HJPC) is the judiciary self-management body intended primarily to shield the judiciary from political influence and guarantee proper functioning of all judicial systems. Over the past years, the HJPC has faced allegations of politicization and failure to implement reforms. A comprehensive legal framework enables the public to obtain information about the judiciary and court decisions but in practice transparency and accountability are under-developed.

R: *Adopt changes to the Law on the HJPC related to judicial integrity to improve regulations on appointment, disciplinary responsibility, career development and conflict of interest of judges and prosecutors; Increase the transparency of disciplinary procedures by the HJPC and the publication of information during the process.*