

KOALICIJA NEVLADINIH ORGANIZACIJA
“RADITI I USPJETI ZAJEDNO”

Prijedlog

**«Agreement on Cooperation between the
Council of Ministers of BH and the
Non-Governmental Sector in Bosnia and Herzegovina»**

Sarajevo, December 2004

Izdavač: Odbor koalicije “Raditi i uspjeti zajedno”

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Zahvaljujemo se svim donatorima koji su u protekle tri godine finansijski podržali aktivnosti koje su dovele do ovih dokumenata.



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Introduction

The Agreement¹ between the Council of Ministers of BH and the non-governmental sector (hereinafter referred to as: the Agreement) provides a framework to help direct our joint relation at all levels of the government in BH, from the local communities (municipalities) up to the level of the state (BH). This Agreement corroborates the commitment of the Council of Ministers of BH and the non-governmental sector to strengthen their obligations and responsibilities in meeting the roles taken over in development and provision of public policy, and that the Council of Ministers of BH should take over the obligation and strengthen its role in promotion of volunteer and social activities in all areas of our state life.

The work of non-governmental organizations, from the level of state down to the level of local communities, shall have a central position in the mission of the Council of Ministers so that the forthcoming years could be made the years of giving to the community, rather than years of expecting from it. The non-governmental organizations train individuals to contribute to development of their communities. In doing so, they promote citizenship, help restore the sense of the community and provide a crucial contribution to our joint goal of a fair and open society. This Agreement shall strengthen the relation between the Council of Ministers of BH and the non-governmental sector, and it constitutes a document of a practical and symbolic value.

¹ We are using this opportunity to thank America's Development Foundation for the financial support in the initial comprehensive consultations we had in the preparation and drafting of the initial Draft of this document. We also wish to stress the contribution of the Open Society Fund of BH — SOROŠ, Olof Palme International Center, International Rescue Committee and the Center for Promotion of Civil Society, who offered us financial support in the early stage of preparation for the debates that resulted in making up the Draft Agreement. We would also like to highlight a huge contribution and support from European Commission and USAID that help us to bring to an end a final version of document proposals.

Agreement on Cooperation between the Council of Ministers of BH and the Non-Governmental Sector in Bosnia and Herzegovina

The non-governmental sector has a key role in the society as its third sector, working together with Government and business sector. With its involvement through individuals, services it offers and support it gives to individuals and groups, the contribution of this sector to the community and the civil life is immeasurable, invaluable and indispensable.

This Agreement aims at creation of a new approach to the partnership between the Council of Ministers of BH and the non-governmental sector in BH. It offers the opportunity to have these relations conducted differently and better than in the past. The Council of Ministers of BH and the non-governmental organizations share many interests — a tendency towards openness, commitment to public life and support to development of healthy communities. The Agreement constitutes a starting point for development of our partnership, and it relies on the common values and mutual respect.

The Coalition of Non-governmental Organizations has conducted the main consultations for determining the position of this sector on the issue of drafting of the Agreement. We are glad because of the fact that the Agreement embodies the key considerations brought up and we would wish to thank to the many non-governmental organizations from the local level up to the state level, which participated in the consultation process. We hope that they and many other beneficiaries of the volunteer and social sector will be guided by the Agreement towards more efficient and fruitful relations with the Council of Ministers of BH.

We will continue with this — by preparing similar or identical activities, so we make these good practices at the level of BH applicable at lower levels, and for these reasons we will have close cooperation in order to have same or similar agreements between the non-governmental sector and the entities, cantons and local self-government be established, aiming at encouraging and adopting of its principles of action at the local levels. We are looking forward to accomplishing a big success with establishment of the framework for partnership between the non-governmental organizations and the Council of Ministers of BH.

Status of the Agreement²

1. The Agreement in BH was created in partnership resulting after comprehensive consultations within the non-governmental sector, and then between the non-governmental sector and the Council of Ministers of BH. The agreement took into consideration the variety of the non-governmental sector and its activities, and due to this it should be understood as a general framework and an enabling mechanism for intensification of the relations between the government and this sector, from the local communities up to the state level.
2. The Agreement constitutes a memorandum of relations between the Council of Ministers of BH and the non-governmental sector in Bosnia and Herzegovina. This is not a legally binding document. Its force relies on acceptance-agreement of the Council of Ministers of BH and the non-governmental sector through their mutual consultations. The Agreement will initially be applied to the Council of Ministers of BH and its ministries and central departments. In practice, this Agreement shall apply where this/these government/s (of the entities, cantons, or municipalities) are in relation with the non-governmental sector. The Agreement shall apply to a number of organizations from the non-governmental sector. Final provisions describe the creation and history of the Agreement.
3. The Agreement was initiated by the non-governmental sector³ in Bosnia and Herzegovina. Under the implementation process, guidelines⁴ will be prepared addressing the specification of individual issues deriving from the Agreement, which could be a good basis for implementation at the lower levels of government authority in Bosnia and Herzegovina.

The Joint Vision

4. The Agreement was created as an expression of the need by the non-governmental organization and the Council of Ministers of BH to build an institutional framework for their mutual cooperation. In wishing to strongly emphasize through this

2 This Agreement is consistent with the “Basic Principles on the Status of Non-Governmental Organizations in Europe and the Memorandum of Explanation” by the Council of Europe. The participants of the multilateral meetings held in Strasbourg on November 19 and 20, 2001, March 20 through 22, 2002, and July 5, 2002, recognizing that the work of non-profit organizations requires obligations as well as rights, adopted the aforementioned document.

3 The work on drafting of the Agreement was initiated at the Conference of Non-Governmental Organizations held in June 2001 in Vogosca. Since then, a number of meetings and various debates have been held, affecting the drafting of this document.

4 “Standards for Quality of Cooperation between the Council of Ministers of BH and the non-governmental organizations in BH”.

Agreement the significance of the non-governmental sector in a modern democratic society and to affirm the societal values of a partnership relation between the Council of Ministers of BH and the non-governmental organizations in addressing of a large number of issues and problems in many areas of the social life, which have a first-class significance for the citizens of BH, in this document we wish to stress/corroborate that the Council of Ministers of BH and the governments at the lower levels of authority and the non-governmental sector have a number of complementary functions and common values, and that the Agreement will further improve their understanding and develop our mutual cooperation on the new grounds in the future. The Agreement in fact is an expression of the commitment of the Council of Ministers of BH and the non-governmental sectors to work in partnership for the benefit of the society, to encourage and support volunteer societal activities. The Agreement focuses on the key principles and accepts the commitments on which the relation will be strengthened between the Council of Ministers of BH and the non-governmental sector in Bosnia and Herzegovina.

5. The philosophy behind the Agreement understands the fact that the activities of non-governmental organizations are the grounds for development of a democratic and comprehensive civil society. The non-governmental organizations and civil initiatives from the local communities, as independent organizations, give high value to the society and meet the role, which is different than the one of the state and of the market. They train individuals to give contribution to the public life and development of their communities by creating opportunities for volunteer activities. In doing so, they use their skills, interests, affiliations and values of the individuals and groups they represent. The Council of Ministers of BH and the non-governmental sector recognize and appreciate the key contribution of the volunteer work in our society, as well as the important role of the non-governmental organizations helping them provide/give their contribution.
6. The non-governmental organizations in communities provide the largest and literally immeasurable contribution to the development of the society: social, cultural, economic and political life of the state. They act as guidance for involvement of the beneficiaries in creation and offering of services, and they also frequently act as advocates for those who would otherwise not have the right to have their voices heard. In acting so, they promote both equality and variety. They help mitigate poverty, improve the quality of living and involve those who are socially excluded. The non-governmental sector makes a significant direct contribution to the state through employment and involvement of a large number of people in strengthening of the societal tissue of the community.

7. The Agreement recognizes that these capacities constitute a major benefit for the society and that the Council of Ministers of BH may play a positive role both in the promotion of the non-government and volunteer work, and in offering support to the work of the non-governmental organizations. The scope and type of activities of the non-governmental organizations are such that any law or regulation brought by the Council of Ministers of BH or lower levels of the government authority in BH may influence their work, either positively or negatively. The Agreement will help make this influence a positive one.

Principles of cooperation

8. *Common principles strengthening the Agreement:*

- 8.1. Volunteer activities are the basic component of a democratic society.
- 8.2. Independence and variety of the non-governmental sector makes the basis for the democratic and prosperous society.
- 8.3. In the process of development and provision of public services and policies, the Council of Ministers of BH, the lower levels of the government and the non-governmental sector have varying but supplementing roles.
- 8.4. The partnership work towards common goals has an added value. With purposeful consultations we will build a partnership relation to improve the development of policy and intensify creation and provision of services to citizens.
- 8.5. The Council of Ministers of BH, other levels of the government and the non-governmental sector have varying forms of responsibility and report to varying scopes of unbiased persons. But they have common needs for integrity, objectivity, responsibility, openness, transparency, honorability and leadership role.
- 8.6. Non-governmental organizations have the right to a campaign within the law in order to promote their goals.
- 8.7. The Council of Ministers of BH and other levels of the government have their role in the society, which is arbitrarily limited by the Constitution of BH and by the laws.
- 8.8. Funding of the non-governmental sector may constitute a very relevant element of the relation between the Council of Ministers of BH and the lower levels of the government.
- 8.9. The Council of Ministers of BH, the lower levels of the government, and the non-governmental sector recognize the importance of promoting equal opportunities for all the citizens.

Obligations of the Council of Ministers of BH

9. The obligations of the Council of Ministers of BH (supporting):

Independence of the Sector

- 9.1 The Council of Ministers of BH recognizes and supports independence of the non-governmental sector, including its legal right to have campaigns, to comment on the government policies and test these policies, independently of any type of funding relation that may exist, as well as the right to identify and administer their own affairs.

Funding of the Sector

- 9.2. The Council of Ministers of BH shall take into account the recommendations from the Strategic directions of development for non-governmental sector in Bosnia and Herzegovina and shall streamline the regulations in compliance with the *Standards for Quality of Cooperation between the Government and the Non-Governmental Sector in BH* (as pertaining to the need for existence of a better proportionality, direction, consistency and transparency within the frameworks of funding from the government sources at all levels) and shall attach special attention to the idea of strategic financing, thereby providing continued capacity for the work of non-governmental organizations which will respond to the initiatives of the Council of Ministers of BH and the lower levels of the government.
- 9.3 In cooperation with this sector, the Council of Ministers of BH shall develop *the code (law) of good practices⁵* and initiate with the non-governmental sector that the lower levels of the government do the same, so as to address the principles of good funding. This will streamline:
- a) Distribution of funding using clear and consistent criteria,
 - b) Policies of funding taking into account the goals of the non-governmental organizations and their need to function efficiently and properly,
 - c) Joint, transparent arrangements to reach agreements and assess goals, for indicators of performance and other related goals, for supporting of timely payment, review of financial support, consultations after changes on the funding position, and for information dissemination to the non-governmental organizations about future funding as

⁵ “Code of Good Practice” will be initiated and adopted by the Council of Ministers of BH, in the form of Procedures/Book of Rules (mandatory enactment), which will be a framework for implementation of the procedures which are an integral part of the Agreement in support, funding, implementation, evaluation and reporting on use of public source funding (budget funding).

- soon as possible, usually before the end of the current grant period, and
- d) Value of long-term, several-year funding, when possible, in order to help long-term planning and stability of the non-governmental sector.

9.4 Recognize the importance of the non-governmental sector and volunteer work, and, when needed, support its development at the state, entity, cantonal and local levels.

Policy Development and Consultations

9.5. Assess new policies and procedures, particularly in the development stage, so that implications for this sector are identified at the longest possible time distance.

9.6. Subject to review in terms of urgency, sensitivity and confidentiality (for instance, in preparation of budgets for individual ministries) in order to consult the sector on the issues that will most probably affect it, particularly when the Council of Ministers of BH proposes new roles and responsibilities for this sector, for instance, in bringing new laws and regulations. The Council of Ministers of BH is mandated to conduct these consultations on a timely basis and to provide a reasonable notice for provision of the response, taking into account the need by the organizations for consulting their beneficiaries and independent parties.

9.7 The Council of Ministers of BH is obligated to take into account the special needs, interests and contributions of such segments of the sector represented by women, minority groups and socially non-involved groups and layers of population.

9.8 The Council of Ministers of BH shall respect the confidential character of the information provided by the sector, within the frameworks of the law and proper performance of public obligations, when they are provided access on these grounds.

9.9 Together with the **non-governmental** sector, the Council of Ministers of BH shall prepare the *procedures, book of rules or the law of good practice* to include the procedure of consultation⁶, policy assessment, funding, implementation, evaluation and reporting⁷. This will help prepare the main guidelines on influence of the

6 The Council of Ministers of BH is obligated, particularly the Ministry of Foreign Affairs, to inform the non-governmental sector (either publicly or through direct consultations) on various initiatives instituted within the Euro-Atlantic Integration, pertaining to the obligations or affecting the non-governmental sector, particularly as from the Council of Europe or the European Commission. The Council of Ministers of BH is obligated to forward to the sector, through its Office for Cooperation with the Non-Governmental Sector, all the information affecting the non-profit sector on the process of Euro-Atlantic Integration. The Council of Ministers of BH is obligated to fund the costs for the non-governmental sector representatives in various representative bodies within the Council of Europe and the European Commission representing the sector.

assessment and perfection in consulting done by the office in charge of cooperating with the non-governmental sector.

Better Governance

- 9.10 Improve the actual relations⁸, consistency of approach and the good practices between the Council of Ministers of BH and the non-governmental sector, particularly when dealing with the issues intertwining between them.
- 9.11 Stick to the principles of open government (making efforts to ensure, whenever possible, that the decisions and findings be publicized) and good policies.
- 9.12 The annual review/assessment of the application and operationalization of the Agreement in relation to the non-governmental sector.
- 9.13 Improve adoption of the Agreement by the lower levels of the government in Bosnia and Herzegovina.⁹

Obligations of the Non-Governmental Sector

10. The obligations of the non-profit sector are provided in the text below

Funding and Accountability

- 10.1 Retain high standards in management, perform and meet the obligations of reporting and accountability towards the founders and beneficiaries. Submit transparent accounting and financial statements.

7 Council of Ministers will open up a possibility for NGO's to participate in determining the priorities of BH, its Ministries, Governments and relevant Ministries in lower levels of governance, in contacts with international organizations and organizations such as exp. European Commission, Council of Europe, etc. (in different areas such as human rights and European integrations, Foreign Affairs, Refugees and displaced persons, Education, etc; specific questions regarding nongovernmental sector). Council of Ministers of BH, especially Ministry of foreign affairs, will consult Committee for cooperation with European Commission that nongovernmental sector will establish.

8 Council of Ministers of BH shall be mandated to enable the legal frame and initiate "good practice" by confiding the certain number of jobs to nongovernmental organizations to be done. Council of Ministers of BH will only initiate in lower levels of governance a definition of jobs that governance bodies, in all levels, can't implement due to the lack of technical or human resources, which can be, for their purposes, done by the nongovernmental sector.

9 The Council of Ministers of BH shall be mandated to publicly promote the "good practice" of establishing cooperation of the lower levels of government with non-governmental organizations. It will only promote the non-profit and volunteer work as an opportunity rather than an obligation, so we can jointly do some big things for our communities and the community as a whole.

- 10.2 Respect and be accountable towards the law, and in terms of humanitarian purposes, respect the appropriate guidelines from the *Standards for Quality of cooperation between the Government and the Non-Governmental Sector in BH*, and the *Code of Conduct for the Non-Governmental Sector in BH*.
- 10.3. Develop the standards for quality appropriate for organization in compliance with the international standards applicable to the non-governmental sector.

Development of Policies and Responsibilities

- 10.4 Ensure that the beneficiaries, volunteers and members, as well as those offering support, be informed and consulted, on the activities and position of Council of Ministers, that is their direct concerned. Council of Ministers is obliged to precisely review the positions presented to them in such advocacy.
- 10.5 Respect the confidential character of the information from the Council of Ministers, when such information is accessed on these grounds, in compliance with the *Law on Access to Information*.

Good Practices

- 10.6 The Council of Ministers of BH and the non-governmental sector shall be obligated to streamline the actual mutual relations and cooperation, which will be expanded to include the lower levels of the government through joint involvement, unconditionally.
- 10.7 Involve the beneficiaries, whenever possible, in development and management of the activities and services.
- 10.8 Apply the policies towards improvement of the best practices and equal opportunities in work, in employment, involvement of volunteers and provision of services.
- 10.9 The annual review/evaluation of operability/application of the Agreement pertaining to the Council of Ministers of BH and the non-governmental sector. Joint commission for nongovernmental sector will work on the evaluation of the Treaty in accordance with Article 2. of Final provisions.

Resolution of Disputes

11. The Agreement provides a general framework for strengthening of the relations between the Council of Ministers of BH and the non-governmental sector.

Disagreements in relation to application of this framework would, as much as possible, be addressed by the parties themselves. In order to support this process, when both parties so agree, it is possible to use mediation as a tool to reach the agreement, including the effort to obtain the position of the mediator. When conduct contrary to this framework leads to bad governance, the Council of Ministers of BH and the non-governmental sector may file an appeal with the Parliamentary Assembly of BH, in the regular way. The Parliamentary Assembly of BH shall, given the experience, review if there is a need to strengthen the appeal and to modify the process in relation to the Agreement.

Streamlining the Agreement

12. The Agreement, as a framework document, constitutes a starting point, rather than a conclusion. The Council of Ministers and the non-governmental sector have opted for joint work in order to develop their efficiency. Within the process, there will be a law on good practices drafted, in the areas of funding, consultation and policy assessment, volunteer work, societal groups, including the religious and ethnic minority organizations.
13. Under the process making the Agreement operational, annual meetings of the Council of Ministers of BH and the representatives of the non-governmental sector shall be held in order to review the functioning of the Agreement and its development. The reports from these meetings shall be publicized.
14. As stated in *Paragraph 2*, the Agreement shall initially pertain to the Council of Ministers of BH and the central bodies. The Council of Ministers of BH intends to actively support its expansion to include the other levels of the government, cantonal and local self-government, who will be invited to adopt and adjust the Agreement in order for it to suit their relation with the non-governmental sector.

Final provisions

Building of the Agreement

1. The impulse for the Agreement derives from the initiatives by the non-governmental sector started under the Coalition “Work and Succeed Together”. The Coalition of non-governmental organizations has concluded that the Council of Ministers of BH and the lower levels of the government need to recognize the legitimacy of the various roles of the non-governmental sector, as well as its own responsibility to promote a healthy non-governmental sector. The Coalition of non-governmental organizations has proposed an “agreement” prepared by the representatives of the

Coalition Board and the Council of Ministers of BH, providing the main principles for future relations. The Agreement, underpinning a group of principles, was necessary as the basis for partnership between the Council of Ministers of BH and the non-governmental sector.

2. The Office for Cooperation with the Non-Governmental Sector of the Council of Ministers of BH shall supervise the application of the Agreement at the Council of Ministers of BH. The Council of Ministers of BH and the non-governmental sector shall form a separate *Commission for the Non-Governmental Sector*¹⁰ to supervise the application of the Agreement. The objective of this group is to supervise implementation of the Agreement; encourage its implementation by the lower levels of the government; promote consistency within the departments of the Council of Ministers of BH on the issue of non-profit work and societal issues and to streamline good communication between the Council of Ministers of BH and the non-governmental sector.
3. The Commission for the Non-Profit Sector is established with the goal of reviewing the methods for intensification of the relations between this sector and the Council of Ministers in Bosnia and Herzegovina. It consists of the representatives elected by the non-governmental sector, including the representatives from societal groups and organizations, volunteer organizations, women's and ethnic minority organizations and the Council of Ministers. This Commission will be presided by the Chairman of the House of Representatives of the Parliamentary Assembly of BH.
4. The Commission also has a goal to each year review the nature of the Agreement in detail, and to consult the non-governmental organizations on the contents of the Agreement and the needs for their reviewing. 15 reference groups were established; whose members include non-governmental organizations as volunteer members, with a role of the foundation board for the activities of the non-governmental sector in the Commission. The Council of Ministers of BH and the Commission shall be obligated, in case of the need for consultation, to consult all the 15 reference groups before and during the consultations.¹¹ The feedback given by the reference groups shall be used to make the draft consultative document, which shall then be made available to the whole non-governmental sector for consultations. The Council of Ministers of BH is obligated to secure the funding for consultations initiated by the

¹⁰ Hereinafter referred to as the Commission. The Ministerial Council of BiH shall fund the work of the Commission.

¹¹ All the reference groups of non-governmental organizations have the obligation, after confirmation of receipt of the submitted request, to respond within 30 days. In case this period is missed, it shall be deemed that they have a neutral standing on the request submitted.

Commission. The Council of Ministers of BH and the non-governmental sector believe this process of consultations to be of essential importance to the Agreement and its acceptance.

5. The document of the Agreement/Program has been distributed to the whole non-governmental sector for comments, and the Council of Ministers of BH, has also, within this double process for creation of the Agreement, perform its own consultations at all the ministries. The structure and contents of this consultative document makes up the basis of the Agreement drafted by the Council of Ministers of BH and the non-governmental sector in BH.

Specific Consultations

6. We assess that the number of non-governmental organizations has reached the figure of eight thousands. This includes various groups of associations that are in the position to offer their services to others, as well as the associations for campaigns, self-help, entertainment, sports and art groups. The Coalition of Non-Governmental Organizations “Work and Succeed Together” has performed a large number of consultations among the representatives of non-governmental organizations in BH, proving that these non-governmental organizations, although they act separately, have certain common positions on the need for establishment of partnership between the non-governmental sector and the government, for a democratic and free society. Although many areas of common interest were also perceived with the traditionally non-governmental sector, the consultations identified many areas in which the interests are going apart due to varying priorities, organization and ethos of the local community groups.
7. Consultations showed that, although a large number of non-governmental organizations are involved and perform their activities at the local levels, the decision for establishment of an Agreement at the state level was brought because of the influence on the environment in which the non-governmental organizations work at the local community level. Specifically, what was felt was that certain procedures and processes of consultations, which are the subject of proportionality and development of expertise, as well as the non-expert nature of managing societal organizations, require a certain understanding and recognition under this Agreement, and the need for a specific law on good practices. The consultation process revealed that many non-governmental organizations at the local communities have seen that certain characteristics and circumstances of theirs require their recognition as a separate sector at the country/state level in order to be recognized on local community level.