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**External Review of the Contribution to
Constitutional Reform in
Bosnia and Herzegovina (BIH)**

External Review – Final Report

Basel, 28 March 2014

External Review of the Contribution to Constitutional Reform in Bosnia and Herzegovina (BIH)

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Azra Šarenkapa, Programme Officer, Migration and Political Cooperation
Embassy of Switzerland in Bosnia and Herzegovina
Zmaja od Bosne 11 (RBBH object B), 71000 Sarajevo
Tel.: +387 33 25 40 37, Fax: + 387 33 27 15 00

Review Team:

Orsolya Székely, Independent Consultant
Christian Haupt, Independent Consultant
Edin Hodžić, Analitika Sarajevo
Harald Meier, B,S,S. Economic Consultants

Team Leader: Harald Meier, B,S,S. Economic Consultants, Basel
B,S,S. Economic Consultants, Steinenberg 5, CH-4051 Basel
Phone: +41 61 262 05 55, E-Mail: harald.meier@bss-basel.ch

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Abbreviations

AMC	Association of Municipalities and Cities
BAM	Convertible Mark
BiH	Bosnia and Herzegovina
BIRN	Balkan Investigative Reporting Network
CoE- / PA	Council of Europe / Parliamentary Assembly
CR	Constitutional Reform
CSO	Civil Society Organisation
DAC	Development Assistance Committee
EC	European Commission
ECtHR	European Court of Human Rights
EU	European Union
FBiH	Federation of Bosnia and Herzegovina
HRC	Human Rights Centre of the University of Sarajevo
IPA	Instrument for Pre-Accession Assistance
LGU	Local Government Unit
MP	Member of Parliament
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Cooperation and Development
OHR	Office of the High Representative
OSCE	Organisation for Security and Cooperation in Europe
PA	Parliamentary Assembly

PILPG	Public International Law & Policy Group
RS	Republika Srpska
SDC	Swiss Agency for Development and Cooperation
ToR	Terms of Reference
TPO	Transkulturalna Psihosocijalna Obrazovna Fondacija
ZDA	Zentrum für Demokratie / Centre for Democracy Studies Aarau

Management Summary

Background

The project “*Contribution to Constitutional Reform in Bosnia and Herzegovina*” is financed by the Swiss Agency for Development and Cooperation and was implemented by the Human Rights Centre of the University of Sarajevo. The project commenced in December 2004 and its fourth phase came to an end in December 2013. Over the past years the project overall aimed at supporting various actors and interested groups, including citizens, civil society organisations and politicians with multifaceted and multilevel activities to actively engage in and contribute to the ongoing debate of constitutional reform in Bosnia and Herzegovina.

Purpose and Methods

The main objective of the evaluation is to assess the overall relevance, performance and achievements of the entire project and to provide recommendations for a possible new intervention. The evaluation is based on the OECD-DAC methodological framework and uses methods of qualitative research (in-depth document review, semi-structured interviews with more than 60 respondents, triangulation of findings etc.). The main findings and future lines of action were validated during an expert debriefing workshop in Sarajevo.

Findings

Relevance: In light of the political developments over the past decade, as well as the views of former evaluators, and considering the interviews we conducted with various stakeholders and participants in the project, it can be established that relevance is uncontested. The project is aligned to Switzerland’s foreign policy objectives, the cooperation strategy with Bosnia and Herzegovina and it responds to the country’s priorities and international obligations. The principles of action (i.e. support local initiatives; concentrate on contributing and improving processes; tailor Swiss technical expertise to explicit demands) underpin the relevance.

Effectiveness: In terms of output effectiveness can be assessed as high: Output targets were largely achieved and interviewees generally assessed the quality of the outputs as very good. Outcomes were achieved in all of the project areas: creation of awareness and networks, support to civil society organisations and to local governments, youth education, capacitating parliamentarians and politicians, and visibility of Switzerland in the domain of constitutional reform. Key outputs include more than a dozen of legislative and constitutional reform proposals – two of which received sizable public support –, research products and summer and winter universities for highly skilled youth.

Efficiency: Activities have largely been completed in time and on budget; quality of the deliverables is considered high and the key stakeholders are generally satisfied with the project. Grave inefficiencies could not be established. Despite the challenging and at times unfavourable environment the project managed still to achieve its outputs and outcomes.

Impact: A closer examination reveals that impacts were achieved on different levels of government and amongst different stakeholders and interested groups. For instance, civil society organisations increased their ability to identify relevant problems, the corresponding limitations in the constitution and to suggest solutions in concrete proposals for legislative or constitutional amendments.

Sustainability: It is reasonable to assume that outputs and processes will sustain over a longer period of time. This is the case, for instance, for the legislative proposals that are already or planned to be put into procedure – most importantly the legislation proposed by the AMCs – and the cadre of qualified students and young academics who participated in the course offerings and who have established networks of like-minded peers beyond the territorial and ethnic divides in the country. In addition, some of the key outputs of the project (for example, a proposal for gender-sensitive constitution) will remain an indispensable resource for future interventions in the field.

Project Management: Overall, project management by the implementing agency can be assessed satisfactorily; it reached output targets and reported deviations transparently. However, there are doubts as to whether project management was able to fully exploit synergies amongst the different project components.

Recommendations

Based on the observations and consultations with relevant actors, a number of challenges were identified that any constitutional reform oriented project will have to face and that inevitably influence and shape any future intervention in the field.

These challenges refer to the unclear and contested *concept and content* of constitutional reform in public discourse; the unresolved *question of who gets to participate* in the discourse and who does not; and the question of *capacity and quality of processes*, which includes the lack of plausible procedural options for inclusion of CSOs and citizens; the lack of appropriate expertise of key stakeholders (including political parties, members of parliament and non-governmental organisations); and the lack of readily available methods for dialogue and consensus-reaching in a divided society.

In light of the latest events in Bosnia and Herzegovina, the dwindling interest of donors to engage in constitutional reform and the ongoing relevance of the matter, the review team recommends to continue with the project and to design an intervention with a *purely procedural orientation*. It would work towards the empowerment of a broader set of actors, creating necessary links and networks and sharing knowledge on issues of relevance to constitutional reform. It would also leave sufficient flexibility to identify and embrace issues and target groups as they become known.

Concretely, the project would train, equip and provide resources to parliaments and governments at different levels of organisation of the state regarding inclusive decision-making and

consultation. The currently rather limited procedural options for inclusion of civil society and citizens in decision-making processes could also be tackled, with reference to the more promising models applied not only in Switzerland but also in other contexts more similar to Bosnia and Herzegovina, like Northern Ireland. In this context, the potential of so-called deliberative polls could be used to address the rather limited avenues for public deliberation on relevant issues in Bosnia and Herzegovina, especially in relation to the state-level regulations and policies. The civil society stream should also be continued with a new and explicit emphasis on developing skills, sharing knowledge and providing structured platforms for discussion on the relevant issues pertaining to the participatory decision-making in particular. Finally, a component of “participatory capacity building” is suggested with the underlying idea that all the participants in this component of the project would also feed the other two components with the relevant documents, analysis, policy briefs, discussion papers, translated works, and other materials. Taken together, the intervention would bring about the necessary coordination and communication among all the participants, simultaneously establishing valuable and potentially lasting links between the actors and sensitising them to the values of communication, consultation and cooperation.

Sažetak za menadžment

Uvodne informacije

Projekt „*Doprinos ustavnoj reformi u Bosni i Hercegovini*“ financira Švicarska agencija za razvoj i saradnju, a implementirao ga je Centar za ljudska prava Univerziteta u Sarajevu. Projekt je počeo u decembru/prosincu 2004. godine i njegova četvrta faza završena je u decembru/prosincu 2013. godine. Tokom proteklih godina projekt je obuhvatao različite aktivnosti na više nivoa i u cjelosti je bio usmjeren na pružanje podrške različitim akterima i interesnim skupinama, uključujući građane, organizacije civilnog društva i političare, da se aktivno angažiraju i pruže doprinos kontinuiranoj debati o ustavnoj reformi u Bosni i Hercegovini.

Svrha i metode

Glavni cilj evaluacije je da se izvrši procjena ukupne relevantnosti, izvedbe i postignuća cijelog projekta, te da se ponude preporuke za moguću novu intervenciju. Evaluacija se bazira na metodološkom okviru OECD-DAC-a i koristi metode kvalitativnog istraživanja (detaljan pregled dokumentacije, polu-strukturirani intervjui sa više od 60 ispitanika, triangulacija nalaza, itd.). Glavni nalazi i budući pravci aktivnosti su validirani na ekspertnoj informativnoj radionici u Sarajevu.

Nalazi

Relevantnost: U svjetlu političkih dešavanja tokom protekle decenije, kao i mišljenja prijašnjih evaluatora, te imajući u vidu intervjue koje smo obavili sa različitim akterima i učesnicima projekta, može se utvrditi da je relevantnost neosporna. Projekt je usklađen sa ciljevima vanjske politike Švicarske, strategijom za saradnju sa Bosnom i Hercegovinom i odgovara prioritetima i međunarodnim obavezama BiH. Principi djelovanja (tj. podrška lokalnim inicijativama; koncentriranje na pružanje doprinosa i poboljšanje procesa; prilagođavanje švicarske tehničke ekspertize eksplicitnim zahtjevima) podupiru relevantnost.

Efektivnost: U smislu rezultata (*outputs*), efektivnost se može ocijeniti kao visoka: ciljni rezultati su bili postignuti u velikoj mjeri i ispitanici su generalno ocijenili kvalitet rezultata kao vrlo dobar. Ishodi (*outcomes*) su postignuti u svim područjima projekta: kreiranje svijesti i mreža, podrška organizacijama civilnog društva i lokalnim vlastima, edukacija omladine, jačanje kapaciteta parlamentaraca i političara, te vidljivost Švicarske u domeni ustavne reforme. Glavni rezultati obuhvataju više od desetak prijedloga za zakonodavnu i ustavnu reformu – od kojih su dva dobila značajnu javnu podršku – istraživački produkti, te ljetni i zimski univerziteti za visoko kvalificiranu omladinu.

Efikasnost: Aktivnosti su u velikoj mjeri završene na vrijeme i u okviru budžeta; kvalitet postignutih rezultata se može smatrati visokim i glavne interesne skupine generalno su zadovoljne projektom. Ne mogu se utvrditi ozbiljni primjeri neefikasnosti. Uprkos

izazovnom i u određenim momentima nepovoljnom okruženju, projekt je ipak uspio postići rezultate i ishodi.

Učinak: Pomnije ispitivanje pokazuje da su postignuti učinci na različitim nivoima vlade i između različitih aktera i interesnih skupina. Na primjer, organizacije civilnog društva unaprijedile su svoju sposobnost da identificiraju relevantne probleme, kao i odgovarajuća ograničenja u ustavu, te da sugeriraju rješenja u konkretnim prijedlozima za zakonske i ustavne izmjene.

Održivost: Razumno je pretpostaviti da će rezultati i procesi biti održivi tokom dužeg vremenskog perioda. To je slučaj, na primjer, sa zakonodavnim prijedlozima koji su već upućeni u proceduru ili se planira da će tek biti upućeni u proceduri - pri čemu su najznačajniji prijedlozi zakona koje su ponudile asocijacije gradova i općinapredložena od – i sa kadrom kvalificiranih studenata i mladih znanstvenika koji su učestvovali u edukativnom programu i koji su uspostavili kolegijalne mreže istomišljenika koje prevazilaze teritorijalne i etničke podjele u zemlji. Pored toga, neki od ključnih rezultata projekta (na primjer, prijedlog za rodno-senzitivni ustav) predstavljat će nezaobilazan resurs za buduće intervencije u ovoj oblasti.

Upravljanje projektom – projekt menadžment: U cjelini, upravljanje projektom od strane agencije za implementaciju može se ocijeniti zadovoljavajućim; postignuti su ciljani rezultati i transparentno se izvještavalo o odstupanjima. Međutim, postoje sumnje u pogledu toga da li je projekt menadžment bio u stanju da u potpunosti iskoristi sinergije između različit projektnih komponenti.

Preporuke

Na osnovu opservacija i konsultacija sa relevantnim akterima, identificiran je određeni broj izazova sa kojima će se morati suočiti bilo koji projekt orijentiran na ustavne reforme, a koji će neizbježno uticati i oblikovati bilo koju buduću intervenciju u ovom području.

Ovi izazovi se odnose na nejasan i sporan *koncept i sadržaj* ustavne reforme u javnom diskursu; *pitanje ko ima priliku da učestvuje* u diskursu a ko ne; neriješeno pitanje *kapaciteta i kvaliteta procesa*, što uključuje i nedostatak dostupnih proceduralnih opcija za uključivanje organizacija civilnog društva i građana; nedostatak odgovarajuće ekspertize ključnih aktera (uključujući političke partije, članove parlamenata i nevladine organizacije), te nedostatak dostupnih metoda za dijalog i postizanje konsenzusa u podijeljenom društvu.

U svjetlu najnovijih dešavanja u Bosni i Hercegovini, smanjenog interesa donatora da se uključe u ustavnu reformu i kontinuirane relevantnosti ovog pitanja, evaluacijski tim preporučuje da se nastavi sa projektom i da se kreira intervencija sa *čisto proceduralnom orijentacijom*. Intervencija bi vodila u pravcu osnaživanja šireg kruga aktera, stvarajući neophodne mreže i razmjenjujući znanja o pitanjima koja su bitna za ustavnu reformu. Takva

intervencija bi također ostavila dosta fleksibilnosti da se identificiraju i obuhvate pojedina pitanja i ciljne grupe u trenutku kada se pojave.

Konkretno, projekt bi osigurao obuku, opremio i obezbijedio resurse za parlamentarce i vlade na različitim nivoima organizacije vlasti u pogledu inkluzivnog odlučivanja i konsultacija. Trenutno prilično ograničene proceduralne opcije za uključivanje civilnog društva i građana u procese odlučivanja također bi se mogle problematizirati, sa referencom na bolje modele koji se primjenjuju ne samo u Švicarskoj već i u drugim kontekstima koji su slični Bosni i Hercegovini, kao što je Sjeverna Irska. U tom kontekstu, potencijal takozvanih deliberativnih anketa (*deliberative polls*) mogao bi se iskoristiti kako bi se unaprijedili prilično ograničeni mehanizmi za javnu raspravu o bitnim pitanjima u Bosni i Hercegovini, naročito u pogledu propisa i politika na državnom nivou. Također bi trebalo nastaviti sa segmentom koji se fokusira na civilno društvo, sa novim i eksplicitnim naglaskom na razvoj vještina, razmjenu znanja i osiguravanje strukturiranih platformi za diskusiju o relevantnim pitanjima koja se odnose posebno na participativno odlučivanje. Konačno, predlaže se pokretanje komponente „unapređenje participativnih kapaciteta“, sa osnovnom idejom da svi učesnici u ovoj komponenti projekta također daju doprinos drugim dvjema komponentama – osiguravajući relevantne dokumente, analize, sažetke o politikama, materijale za diskusiju, prevedene radove i druge materijale. Posmatrana u cjelini, takva intervencija bi donijela neophodnu koordinaciju i komunikaciju između svih učesnika, istovremeno uspostavljajući dragocjene i potencijalno trajne veze između aktera i senzibilirajući u pogledu vrijednosti komunikacije, konsultacija i saradnje.

Review Background

The Swiss Agency for Development and Cooperation (SDC) has been financing the project “*Contribution to Constitutional Reform in Bosnia and Herzegovina*”¹ since 2004. Implemented by the Human Rights Centre of the University of Sarajevo (HRC), the project aimed at contributing to a constitutional reform, supportive of the country’s future development. Over the past nine years a steadily growing set of multifaceted and multilevel activities were implemented that involved different actors in Bosnia and Herzegovina (BiH). In light of the completion of the fourth project phase in December 2013, the SDC commissioned a team of four evaluators to assess the performance of the project and to propose recommendations for an eventual project continuation.

Objectives and Methods

The main objectives of this external review are to carry out an “*appraisal of outcomes and impacts of the project since 2005*” and to support SDC in “*informed decision making on future opportunities for a coherent support package of the Swiss Cooperation*” to BiH’s constitutional reform process.

The review is structured along the lines of the OECD-DAC evaluation framework. For the assessment of the first three project phases the reviewers mainly refer to past project and evaluation reports² whereas the assessment of the fourth phase primarily relies on the interview feedback. With a view to respond to the specific assignment questions, the following methods of qualitative research were applied:

Document review: The review team carried out a comprehensive review of various project documents and other background papers, some of which are listed in the Annex 7 to this report.

Briefing with the client: In order to clarify the assignment and the associated expectations and eventual limitations of the review, a briefing meeting was held with the Swiss Ambassador and SDC’s Programme Officer in Sarajevo on 20 January 2014.

Qualitative interviews: The main source of information was a series of open-ended, semi-structured interviews with different stakeholders and actors. While most of them were carried out during a field mission that lasted from 19 January to 3 February 2014, supplementary interviews were held prior and after the mission.³ Overall, the inputs of more than 52 interviews in which we discussed with more than 60 respondents were utilised for this report

¹ The first two phases of the project were entitled “Platform Bosnia and Herzegovina – Contribution to Constitutional Reform”.

² Annex 2 contains two tables that present an overview of information of the project documents and the evaluation reports of other review teams.

³ We take the opportunity at this stage and particularly thank Ms Azra Šarenkapa and her team for the organisation of the field mission as well as all persons who took the time to share their opinions and ideas regarding the project with us.

(see also Annex 6).

In order to eliminate eventual distortions we interviewed a variety of project stakeholders, including SDC and HRC representatives, parliamentarians and party representatives at state, cantonal and municipal levels as well as representatives of civil society organisations and the “international community”. The interviews were discursive and yielded qualitative information about for instance the relevance and effectiveness of the project as well as its management, contextual information and the orientation of a future project.

With a view to increase the validity of our report we triangulated the responses, information and data by comparing them with other reports and contextual documentation (e.g. European Commission Progress Reports) as well as spot-checks. In agreement with the contracting authority neither the content nor the quality of the actual outputs (e.g. analytical reports, legislative proposals, course curricula or study visit programs) are assessed in detail.

Validation workshop and debriefing: The reviewers’ preliminary findings, conclusions and recommendations were shared and discussed with representatives, *inter alia*, of the European Commission (EC), the Organisation for Security and Cooperation in Europe (OSCE), different civil society organisation as well as representatives of the Swiss Cooperation Office in a validation workshop as well as a debriefing in Sarajevo (3 February 2014). The participants vastly agreed with the review team and their feedback and inputs are reflected in this report.

Reporting: The results of the review are presented in this report that is structured as follows: Part I covers the *ex-post* review of the project with specific emphasis on the fourth phase (“bridging phase”). Following contextual information (Chapter 1.1.), it discusses the relevance, effectiveness, efficiency, impact and sustainability as well as management of the project in Chapter 1.2. The recommendations in terms of an eventual continuation of the intervention are discussed in Part II. Various annexes complement the report and provide additional pertinent information.⁴

⁴ The annexes contain, *inter alia*, a selection of the documents we reviewed, a list of persons interviewed for this evaluation and the schedule of the field mission as well as a list of sample interview questions.

1. Part I – External Review

1.1. Project context

Massively expressed dissatisfaction and violent attacks on government institutions in Sarajevo, Mostar, Tuzla and some other major cities in the Federation of BiH (FBiH) erupted in early February 2014 and have shaken up national and international observers alike, though violence quickly subsided and protests soon took a peaceful course again. Only a few months after demonstrations in mid-2013, which eventually fizzled out, citizens again took the streets and protested against pressing economic hardship, social injustice, dodgy privatisations, corruption and political stalemate. The intensity and vehemence with which the protesters showed their sheer disappointment with the political establishment were unprecedented in the past 19 years following the Dayton Agreement.

Across the country, public forums sprung up in which citizens formulate political demands. They primarily concern the lowering or scrapping of benefits for politicians, reviewing privatisations of local companies or paving the way to install *ad-interim* governments at cantonal level; explicit demands for constitutional reform have hitherto played an insignificant role, or even been explicitly denied. Nonetheless, Bosnia and Herzegovina's dire economic situation and the long-lasting political paralysis that contributed to spark the protests can at least *partly* be explained with the country's complex constitutional architecture and the lack of institutional and legal incentives for political leaders to cooperate and compromise on the country's road to EU.

Efforts of constitutional reform in Bosnia and Herzegovina have been going on for more than a decade and more often than not have they been bogged down in political and ethnicity-centred debates or failed outright.⁵ Although each of the cases is different and thus merits specific analysis, these past efforts feature similarities that have been widely debated: they were products of closed and intransparent, exclusive processes crafted by a rather narrow circle of political leaders and took place outside the existing democratic institutions.⁶ As a result, the efforts not only fell short of being fully legitimised and thus prone to ensuing political tactics, they also had a detrimental and undermining effect on the institutions. Remarkably, during our interviews both national politicians and representatives of the international community conceded the need for a reversal of the approach, namely to prepare

⁵ Negotiations initiated in 2005 leading to the so-called "April Package", a US-led first focused attempt to draft and pass a major package of revisions to the BiH Constitution, failed to ensure a sufficient 2/3 majority in the BiH Parliamentary Assembly. Despite this first major negative experience several further initiatives have been launched by international and local actors ("Prud Agreement", signed by leaders of three leading political parties; "Butmir Process", led jointly by the US Government and EU), but also failed to deliver any results. Ongoing negotiations for the implementation of the ECtHR *Sejdić and Finci* ruling, aiming to eliminate fundamental discriminatory regulations from the election process, as well as a proposal tabled in 2013 by a US-sponsored local expert group for passing an entirely new constitution in the Federation of BiH that has so far also fallen short in ensuring the required political buy-in, complement this list. Interestingly, failures to reach agreements and pass constitutional changes occurred also on the entity level. In the Republika Srpska constitution changes have been blocked due to the failure of ensuring buy-in from predominantly Bosniac parties. For additional details reference is made to the context description in the terms of reference of this assignment that is attached in Annex 5.

⁶ EPC 2010

and conduct constitutional changes through competent, democratically legitimised institutions and with strong participation of the public.

In a similar vein, efforts of civil society organisations, for their part, are generally considered to be “*significantly undermined by an environment in which political dialogue is dislocated into informal, but influential non-institutional circles*” and civic actors are thus “*generally not consulted in the course of agenda setting or policy formulation*”.⁷ At the same time, civil society organisations often do not possess the requisite expertise and fall short of adequately communicating their message. In addition, coalition building is more the exception than the rule – particularly across the entities.

The inability of the political establishment to agree on any minimum denominator for constitutional reform over the past years is ever more striking given that the current constitutional structures continue to represent obstacles to EU accession.⁸ At the same time such constitutional stalemate also raises the question whether the preconditions, which the EU set for the continuation of the accession process, are representing unconquerable hurdles⁹ or just a convenient excuse for the political leaders not to change the current distribution of political powers and way of doing political business.

Constant political divergences, lack of political will in pursuing democratic consolidation, wavering positions of the international community and the occasional flare-up of secessionist rhetoric are just some of the ingredients for the overall history of failure to change the BiH constitution. This contributed to a commonly voiced perception that constitutional reform is a fool’s errand – yet constitutional reform remains one of the country’s most vital and contentious political issues.

The project thus operated in a demanding and ever changing setting; the mere fact that the project did not run out of steam, was able to keep political and other stakeholders interested and at the same time register some impact, as we shall discuss further below, can be qualified an achievement in itself.

1.2. Project description

SDC decided to launch the project at a time when several reform projects in Bosnia and Herzegovina (security sector reform, taxation reform, justice sector reform, etc.) created a

⁷ BIT 2014

⁸ The European Commission, for instance, repeatedly addressed the shortfalls of the constitution in its annual progress reports. See EC (2013), see also EC (2012) and reports of previous years.

⁹ In this context it is noteworthy that representatives of the Slovenian and Croatian Government most recently (See <http://dw.de/p/1B6NM>; <http://www.mvep.hr/en/info-servis/press-releases/,20364.html>; last consulted 28.02.2014) publicly floated the idea to reconsider the current EU conditionality approach towards BiH and suggested to tailor-make a new model for promoting and implementing EU requirements. Concretely, instead of insisting on the fulfilment of political preconditions, which have frequently slowed down and at times even halted any progress of the country towards the EU, reform measures should be identified and implemented in the course of a continued negotiation process. With this approach, which has yet not been translated into a concrete initiative of the EU, political stakeholders would need to implement necessary reforms in a step-by-step process to achieve the sole publically undisputed common vision of virtually all political parties and citizens, namely integration into the EU.

climate allowing for substantive deliberations on constitutional reform, which represented a significant change to the previous general resistance to open any discussion on constitutional reform.

In the beginning, the project predominantly sought to raise awareness of constitutional reform issues amongst citizens at municipal and regional levels (2004-2008), while the third phase (2008-2010) considerably broadened the scope (e.g. in terms of issues, partners, geographical coverage). The most recent phase (2010-2013) was finally oriented towards engaging civil society organisations and local governments to articulate and make operational their demands, to expand geographical coverage of the youth component and to achieve vertical integration and linking up four tiers of government and different generations of citizens.

Ever since its inception (reference is here made to the first entry credit proposal), the key overall aims and principles of action have been to support local initiatives so as to ensure that the political future of Bosnia and Herzegovina be discussed internally – a principle that re-emerged, as discussed above, as a result of reform failures –, to concentrate on contributing and improving processes as well as to tailor Swiss technical expertise to the explicit demands of the project beneficiaries.

Another important element refers to the distinction between reforms of *formal* and *material* constitutional law respectively¹⁰ and the implicit understanding that the project would seek to contribute to reform constitutional notwithstanding. With regard to the project, this distinction brings about challenges which, in the eyes of the review team, could not entirely be overcome: First, it presupposes a certain degree of understanding and awareness of the distinction amongst all project partners. It was in this case telling that representatives of the Association of Municipalities and Cities justified their choices for legislative reform (some of which address material constitutional law), assuming that this work would not suffice the project purpose of bringing about *formal* constitutional reform. Second, the project needs to walk a fine line not to avoid arbitrariness of the interventions. In this context that some of our interviewees commented provocatively that the “*connection between a summer university and constitutional reform would be hard to establish*”, acknowledging at the same time the principle value in investing into capacity building and education of youth.

Building up on these premises, the phases progressively changed, different interventions were tested, good practices further developed and new stakeholders involved in the service delivery. The project addressed flexibly various impediments to constitutional reform with a diverse set of activities implemented partly both at strategic and operational levels, short- and long-term oriented alike – which is in principle all commendable. However, in the absence of

¹⁰ *Material constitutional law* refers to all norms that should be part of the constitution, whether or not they are actually in the constitution. *Formal constitutional law* on the other hand comprises the norms that are prescribed in the constitution and have been passed according to specific procedures (majority, quorum etc.). The *distinctive criteria is thus the content of the norm*, where material constitutional law contains fundamental norms that regulate, for instance, state objectives; fundamental values, rights and obligations; functions and organisation of the state, including delineation of competences in federal states. Ideally, material and formal constitutional law are congruent.

“*overly structured and critical*” design processes it also comprehensibly rendered the project “*patchy*” as some of our interlocutors noted. Against this background the “bridging phase” also aimed at identifying “*elements for a coherent and more strategic package of future interventions*” (cf. 2 Part II – Recommendations).

1.3. Assessment

In the following sections we undertake to assess the project phases *in their entirety* along the lines of the OECD-DAC evaluation dimensions in order to respond to the assignment to provide an “*appraisal of outcomes and impacts of the project since 2005*”. With regard to the dimensions “effectiveness” and “impact” we approach them by *bundling* in what we consider to be *similar type activities* that were implemented in the four project phases, while at the same time putting emphasis on the period 2008-2013. Even though the project phases differ in several regards (scope, resources, formulation of planned objectives and outcomes, context etc.), there are several features that resemble each other and that justify this approach.

1.3.1. Relevance

The aim of this sub-chapter is to assess the extent to which the objectives of the project are consistent with and aligned to the needs and priorities of BiH and Switzerland respectively.

Country needs and priorities: Constitutional reform and other issues related to the organisation of the state have been recurrent themes ever since the Dayton Peace Agreement was signed in 1995. There is widespread agreement that the constitutional set-up is representing an impediment for a more efficient and functional state and that it falls short of fully guaranteeing fundamental freedoms. In addition, constitutional reform – in the narrow sense of the implementation of the 2009 *Sejdić and Finci* ruling – has become a precondition for a “*credible membership application to the EU*”¹¹ and continued failure of the government to comply with the decision constitutes a block to the country’s path to the EU. The Council of Europe, the OSCE and other institutions have frequently pointed out the need for constitutional reform so that BiH can live up to its international commitments.

SDC cooperation strategy and implementation principles: Switzerland’s foreign policy for the Western Balkan countries as well as its past and current cooperation strategies with Bosnia and Herzegovina aim at supporting the country’s further democratisation and European integration process. The basic premises of the project – bottom-up and top-down approach, vertical and horizontal coordination, analytical inputs and suggestions that rely on strengths and experiences of Swiss system that respond to the demands of the political stakeholders, “neutral” intervention focussed on efficiency of the state, its organisation and administration – did bode well to achieve a high degree of beneficiary satisfaction and “sense of identity” with the project over a longer period of time; they also mitigated the risk of “politicisation” of the project. Furthermore, in different components and activities it addresses transversal themes such as good governance and gender equality.

¹¹ EC 2012a, para. 2

Virtually all of our interlocutors were of the opinion that the project addressed *pertinent issues* and offered *relevant technical advice and options* for reform. Only few interviewees – local and international alike, with comparatively more knowledge of the project – voiced concern that reliance on Swiss models and experiences might be somewhat far-fetched in some instances (given the complex BiH context) and it might in the future be necessary to broaden the scope by offering other relevant comparative experience. At the same time none of these few informants opined that Swiss solutions were “imposed”.

Conclusion: Overall, the reviewers conclude that the project continued to be relevant and addressed pertinent issues. This view is confirmed by the vast majority of our interlocutors and was noted in all of the past evaluation reports. It is also a reflection of the repeat calls and requirements for constitutional reform by national and international organisations alike.

1.3.2. Effectiveness

In this section we assess the level of achievement of the objectives and outcomes of the four project phases¹² based on *different bundles* that best illustrate the multi-layered and multifaceted interventions.

It is important to note that due to the differences in the design and the content of the project phases and the fact that objectives and outcomes of different components are often intertwined it is difficult to make a clear separation; the bundles are thus broadly defined and they are not mutually exclusive.

Figure 1 below attempts to provide a first overview of the content and objectives of the project phases and to depict the evaluation of the entire project.

Figure 1: Objective bundles and intensity of pursuit per project phase

Bundle	Focus	Phase 1	Phase 2	Phase 3	Phase 4
Bundle 1	Awareness and networks				
Bundle 2	CSO support				
Bundle 3	Local government support				
Bundle 4	Youth education				
Bundle 5	Parliamentarians				
Bundle 6	Swiss visibility				

Reading instruction: The shading indicates the level of focus of the objectives in each project phase. Example: Swiss visibility was one of the objectives in the first two project phases but to a much lesser extent in the last two phases. Local government support, on the other hand, gained in significance and was an explicit objective in phase four.

Generally, the past evaluation reports assessed effectiveness – on average – as high and this has been confirmed during our interviews. Output targets were largely achieved and the vast majority of the interviewees assessed the quality of the outputs as very good, particularly

¹² The four project phases have been implemented over a period of nine years 2004-2013. Yet, the actual implementation period is six years, since the political deadlock in 2010/2011 hampered the direct continuation from the third to the fourth phase.

with regard to the several study tours, the summer and winter universities as well as the technical expertise provided by Swiss experts.

Bundle 1: *Increasing public awareness of constitutional reform issues, engaging citizens in the debate and fostering networks.*

Process and main outputs: Cooperation and collaboration, bringing different actors together and offering spaces for discussion and exchange has taken various forms and gradually increased over time.

Level of achievement: The project can credibly claim to have *largely attained this objective*; several of our interlocutors asserted that the project was amongst the few to persistently uphold the message of “constitutional reform”. Hundreds of citizens across all strata of society, government and non-government representatives, members of academia and experts have participated in public debates, public media were continuously involved in the service delivery (radio shows, TV shows, feature articles in print media etc.) and more than 20 organisations have directly collaborated with the project since inception. Pertinent research was conducted and the resulting studies were widely distributed and made available for download.

However, some issues spring to mind: It appears that the project could not play a more prominent role in establishing a more stable “*coalition*” of civil society organisations that attend to the issue of constitutional reform. Contributing factors might have been that other initiatives such as PILPG, KAS or CCI occupied the role instead but also the purported inability of the implementing partner to foster horizontal collaboration. Also, both document review and interviews reveal that the *approach to improve media reporting* on constitutional reform issues yielded *mixed results at best*; and anecdotal evidence suggests that there are only few journalists (print and electronic media) that have the ability – or better: the freedom – to produce objective features of high quality on constitutional reform; blogs and social media appear to provide for an environment more conducive to independent reporting, but they have not been used by the project.¹³ Yet, this is not surprising in an environment where media independence is in decline. Reportedly, the project staff did not manage to establish links with and to attract media editors to any significant extent, which is probably the only way to achieve a sustainable change in this context. Finally, in the absence of appropriate tools it is *difficult to gauge the outcomes of the numerous debates*, i.e. to what extent, with regard to what and how participants’ opinions and viewpoints have changed (according to the project’s reports thousands of participants were registered at debates over the past years). New approaches to public debates could provide new achievements in this regard (see our suggestions for “deliberative polling” in Part 2 of the report).

¹³ Nezavisne Novine, BIRN and ATV were specific partners in phases 2 and 3 of the project; a study tour to Switzerland was offered to journalists in 2009.

Bundle 2: *Capacitating civil society organisations in substantiating, articulating and rallying support for their demands for constitutional reform.*

Process and main outputs: Civil society organisation often lack the capacity to make their case heard by political leaders that are little receptive to CSO policy or legislative inputs. The project sought to address this by offering CSOs requisite support. It emanates from the project documents and our interviews that this support mainly took the form of providing financial resources for research or advocacy as well as subcontracting to design and deliver an entire project component, rather than offering capacity building (defined as training or technical advice). This approach is consistent with suggestions of CSOs that the project supported.

Level of achievement: The work of the TPO Foundation (Transkulturalna Psihosocijalna Obrazovna Fondacija), which started collaboration with the project in phase three, showcases an achievement of the project: TPO and its eleven sub-contracting partners developed a set of 14 proposals for a gender sensitive constitution, which were submitted to the BiH Parliamentary Assembly (PA). The proposals were the result and reflected the outcomes of a series of grass-root level activities (involving ~950 participants in about 150 events across BiH, including workshops for women on political and social rights, contacts between women and municipal politicians as well as a poll). As a corollary the first Women's Platform for Constitutional Changes was established.

Additional examples that warrant to be mentioned and illustrate the level of achievement include: a campaign by “Zašto Ne”, a CSO, and partnering organisations addressing issues of direct democracy supported by 30'000 citizens; constitutional reform proposals by the Young Lawyers Association as well as the Alumni Association of the Centre for Interdisciplinary Postgraduate Studies of the University of Sarajevo that was supported by 3'000 citizens; constitutional reform amendments developed by an association of refugees and displaced persons; as well as constitutional reform demands of the Associations of Municipalities and Cities (AMC) of both entities (see below).

While the various partners in the project managed to produce more than 12 policy and legislative proposals, there is no evidence that any of the latter have been – at least partially – translated into practice (published legislation). One of the reasons frequently cited to explain this situation, at least as regards the BiH PA, refers to the procedural requirement to have a representative or delegate, or permanent parliamentary committee to table the respective proposal. This renders the proposal vulnerable to being merely “shrugged off” as a partisan cause. Some of our interlocutors thus argued for the need to reform the process with which CSO input is channelled into the parliaments as well as to institute meaningful follow-up mechanisms by the institutions.

Bundle 3: *Capacitating members of local governments and their associations to identify and promote relevant changes in public policies, legislation and the constitutional frame.*

Process and main outputs: This bundle commenced with a series of sixteen inter-municipal debates between 2008 and 2010 at which some 100 municipal representatives along with legal experts, CSO representatives and citizens attended (partially also across entities). The debates eventually resulted in the submission of a proposal for constitutional amendments to

the BiH PA Constitutional-Legal Committees and other members of the Assembly. Building up on this experience, the project facilitated in phase four the creation of so-called *Boards of Mayors for Development (BfMD)*, consisting of mayors of three municipalities from each of the entities, who took on elaborating four legislative proposals and two policy papers of common relevance, supportive of remedying legislative gaps and inconsistencies. Elaborated with the support of local experts and peers, the proposals were publically debated (17 debates with 500+ participants) and then tabled to the Association of Municipalities and Cities (AMCs) for follow-up. Equipped by the project with a corresponding strategy, the latter commenced to lobby and advocate for their acceptance within their respective associations and subsequently vis-à-vis the entity governments.

Level of achievement: While submission to the entity governments is still pending for all but one proposal (status: February 2014) and it is far from evident that the proposals will pass the legislator, it emanates from the interviews that the proposals are considered to be very relevant and there are high hopes about their eventual impact. It is important to note that the main contribution of the project was to play a facilitative role at the onset of the collaborative process and to provide the necessary financial resources. The AMCs worked with a high degree of autonomy, yet with the unwavering target of accomplishing the outputs. It is our understanding that the longstanding support of SDC to local governments as well as its approach to work with mayors and the AMCs helped identify key mayors for the BfMD, who had the profile to act as project champions and to ensure full support by the AMCs. Furthermore, there has been the conscious decision to focus mainly on legislative proposals that relate to non-contentious issues¹⁴ and that would fit into the current constitutional set-up, rather than implying (more) essential reform of the constitution(s) in the direction of strengthening local governance, so as to mitigate the risk of political obstruction.

Bundle 4: *Capacitating youth as active stakeholders in constitutional reform.*

Process and main outputs: Since 2009 some 70 graduate students from across Bosnia and Herzegovina (and 8 students from Switzerland) participated in course offerings (constitutional theory, political science and political theory focusing on challenges of democracy in divided societies) designed by the Centre for Democracy Studies (ZDA) and delivered by national and international faculty in BiH and Switzerland. Study tours to Switzerland, two one-day seminars, a three-month internships scheme at the Parliamentary Assembly and in local municipalities, a one-semester scholarship as well as a publication of the students' research papers (forthcoming) complement the list of outputs.

Level of achievement: The work under this component was frequently cited as “one of the best of the project” and there is high satisfaction among the project stakeholders with the respective achievements, despite operational challenges. The students we were able to interview provided a very positive feedback, not least because they worked together with their peers from the other entity for the first time.

¹⁴ The law on municipal finances in the FBiH is the exception to the rule since it relates to the intricate matter of fiscal decentralisation – and money is missing across the board.

The underlying assumption that youth would absorb new thinking and engage actively in the process turned out to hold true; while some of them are clearly able to apply their new knowledge in practice, it remains to be seen whether they can actually develop into “leadership” roles. The experience under this bundle might warrant exploring opportunities of collaborating with civil education projects that target youth beyond the immediate realm of university students.

Bundle 5: *Capacitating politicians, parliamentarians and staffers engaged in constitutional reform.*

Process and main outputs: Particularly in the last two project phases Members of Parliament (MPs) from both houses of the BiH Parliamentary Assembly (mainly members of the Constitutional-Legal Committees), and staffers from the respective Secretariats of the Committees, Legislative-Legal Department and Research Department (joining the MPs at a later stage of the process) participated in study tours to Switzerland and expert seminars organised in BiH. Both MPs and staffers were familiarised with procedural aspects of constitutional reform, with a focus on participatory processes including citizen inputs, and learned about the usefulness of an effective professional collaboration between elected officials, parliamentary services and citizens and CSOs.

Level of achievement: It is notable that in the context of the project senior-level party members and parliamentarians actively engaged in the projects’ activities. A good selection of the target beneficiaries across the political spectrum, the delivery of technical expertise in an unimposing manner and a longer-term engagement helped building up a good level of trust. This, according to the implementing agencies, allowed the beneficiaries to candidly discuss constitutional reform issues – at least in informal settings.

At the same time it is also evident that hitherto these senior-level political figures could not critically change the political course of action; despite their positions and the influence they should be able to exert – at least in theory –, they remain largely confined to their party programs. There is another interesting observation related to this: some participants appear to have taken the study tours as an opportunity to look for experiences that would confirm their party programs and standpoints, rather than to challenge their views. This might be an important thought to bear in mind for the design of future training, including study tours or workshops.

The continued inability of the political leaders to come to an agreement on any aspect of constitutional reform has limited the manoeuvring space for legislators and parliamentarians to proactively engage in constitutional reform, or even agree and vote on compromise solutions. In light of this existing limitation, individual interview partners underlined the importance of ensuring the support or at least the consent of the respective party leaders for an engagement in constitutional reform activities; continuation of the involvement of the Swiss Ambassador is instrumental in this regard. Based on such a support from the highest political level MPs and political advisors of the ruling political parties – both young and more established ones – can participate in constitutional reform activities without the need to include the leaders themselves. One key informant with in-depth knowledge and experience with political parties in BiH went as far as to recommend that one should focus (only) on the

second and third ranks within political parties and added candidly that “*youth in political parties are the weakest component*” and hence “*an unlikely ally for the future*”. While we did not establish a full picture of youth in political parties to make a conclusive statement there are pros and cons for working with them: Youth are likely more receptive to new ideas, more versatile in foreign languages and media, and given their position possibly more inclined to participate in networks beyond the party. These and other factors could enable youth politicians to potentially influence leaders in a bottom up (party internal) approach. At the same time experience of key informants suggest that youth either lack the willingness or merely the stature to stand up for issues or take decisions. Moreover, in a long term process there is always a risk of changing profession i.e. somewhat losing the effect of the “investment”.

Bundle 6: *Positioning Switzerland as a contributor in the field of constitutional reform.*

Process and main outputs: SDC and the Swiss Embassy were jointly involved in the delivery of the project, which had the side effect of ensuring the availability of “*adequate damage control always required in such highly sensitive projects*”.¹⁵ The active participation of senior personnel of SDC and the Swiss Embassy is much appreciated by politicians and political leaders alike and their involvement underpinned the importance of the intervention. It also leveraged the support to the implementing agency.

Level of achievement: The achievement of this objective is overt. The SDC and the Swiss Embassy are regarded as neutral players and have firmly positioned themselves in the constitutional debate arena in BiH. Yet, we also encountered a few selected critical voices, namely the *perception* that the project advocated for “Swiss solutions” of state administration; others merely cautioned that established practices in Switzerland may not be appropriate in the context of Bosnia and Herzegovina (see also 1.3.1. above). Overall, the project enjoys good visibility that goes much beyond the immediate circle of those who were directly involved in the recent project phases. This was, for instance, exemplified in the final event of the project (November 2013) which not only had an stimulating format but was also broad in terms of participation of various actors and interested groups.

1.3.3. Project Management

The Human Rights Centre of the University of Sarajevo has been the implementing agency of the project since 2004 and assumed primarily a *project management role* (planning, coordinating, monitoring, reporting), rather than a technical one, since most often different subcontractors were entrusted with the management and delivery of specific project components. The HRC has largely shown its ability to manage the project flexibly as demonstrated by the high level of outputs achievement (see 1.3.4. above). Reporting systems were in place and the SDC and the Swiss Embassy offered guidance and steering and closely monitored the project (particularly as regards communication). The role of the project steering (or advisory) boards and the frequency with which they convened differed between the project phases.

¹⁵ Traljić, 2010

However, there is an apparent dichotomy between the achievements and the picture that emerges following the interviews. Similar to the past reviews our interlocutors repeatedly expressed discontent with the lack of clear procedural guidance, insufficient conflict management as well as lack of ingenuity to create *internal* and *external* synergies and insufficient outreach.¹⁶ Indeed, there is reason to presume that the HRC lacked the requisite substantive constitutional reform expertise or was unable to make it readily available to the project managers. On the other hand, we noted the tension between the *procedural* overall orientation of the project and a considerable number of *output-oriented* activities. It is conceivable (and understandable) that achieving output targets, as opposed to synergies and outreach, was given more priority. Finally, staff rotation both at HRC and subcontractors put additional strain onto project management and personal traits and interpersonal tensions appear to have played a role as well. Overall we concur with the view of one of the interviewees that the HRC often appears to have fallen short of “*creating a common project vision*” and that as a result the project components were for a large part implemented separately.

An alleged financial malversation not only had ramifications for the sub-contractors of the HRC, they also cast doubts regarding HRC’s internal oversight systems and eventually gravely impacted on the working relations with SDC.

Conclusion: Overall, the respective outcomes at component level were largely met, despite the very intricate environment in which the project operates. There is good evidence that the project enhanced or adapted successful activities with a view to improve their quality and beneficiary satisfaction. Project management can be assessed satisfactorily; the implementing agency reached the output targets and reported deviations transparently. However, past evaluations also criticised that despite the long implementation experience the managers fell short of crafting stronger links amongst the project partners, developing more robust procedures and institutionalising good practices.

1.3.4. Efficiency

In general efficiency measures the outputs and results of a project in relation to the inputs that were invested. Key questions to answer are whether the activities were cost efficient, whether the objectives were realised on time and whether the least costly resources possible were used in order to achieve the desired results (OECD 2010). We assess efficiency particularly by illustrating the extent of “cost awareness” of the project. The assessment of the efficiency is therefore largely based on the document review.

Table 1 shows the total planned budget, the actual budget expenditure and the respective balance of each of the project phases. Planned budgets increased commensurate with duration and scope.

¹⁶ Two interviewees went as far as to state that that they would refrain from working again under the leadership of HRC and another subcontractor respectively.

Table 1: Project budget overview

Phase	Duration		Total Planned	Actual Expenditure	Balance
1	12.2004	09.2005	254'700	166'123	88'577
2	07.2006	12.2007	350'000	314'755	35'245
3	08.2008	07.2010	971'000	853'670	117'330
4	02.2012	11.2013	1'180'000	1'082'619	97'381*

* Provisional data as of 28 February 2014.

It has been difficult to interpret the budget utilisation in light of the document review and the interview feedback. Several issues speak in favour of an overall efficient resource use, which was also confirmed in the past evaluation reports as well as the self-assessments of two project partners in phase four:

First, budget planning and expenditure followed the flexible approach of the project, i.e. the explicit demands of the project beneficiaries and stakeholders and the overall political climate to carry out a project activity (for instance, some activities were delayed in pre-election phases). This can explain that there has been a budget remainder in all four phases.

Second, in earlier phases funds were partly not exhausted due to the absence of good proposals from CSOs, which also suggests that the project has been directed by cost-benefit considerations.

Thirdly, services were largely provided by local experts as opposed to international experts, meaning significantly lower transaction costs. Moreover, there have been instances where output targets were overachieved without budget implications.

Conversely, some inefficiency can be established, including as regards the above referred lack of establishing links within the project activities; the perceived lack of coordination with other interventions, such as with the USAID-funded PILPG project during phase 4, as well as HRC's financial issue as a result of which some planned activities will not likely be delivered.

Conclusion: Activities have largely been delivered on time and on budget; quality of the deliverables is considered high and the key stakeholders are generally satisfied with the project. Grave inefficiencies could not be established. In the absence of a valid benchmark for the effectiveness of constitutional reform projects *per se* against which the project could be measured, the level of effectiveness is the critical factor determining the input-output-ratio. Since we assess the effectiveness to be high, we conclude also in this regard that the project was efficient. Furthermore, despite the challenging and at times unfavourable environment the project managed still to achieve outcomes. As a result we conclude that the resources of the project were used efficiently, though we remain inconclusive to some extent.

1.3.5. Impact

The four project phases pursued different objectives: They aimed at contributing to “*set the basis for elaborating and articulating a sound vision for BiH’s development*” and worked towards “*constitutional changes [that] are result of wide compromise, representing the interest of the entire citizenry of BiH*”, whereas the first two phases sought, for instance, to “*contribute to the constitutional discussion*” and to sensitise the wider public for constitutional reform issues.

Assessing whether and to what extent the project and its respective phases have brought about the desired long-term effects largely depends on the objective to be measured. At first glance it may seem as if “*nothing changed*”, as few and far between have noted, and that the project failed to register impact. But upon closer examination it is obvious for the review team that there are already some impacts and that intermediary achievements bode well for future impact:

Creation of opportunities for citizens, civil society organisations and interest groups to voice their demands: While representatives of the international community have been focusing their efforts on the leaders of political parties, thus bypassing or even undermining the authority of democratically elected institutions, activities supported by the Swiss government have been promoting the proactive participation of citizens, CSOs, local governments and legislators. Although a result oriented consideration of civic initiatives has not been achieved in parliaments, the Swiss support enabled a broad range of stakeholders to understand their adequate role in the constitutional reform process, develop necessary skills and a solid readiness to continue the constitutional reform process. Citizens have formulated their concerns and translated them with the assistance of CSOs into concrete constitutional amendment proposals, some of which were submitted to parliaments.

Creation of ownership of the national key stakeholders in and for the CR process: At the political level, parliamentarians have been familiarised with the usefulness of citizen consultations and developed increased awareness of the need to utilise in-house expertise available in parliamentary services. In a similar vein, as far as the AMCs are concerned, the interviewees plausibly explained that the project encouraged them to be more vocal about their demands to enhance their members’ abilities to provide quality public services at local levels; the project helped build up confidence that with a coordinated approach AMC and mayors are able to deliver jointly quality work. It also reconfirmed that mayors play an important role in inter-municipal cooperation – even across entities – and interviews with mayors and other informants suggest that such inter-municipal cooperation occurs frequently and regularly.

Contribution to individual learning outcomes and more broadly to the knowledge base on constitutional reform: Studies and recommendations register their main impact not through immediate changes in policies and practices but through the gradual absorption of their messages into the discourse of reform and the inclusion of key points on the agenda of change. Achieving impact primarily unfolds in the long-run. It is therefore important – to the extent relevant – to continue utilising the research outcomes so as to distribute their key messages as widely as possible.

Establishment and nurturing of networks: Our document review and our discussions with different stakeholders confirm that the project did induce individuals and organisations to create networks and join forces for a common cause. The most prominent examples is the *Women's Platform for Constitutional Reform from a Gender Perspective*, a collaboration of 15 civil society organisations and the first of its kind in the constitutional reform area, and the network of students within which they debate and exchange information on conferences, scholarships etc.

Switzerland's visibility and recognition as a contributor in the field of constitutional reform: It has been repeatedly stated that Switzerland, from the perspective of both BiH citizens and politicians, speaks with considerable legitimacy when it comes to making complex political systems work. Switzerland is recognised as a credible and neutral partner that applies long-term thinking, operates flexibly and is not driven by the need to achieve immediate results.

Conclusion: As repeatedly stated in several project documents constitutional reform is long-lasting, “*culture-changing endeavour*”; impacts may thus become perceptible only at a later stage. However, over the past years the project was able to realise a good number of its planned objectives.

1.3.6. Sustainability

Sustainability looks at the longer-term effects of the project and assesses the extent to which the effects continue over time after the end of the project. It is by default difficult to measure *ex-ante*, nonetheless we believe that the project had sustainable effects for the following reasons:

First, a sizable number of legislative and constitutional reform proposals were developed that can readily be re-tabled when the political climate becomes again more conducive for reform. Even though these proposals have not been adopted yet – and may not be considered or even adopted in the immediate future – they not only have the potential to bring about real impact in the mid- and long-term but also to then be sustainably anchored into the legal system. The project show-cased the value of inter-municipal cooperation also in terms of changes at policy level; the newly introduced work processes of the *Boards of Mayors for Development* and the AMCs have thus the potential of being replicated in the future.

Second, a cadre of qualified students and young academics who participated in the course offerings has been created who have established networks of like-minded peers beyond the territorial and ethnic divides in the country. Their *potential* to act as agents for change has yet to materialise but many of them are likely to contribute with their acquired knowledge and expertise to future constitutional reform debates. These youth constitute an excellent pool for the future and a valuable resource to tap on for future project delivery work – as consultants, peer-reviewers, implementers and change agents.

Third, a good number of research products have been produced with the support of the project, adding to the much needed knowledge base in Bosnia and Herzegovina. Many of these resources are readily available for download, as spot-checks by the review team confirm, and can benefit the academic and expert community.

Fourth, permanent key staffers in the Secretariat of the BiH Parliamentary Assembly (Secretariats of the Constitutional-Legal Committees, Legislative-Legal Department and Research Department) have acquired valuable knowledge on constitutional reform through joint participation with Members of Parliament in project activities. Given their status as civil servants, their enhanced skills will be available to future generations of parliamentarians who will be elected into office at the following general elections.

Conclusion: It is reasonable to assume that outputs and processes will sustain over a longer period of time. The project delivered results that have the potential for sustainable, longer-term effects – even though they might not necessarily have registered impact already (see above). This is the case particularly for the legislative proposals that are already or planned to be put into procedure – most importantly the legislation proposed by the AMCs, and for the permanent staff in parliament available to future generations of parliamentarians. Political pressure and sustained lobbying and finally political will are important factors determining sustainability.

1.4. Outlook

The above described achievements in terms of outcomes and impact bode well for and would be instrumental in a continued Swiss engagement related to constitutional reform. As a trusted partner, who is not associated with failed constitutional reform initiatives from the past, but widely recognised for its neutral position and ability to present illustrative examples of good practice, a Swiss contribution would enjoy the support from all sides.

With a process-oriented approach, as we describe below in Part II, the Swiss contribution would bring together all parts of society and strengthen the role of democratic institutions, which have to provide citizens with adequate participatory mechanisms to express and consider their legitimate interests. In the absence of external pressure from the international community, which had been the driving force for many reform processes in the first decade after the signing of the Dayton Peace Agreement, there is no other new approach recommended besides the inclusion of citizens in institutional processes led by competent, transparent and accountable democratic institutions that supported by professional services. The breakout of civil unrest and firm request of citizens to participate in democratic processes reaffirms the need for developing more participatory models – and Switzerland has much to offer in this regard.

Given the negative experiences from the previous period since the failure of the “April package” this new approach has to include all stakeholders from institutions, political parties, academia and civil society. To perform their role properly and facilitate the preparation of appropriate, meaningful adjustments of the constitutional framework, stakeholders will have to be competent and prepared to compromise. Finally, it will be beneficial to include representatives from all levels of government as the EU integration process will require well-coordinated constitutional realignments on the state, entity and canton level.

Under the assumption that Bosnia and Herzegovina will eventually enter a phase of preparing for EU membership, it will have to undergo (incremental) constitutional change – this is normal and a routine in the approximation process of candidate countries. Without the

pressure to pass changes to the existing constitutions in advance, which has frequently been imposed as a precondition before entering substantive negotiations in the accession process, interventions into the constitutional framework of the country on all levels may appear as necessary constitutional *alignments* rather than constitutional *changes*. A project, the cornerstones of which we outline in the following chapters, would certainly benefit from a phase of continued negotiations on a variety of issues related to the EU *acquis communautaire* and could play an important role in equipping key stakeholders with the requisite trust, knowledge and tools in order to be prepared to find solutions for the tasks at hand.

2. Part II – Recommendations

2.1. Context

With a focus on the interviewed partners, the purpose of the mapping is to identify the key actors working within the field of constitutional reform in BiH, their main type of interventions and their focus on CR. The brief mapping draws conclusions mainly from the interviews and some documents and is not intended to be exhaustive. It is thus recommended within the framework of the future programming to carry out a comprehensive mapping of constitutional reform related actions in BiH. The current one mainly focused on project-based interventions (leaving out for example interest groups), did not assess the implementing capacity of civil society organisations (though focused mainly on those with good capacity), etc. Within those constraints, the exercise identified the following main conclusions:

- Different definitions and perceptions of what constitutional reform means make it difficult to identify a common baseline for the interventions of different actors.
- Substantial work has been done in this area already; therefore a very good base already exists for any future intervention, especially in terms of documentation, expert opinions, analysis, web portals etc.
- In general there is much need to improve both horizontal and vertical links between different actors active in the field of constitutional reform, and also within BiH institutions.
- Much more civil participation is needed and desired, and it needs to happen in a more accountable way, followed up by responses from the authorities.
- Many of those interviewed think that constitutional reform is primarily a legal issue, hence legal procedures and capacities need to be further strengthened and that technical discussions should be carried out by experts rather than by politicians.
- Based on the interviews with local actors, the common interest for constitutional reform was more internal (efficiency of the country, social and economic development, education, agriculture etc.) rather than the prospect of the EU accession (which for most seems to be too far away in the future at the moment).¹⁷
- There is a clear demand to continue with the Swiss intervention.

The added value of the Swiss project identified during the interviews contributed to the team's conclusion to principally recommend a continuation of the intervention.

Switzerland is accepted as a neutral actor among the international donors. As a non-member of the EU, the country could distance itself from the long and increasingly unproductive *Sejdić and Finić* discussions and the political stalemate and focus on technical interventions

¹⁷ Results of a public opinion poll carried out in July 2013 (n=1'000, random selection; margin of error: +/-3%) support this conclusion. In this poll "*enabling BiH's entry into the EU*" is given as a reason for constitutional reform by fewer than 40% of all respondents. See PILPG 2013 for more information.

even during times when it was difficult to talk about constitutional reform in BiH. On the other hand, it also serves as an example of how to endorse much of the *acquis communautaire*, without being a member of the EU. Most interviewed actors in BiH see European Integration as a rather dim perspective, but recognise that constitutional reform is urgently needed. While BiH's EU enlargement is supported by Switzerland, it is not the ultimate goal. Hence, any constitutional reform process could be supported without the accession framework/requirements. Switzerland, at the same time, being a member state of the CoE and a participating state of the OSCE, already can contribute with the European experience as well and can facilitate BiH's efforts to fulfil its commitments to these intergovernmental organisations (constitutional reform being one of them).

Transparent and inclusive decision making processes are key to successful constitutional processes, but also useful for other fields. Switzerland's broad definition of constitutional reform allows for the exploration of flexible methods, avenues and issues, and hence facilitates discussions among a wide range of actors even in difficult political and socio-economic environments.

2.2. Coherence

Switzerland is committed to contribute to the democratic and economic transition of the countries in the Western Balkans and to support their process of European integration; improving stability and security for citizens and achieving social inclusion of minorities and deprived groups are complementary objectives. In Bosnia and Herzegovina supporting the constitution reform process is one of Switzerland's strategic priorities in order to contribute to the objective of creating a decentralised, democratic political system and a socially inclusive market economy.

Needless to say that these principles are fully aligned to Bosnia and Herzegovina's priorities as well as the priorities of the international community, including the EU, the OSCE, the CoE and the Office of the High Representative (OHR) and other bilateral representations. Whilst these partners attend constitutional reform in line with their organisational priorities, none of them have a specific constitutional reform programme in the pipeline. This provides the project with a realistic opportunity for exerting influence.

In addition to these strategic considerations the SDC, from the onset of this review, put forth a set of basic principles as the cornerstones for its future engagement in constitutional reform. They include: process-orientation; facilitating dialogue and consensus finding on constitutional reform issues; alignment with BiH's broader EU integration agenda and the European canon of fundamental values; vertical and horizontal linkage; use of country systems. The review team shares and concurs with these principles. They are thus fully reflected in our recommendations.

2.3. Relevance

Many of our interviewees have reported a considerable degree of "*constitutional reform fatigue*" in BiH, noting too much talk by different actors about constitutional reform and little or no tangible results. At the same time, important requirements of EU integration, as

well as some of the crucial Council of Europe recommendations regarding BiH clearly have constitutional connotations, especially when considered in the context of constitution in a material sense. In this context, a recurring theme regarding BiH in the perspective of European institutions is the efficient functioning of administration at all levels of government, including the establishment of an effective co-ordination mechanism on EU matters (*“speaking with one voice”*), as clearly emphasised in EU-BiH 2012 Roadmap requirements.¹⁸ The second dominant CR theme from the perspective of European institutions concerns fundamental rights and values: the need for ending discriminatory practices regarding the state Presidency and the House of Peoples (*Sejdić and Finci* ruling), as well as establishing a better balance between individual and collective rights of political participation.¹⁹

Key international actors are aware that constitutional reform in BiH should necessarily be a gradual, long-term *process*. For example, the Council of Europe Parliamentary Assembly (CoE PA) emphasises that the currently inadequate constitutional order of the state *“should be reformed once national reconciliation is irreversible and confidence is fully restored.”*²⁰ Thus, the *“timetable, terms and parameters of a constitutional reform”* should be established by the citizens themselves.²¹ Moreover, the CoE PA emphasises and reaffirms the importance of a process-oriented approach by, *inter alia*, calling on the political forces in BiH to *“become fully and constructively involved in the debate on the need for constitutional reform and its timing and parameters.”*²²

Against this background it is important to restate that the reported constitutional reform fatigue is in large part due to the negative experience with constitutional reform in BiH (see above footnote 1) rather than due to the lack of understanding that constitutional reform debates are relevant and necessary in BiH. Moreover, many of our interlocutors, including those working on constitutional reform-related projects over the years, have noted that CR is still abstract, does not resonate in ordinary citizens’ perspectives, and is in serious need of being unpacked and reformulated. At the same time, arguments expressed in various CR debates so far have tended to be politically biased, ethnicised and repetitive. This is why the CR discourse as a whole would greatly benefit from being enriched and energised with fresh, independent opinions and ideas. Most of our interviewees have noted that little has been done in this regard in BiH. Finally, as almost 20 years of the post-conflict transition in BiH also show, constitutional debates will likely continue, with political leaders continuing their attempts to capitalise on the peoples’ sentiments and benefit from the lack of information on, and manipulation with, constitutional reform issues. Therefore, a carefully designed continued intervention in the field would be highly relevant, as it would fill an important

¹⁸ The relevant Council of Europe documents are even more detailed in this regard, pointing out the need for rethinking and reforming the territorial organisation of the state, in particular the division of competences between the different levels of government, with a view to increasing efficiency and sustainability of state structures. See in particular CoE 2006. See also CoE 2008.

¹⁹ See *ibid.*

²⁰ CoE 2004

²¹ *Ibid.* para. 6

²² *Ibid.*

knowledge gap, continue along and capitalise on the successes of the previous phases of the project, and serve as a valuable platform for keeping the important, but perhaps less controversial elements of the CR dialogues alive in the BiH public. Importantly, such an intervention would also aim to simultaneously empower a broader set of actors for an intensified engagement in constitutional reform processes whenever and at whatever level of organisation of the state they emerge.

2.4. Intervention strategy

2.4.1. Identified challenges to tackle constitutional reform issues

The manifold theme of constitutional reform in BiH inevitably involves numerous and considerable challenges – both in terms of its content and its process, i.e. the way it is discussed and understood in public discourse. In this regard, based on our observations and consultations with relevant actors, we identified a number of challenges that any constitutional reform process-oriented project will have to face and that would inevitably influence and shape any future intervention in the field.

The “what” issue (the cacophony): The *concept and content* of constitutional reform in public discourse is unclear and far from consensual: many political actors in particular tend to advance the position that CR after all these years remains a politically loaded, rather than a technical term; for citizens, it is mostly an empty term, with no easily identifiable real-life implications. In sum, CR means different things to different actors, which creates additional confusion and misunderstanding in public discourse.

The “who” issue (the question of constituency): Political elites (in effect, *party leaders*) *dominate* the political scene, while citizens and *CSOs* (and even parliaments at different levels) *remain marginalised*. One could also note a sort of an asymmetrical interest in CR in BiH: in the Republika Srpska, various actors, and most prominently the political leaders, consider this topic to be exclusively related to the FBiH and its complex institutional structures and decision-making procedures. *International community* exhibits a considerable *lack of coordination* on CR issues in BiH, including the content and urgency of reform in BiH (Venice Commission, CoE, EU, US for example all have considerably different positions on the matter). Finally, as many of our interlocutors have confirmed, *donors* are often *lacking interest* in CR-related projects, which leads to the lack of interest of CSOs – which remain dominantly donor-driven – in CR issues.

The “how” issue (the question of capacity and quality of processes): According to our observations and findings from the field, one of the crucial problems in this regard is the *lack of plausible procedural options for inclusion* of CSOs and citizens in decision-making in general and CR in particular.²³ As several of our interlocutors working with various CSOs in BiH have also confirmed, *advocacy capacity of civil society is very low*: even when offered an opportunity to communicate with the decision-makers, CSOs often fail to adequately communicate their message. Furthermore, horizontal links and coordination of CSOs, in

²³ Analitika 2013

particular in the field of CR, is often lacking. Although considerable CSO energy was invested in CR issues over the years (as the table in Annex 1 also illustrates), think tanks, for example, are rarely connected with grass root organisations. According to many of our interviewees, CR dialogues in BiH are also characterised by *the lack of appropriate expertise*. As an illustration, availability of appropriate expert advice within parliaments is rather limited: reportedly, the otherwise very weak research department of the BiH Parliamentary Assembly does not even include a lawyer, and MPs are forced to look for advice within their own parties. Moreover, as some of our interviewees have confirmed, local experts and academics are either politically affiliated and thus biased, or disconnected from political actors, partly also because of their lack of understanding of and experience with policy-related work. Political actors have also emphasised the *lack of readily available methods for dialogue and consensus-reaching* as a significant problem in the field. Finally, one should also note *a set of contextual problems arising from the status of BiH as a divided society*. In such circumstances there is almost no state-wide dialogue (neither a cross-cantonal dialogue in the Federation of BiH) on CR. Instead, if any kind of public discussion is present, we continue to witness “enclave deliberation” among the likeminded people only which, as notable political scientists also warn, tends to lead to even more extreme attitudes and makes consensus even more difficult to achieve. In such a situation of severe division and ethnicisation of the issues involved, broader CR dialogues within the enclaves – extending beyond just political elites – could even be harmful.²⁴ This observation certainly calls for a carefully crafted intervention which would be sensitive to the contextual challenges and led by the crucial principle of *doing no harm*.

2.4.2. Proposed intervention: promoting constitutional dialogues

Conversations with our various interlocutors and discussions within the evaluation team have resulted in identifying several possible avenues for future intervention. As stated above, the successes of the previous phases of the project, combined with the current socio-political situation in BiH and perceived decline of enthusiasm of the relevant actors for the topic of CR, all make a continued engagement in the field both highly relevant and helpful. Indeed, most of our interlocutors, including political actors, have expressed support for a continued intervention. In this sense, there clearly are several ways to continue with this project. The advantages and disadvantages are discussed in the following paragraph; Annex 4 provides complementary explanations:

One way to do that would be to focus on specific issues (we heard various suggestions in that regard – from single economic space to education, from agriculture to efficient delivery of services). While the idea of translating CR into more tangible everyday problems of citizens sounds intuitively attractive, such an approach would also be problematic in several respects. First, many constitutional reform priorities for Bosnia and Herzegovina are related to streamlining the decision-making processes and achieving a better balance between individual and collective rights in the political realm, which is not easily translated into the language of everyday needs of citizens. Second, it is not obvious what particular issues could

²⁴ Dryzek 2005; Sunstein 2000

or should be singled out by the project. Third, for most of the issues at hand it would be hard to establish even a remote link with CR (e.g. problems with education in BiH arguably do not have constitutional implications, but are rather related to issues of efficiency, balancing of resources and quality). Finally, even if such a link would be established, the project could risk becoming too normative – suggesting that a certain issue cannot be tackled without a CR effort, which could even be counterproductive in the currently sensitive political climate.

The second possible way to continue with the project is to focus on specific target groups, for example those marginalised or often discriminated against such as women and national minorities. While such an approach would have obvious advantages when compared to an issue-based approach – including the possibility that members of these groups would define for themselves the relevant topic and issues to work with – we consider any such intervention to be too narrow and thus not in accordance with the requirements of the current state of affairs in CR in BiH and the stage of the process the country is currently in.

Based on our observations and interviews, the review team is of the opinion that the project should continue for at least some three to five years first, with an option for an extension of similar duration following a thorough evaluation in between, and focus prevalently on *processes and procedures*. While in the previous phases of the project issues (like gender or local self-government) were utilised to tackle processes and procedures, we believe that the next phase should exclusively focus on *processes and procedures themselves*. Such a concept of the project would have significant advantages: A purely procedural orientation of the project would allow it enough flexibility to embrace certain themes that transpired in our consultations, which are largely considered to be “neutral” and important for everyday lives of citizens, such as the single economic space, organisation of agricultural production or local autonomy and self-government. Such an intervention could be conducted on several fronts, keeping the multilevel orientation of the previous phases of the project. The main goal of the intervention would be to work towards empowerment of a broader set of actors, creating necessary links and networks and sharing knowledge on issues of relevance to constitutional reform. In short: cultivating constitutional dialogues in BiH.

The next phase of the project would be based on an understanding that it would be hard to engage the citizenry at large in these dialogues (due to the often abstract nature of the issues involved), and that a *focus on political actors, relevant NGOs and different interest groups* would be both more realistic and more fruitful. In accordance with the main idea of the project, but also taking into account the realities on the ground, this intervention would aim at influencing the public discourse on CR and address the perceived CR fatigue: by demystifying CR issues, revitalising discussions by providing fresh insights and, even more importantly, by introducing other actors in these crucial dialogues.

The intervention would follow the main idea and main premise of the previous phases of the project, in particular the need to work with a variety of actors and groups, with some rather significant adjustments.

First, institutions – parliaments and governments at different levels of organisation of the state would be trained, equipped and provided with resources regarding inclusive decision-making and consultation with civil society and citizens at large. It is important to emphasise

that, while the previous phases of the project were focused on the BiH Parliamentary Assembly only, in the next phase this line of intervention would need to include the different levels of government simultaneously, with a possibility of putting slightly more emphasis on the Federation of BiH. This layer of the project could involve such activities as introducing mini-libraries on relevant CR issues in parliaments at different levels, translation into local languages of some of the key contemporary books and articles on CR of relevance for BiH, tailor-made trainings for research departments of the parliaments, and study trips (which, as several of our interlocutors have confirmed, tend to be very popular and effective).²⁵

In the same vein, the currently rather limited procedural options for inclusion of civil society and citizens in decision-making processes could also be tackled, with reference to the more promising models applied not only in Switzerland but also in other contexts. Apart from rules of procedures at parliament, which should be improved to ensure meaningful CSO participation,²⁶ one possible method of consultation and deliberation that could be tested and applied within the project is *deliberative polling*. It is a unique technique combining public opinion research, qualitative and quantitative research and public outreach (television) – which would be particularly helpful in providing a platform for the much needed discussions of citizens from across the state and from different communities on pertinent issues.²⁷ In particular it has been applied with success in other divided societies such as Northern Ireland^{28 29}. One such event could be followed by a series of smaller-scale deliberative events across the state. Organisations with experience in civic education – such as the Nansen Dialogue Centre, which focuses on fostering inter-community dialogue in the field of education – could potentially be ideal to partner with in such deliberative events.

²⁵ Not only in our interviews but also during the final conference and in some other contexts several participants noted their positive impressions and the relevance of study visits. A case in point are two interviewees who stated that what they had learned about the Swiss election system in terms of open lists and distribution of votes between individual candidates from different party lists (*“panaschieren”*) were of good use in their parliamentary work. Our sources also suggest that dialogues and discussions amongst the participants were much more open outside BiH – even with regard to contentious political issues.

²⁶ For more information on the procedural options to submit initiatives and proposals reference is made to the separate briefing paper authored by Christian Haupt for the purpose of this evaluation: Analysis of Rules of Procedure on Citizen Initiatives, External Experts, and Public Hearings.

²⁷ For a concise summary of the main idea see the relevant webpage of the Centre for Deliberative Democracy at Stanford University, available at <http://cdd.stanford.edu/polls/docs/summary/>. The basic steps of a deliberative poll are shown in Annex 3. A team interview with Professor James Fishkin, director of the Centre and pioneer of deliberative polling, (held on 24 February 2014) also confirmed that this could be a realistic activity within the project.

²⁸ In Omagh, Northern Ireland, a scientific random sample of Protestant and Catholic parents (600 polled, 127 participating in the session) deliberated in 2007 about policy concerning children’s education in the region. The results suggested that parents were open to discussion and willing to change their opinions and that deliberation can enhance mutual trust in divided societies. Reportedly, approval has meanwhile been granted for Northern Ireland’s first-ever shared campus for Catholics and Protestants at Omagh.

²⁹ We propose the intervention of a deliberative poll also because it would build up critical skills and experience in BiH (of the local co-organisers, the moderators, the group that defines the poll themes, the participants etc.). At the same time we also understand from our interview partners in Switzerland that such an intervention would be an interesting learning opportunity for them too – a potentially positive side-effect. It could also offer the opportunity to involve other Swiss experts such as Professor André Bächtiger (University of Lucerne), holder of a research professorship on “deliberative reforms” of the Swiss National Science Foundation.

Second, the line of intervention targeting civil society could also be continued, this time with a new and explicit emphasis on developing skills, sharing knowledge and providing structured platforms for discussion on the relevant issues pertaining to the participatory decision-making in particular. This line of the project could involve advocacy workshops, roundtable discussions and various deliberative panels with representatives of different CSOs and interest groups, thus enabling a decisive move, in the words of political scientist James Fishkin, *from raw to refined opinion* on constitutional reform issues – in particular its timing, participants and terms of participation.

Finally, the youth component would be broadened and transformed into a component of “participatory capacity building” for an extended set of actors, including students and university professors and educators, think tanks, non-governmental organisations with some research capacity but also experts in political parties. Activities would include producing joint research outcomes or discussion papers to be shared with politicians at different levels and NGOs; participating in potential deliberative polls as facilitators; preparing materials for public events, conceptualising round table discussions and participating as speakers; translating the relevant CR literature into local languages; developing online repositories of relevant documents and online platforms for learning and exchange on issues of relevance to CR; or delivering structured educational programs and workshops to e.g. politicians or parliamentary committee members.

The underlying idea is that all the participants in this segment of the project would feed the other two components with the relevant documents, analysis, policy briefs, discussion papers, translated works, and other materials. Considering the importance of the project and sensitivity of the intervention, a rigorous peer-review process should be put in place for all written outputs. As a result, the project would gradually develop a pool of expertise made out of the participants and beneficiaries of the project – and thereby broaden influence and impact of the project.

The different components of the project and specific activities within each of them should thus be designed in such a way as to enable continuing communication, interaction and discourse among the different groups of actors. Achieving this is feasible given the coherence of the components. Our proposed intervention capacitates separately key stakeholders in the constitutional reform process (namely politicians, members of the academia and legal experts, civil society organisations and citizens), involves them gradually in the project delivery and brings them together in different constellations and roles. In this context, in addition to the above-described role and cross-cutting activities of participants in the participatory capacity building component, carefully planned roundtable discussions, consultative exercises and various deliberative events gathering participants from different components of the project would bring about the necessary coordination and communication, simultaneously establishing valuable and potentially lasting links between the actors and sensitising them to the values of communication, consultation and cooperation.

Conclusion: The review team suggests a longer-term intervention focusing on processes, but leaving space and flexibility to identify suitable issues and target groups as the project deems it necessary.

2.4.3. Synergies with other Swiss programs

The constitutional reform project has been closely intertwined with SDC's Local Governance domain with the objective to “...*further support the development of functional political, administrative and fiscal decentralisation processes by fostering the creation of prolific cooperation among all governmental tiers (municipalities, cantons, entities and state) ...*”.³⁰ Accordingly, SDC's Roadmap Local Governance and Municipal Services Roadmap 2013-2016 foresees interventions that, *inter alia*, develop the policy framework and institutional capacities of local governments and sub-municipal structures, increase citizens' participatory role and improve professional and institutional capacities of two entity ACMs.

The outcomes described above under (see 1.3.2. Effectiveness, Bundle 3) fit well into this strategic frame. They fostered vertical and horizontal links and aimed also at ensuring better municipal services to citizens. Notwithstanding, we argue that the proposed “promoting constitutional dialogues” intervention should operate separately from the local governance portfolio for at least two strong reasons: First, it is conceived as an overarching and all-encompassing intervention that may yield effects not only to the Cooperation Strategy but also, for instance, the strategic frame of the Human Security Division, particularly as regards the objective to strengthen democratic institutions. Second, designed as a process-oriented intervention, it will shift its focus and priorities as deemed fit and may, as a result, focus on other aspects than local governance. In fact, strengthening local governance is just one part, arguably a minor part, of the constitutional reform agenda of BiH, as seen, for example, from the perspective of the relevant European institutions.

However, with its process orientation the proposed intervention will by default not work in isolation. Apart from already existing SDC / Swiss Embassy inter-office formats of collaboration (weekly/monthly meetings) a project steering board should be the platform where synergies between the constitutional dialogues project and the local governance domain are identified and captured. Overall, our proposed intervention is conceived to complement and reinforce the manifold support that Switzerland renders to BiH.

2.5. Project organisation

2.5.1. Beneficiaries

The main goal of the proposed intervention would be cultivating constitutional dialogues in BiH that involve and empower a broader set of actors, creating necessary links and networks and sharing knowledge on issues of relevance to constitutional reform and the workings of constitutionalism in BiH. In order to achieve this objective we deem it essential to primarily work with beneficiaries who are likely to show sustained interest and have the requisite

³⁰ SDC 2012

reputational clout to credibly engage in the constitutional dialogues as well as eventual constitutional reform. This means, consequently, that the project will predominantly work with select beneficiaries – politicians and parliamentarians, civil servants as well as scholars, experts and change agents in universities, think tanks, media and other interest groups. In light of the process orientation it appears redundant (actually, counterintuitive) to single out who *exactly* will eventually benefit from the proposed intervention. It should suffice to restate that it operates transparently and inclusive, not shying away from including pronounced and vocal persons and groups. Finally, in its previous phases the project built up a credible history of integrating and delivering on gender equality and this shall be continued under the proposed intervention, which can offer ample opportunities in this regard.

2.5.2. Project partners

With regard to the project partners, our position is similar to that explained above; the partners that the project will emerge during the project's implementation. We thus refrain from identifying *the* partners but rather explain the qualities and characteristics that we believe the partners should have.

Implementing agency(ies): The process orientation of the intervention defines the requirements of the implementing partner to a large extent: It will require a competent, multidisciplinary and creative organisation, with enough energy, knowledge and sensitivity to implement the seemingly less ambitious but essentially more demanding next phase of the project. The capacity to shape the agenda, the ability to craft and foster coalitions and to identify and resort to external resources in BiH and abroad (in Switzerland and elsewhere) will be as instrumental as the willingness to embrace new methods of thought and social interaction as well as new technology. Finally, and probably above all, the organisation should have proven project management capacity and experience.

It is an interesting thought to consider entrusting a consortium of two or more complementary organisations to implement the programme, which would not only contribute to fostering the much needed organisational collaboration but also allow sharing managerial and technical responsibilities. This might spark more creative ideas, opportunities to reach out and be attractive to more diverse actors, and also bring about reputational gains.

Implementing partner(s): The actual implementing partners depend, similar as explained above in terms of the beneficiaries, on the course of action and the issues on the agenda. Flexibility in terms of content but also flexibility as regards the partnerships is needed. Think tanks, universities, consultancies, civic and other interest groups and businesses – to name but a few – are the vast pool out of which partners can be identified. For specific interventions, such as the proposed deliberative poll, the Centre for Deliberative Democracy at Stanford University would be the partner of choice.

Beyond choosing the implementing partners it will be instrumental to coordinate – and to the extent possible – actively engage key players such as the European Union or the Council of Europe, even though these organisations would not have a formal role. The Swiss Embassy can have a facilitative role in this regard.

2.5.3. Project governance

This new project will again operate in a changing environment and – even though oriented on processes – touch upon delicate and sensitive issues. Considering the prominence that the project eventually plays, a robust governance structure – apart from clear terms of references, processes, procedures and regulations that govern the operational aspects of the project implementation – is warranted. The project governance should include a *steering board* and an *advisory board*.

First, a *steering board*, as the key governance structure, would be responsible for all issues that are essential to ensuring the attainment of project outcomes. It would act as a forum for making final decisions and would assume the role of a vocal and visible project champion. It should consist of representatives of the Swiss Embassy and the SDC (including those from e.g. the Local Governance and Human Security Dimension sections), representatives from selected key stakeholders and distinguished external, independent representatives.

Second, a competent *advisory board* would provide necessary technical guidance and advice in crucial stages of the intervention. While this body does not need to be equipped with decision making power, it should consist of members that by virtue of their competence can play a supportive and/or corrective, authoritative role. Experts from Switzerland and Bosnia and Herzegovina alike should partake in the advisory board.

2.6. Risk assessment

The situation in Bosnia and Herzegovina is currently in flux and developments need to be closely and continuously observed in the decision making processes for the continuation of the project and in the run-up to a new project intervention.

2.7. Open issues

Cost of deliberative polling: In the event the above mentioned option of carrying out a deliberative poll will be pursued, budgetary implications need to be assessed in more detail. A *preliminary estimate* of the cost would be in the realms of 200'000-250'000 CHF.³¹

³¹ Estimated on the basis of a survey of 1'200 randomly selected citizens; training of 20 moderators; 300 participants at a two-day workshop in Sarajevo; costs of 250 working days of local implementing partners and 80 working days of the Centre for Deliberative Democracy; six-month project duration.

Annex 1: Interview Partner Mapping

The purpose of the mapping is to identify the key actors working within the field of constitutional reform in BiH, their main type of interventions and their focus on constitutional review. This mapping draws conclusions mainly from the interviews and some documents; it is not considered to be exhaustive, i.e. to grasp the entire CR landscape in BiH.

Table 2: Project partner mapping with focus on constitutional reform

Actor	Priority	Key Topics	Projects	Relevance / Synergies	Comments
European Union	++	Implementation of the ECtHR judgment <i>Sejdić and Finci (S&F)</i>, also in support of the fulfilment of the 2012 EU Roadmap requirements. The discussions of certain issues related to Chapter 23 and 24 in the framework of the structured dialogue on justice could address related constitutional reform. Possible similar dialogues regarding education and economy might lead to constitutional reform.	The EU does not have any specific constitutional reform project under IPA in the pipeline; yet it provides support to sectoral reform and public administration reform. The EUSR has assisted the EU Commissioner for Enlargement and European Neighbourhood Policy in facilitating local political leaders' efforts to implement the ECtHR judgment.	A credible effort for the implementation of the S&F judgment is the only condition left for the SAA to enter into force as set by the EU Council in March 2011; other constitutional reform issues may arise as issues related to the accession chapters are being implemented.	Co-ordination with any future Swiss supported project is welcome. However, due to its mandate, the EU's role cannot be perceived as neutral. The issue-based discussions could require regular exchanges between the implementing partner and the EU.
Organisation for Security and Cooperation in Europe OSCE - Mission to BiH	+	Implementation S&F judgment.	No specific constitutional reform project but parliamentary support programmes at State and Entity levels and Brčko District as well as local government reform programmes.	OSCE Chairmanship Switzerland (2014) Appointment of Gerard Stoudman as Special Envoy for the Western Balkans.	Co-ordination with OSCE should include ODIHR and the OSCE High Commissioner on National Minorities.
Council of Europe	+++	Monitoring of the implementation of the S&F judgment. Further ECHR judgments with constitutional reform implications are pending to be delivered (<i>Pilav</i>).	Support to the website constitutional reform in BiH (www.ustavnareforma.ba). Strengthening accountability of women and young political leaders in BiH, (co-financed for 21	The website could serve potentially useful for a future project. Annual series of seminars and conferences on topics such as European integration, democ-	Switzerland as a member of the CoE should continue to use expert bodies of the CoE and the MPs to further enhance knowledge on European best practices and comparative exam-

		Implementing the judgment is “a first step in the comprehensive constitutional reform that is needed in order to move away from the institutional straightjacket created by the Dayton Constitution, towards a modern, euro-compatible and functional democracy in which every citizen, regardless of his or her ethnic affiliation, enjoys the same rights and freedoms.” (PACE Rec. 2025).	months by USAID and CoE) includes two components: School of Political Studies for future leaders in BiH. Political empowerment of women in rural areas.	racy, human rights, the rule of law and globalisation.	ples.
Office of the High Representative	+	Implementation of the S&F judgment discussed by the PIC.	Non-written condition suggested by the US and some EU countries to be assessed by the PIC in order to be able to close the OHR	Little synergy, light co-ordination needed.	As the guardian of the Dayton structures, the constitution and VNI, the office of the OHR could be a potential hindrance to constitutional reform.
Embassy of the United States of America / USAID	++	Federation of BiH constitutional reform; implementation of S&F judgment. Civil society support component (see below PILPG).	FBiH constitutional reform working group (2012-2013) submitted 186 proposals for constitutional reform; as of February 2014 in the relevant Federation of BiH Parliament Committees a decision on the draft constitution is pending; no other projects in the pipeline.	More co-ordination is needed in the future to avoid overlaps in the work with the civil society. The Swiss project fills a gap by working with the Parliaments, MPs.	Continued support to the FBiH constitutional reform process is somewhat depended on the new Ambassador. The technical assistance was completed.
United Nations (UNDP)	+	Soft support to constitutional reform through capacity building activities.	UNDP works with CSOs, academia and MPs/staffers from parliament to enhance and promote dialogue between legislators and the civil society.	Much of the UN’s work will focus on reconciliation in the future and supporting mechanisms for dialogue. Something to be potentially built upon by other projects.	The UN seem to be one of the very few organisations which recognises that reconciliation is still very much needed in BiH.
Public International Law & Policy Group (PILPG)	+++	Constitutional reform (formal and material), increasing citizens’ awareness, translating constitutional reform into “day-to-day” relevance.	Engaging civil society in constitutional reform; small grant scheme operation for civil society organisations.	PILPG leads a co-ordination platform and had a good distribution network of their publications.	PILPG operations are due to finish in mid-2014; unclear at present whether project will be continued; energised and vocal

					project leader.
Analitika	+++	In the framework of the Public Law Programme, Analitika continues to focus, among other things, on constitutional and issues of political participation.	Book on S&F analysing the judgment and possible modalities of its execution. Continued engagement in the field of political participation of minorities.	Public events, round table discussions, policy oriented analysis and discussion papers.	The organisation considers it a think-tank but also has substantial project management skills.
Vaša Prava	+++	Constitutional reform (to a large extent) is generated by their strategic litigation.	Within the framework of the anti-discrimination, human rights and rule of law work litigation is continued, publications are issued.	Most qualified legal aid organisation in BiH, excellent knowledge of constitutional law of a few lawyers.	Judicial processes are slow; the NGO's capacity is limited, though talented pool of lawyers to work with.
National Democratic Institute	+	No specific constitutional reform focus for the time being.	Support to political parties.	Issue based discussions, creating networks, lot of election related work. Facilitative methodology.	The work is limited by party political agendas, and limitations to work with selected political parties.
Public Law Centre	++	Constitutional reform proposal commissioned by Naša Stranka. They also publish analyses of relevant public law problems, including constitutional reform issues.	Constitutional reform proposal is one at a time project, broadly distributed publication. They remain active through their continuous publications on pertinent issues.	Occasional papers of relevance for constitutional reform.	Academic in orientation and execution. Heavily focused on written outputs and their legal magazine. Normative analysis often with no policy consideration.
Centre for Civil Initiatives	+	No constitutional reform focus.	Issue based NGO coalitions are promoted, more organised civil society is the main goal. Virtual Parliament.	Present at state, entity, canton and local level.	It may be perceived non-neutral as it is under the aegis of USAID as the main donor.
Nansen Dialogue Centre Mostar	+	No constitutional reform focus.	Promoting dialogue mechanisms in schools, aims to overcome ethnic divisions.	Alternative methods for dialogue are used in ethnically divided schools.	Supported by Norway, perceived as neutral donor.
“Zašto Ne”	+++	Inclusive constitutional reform and government accountability.	Web 2.0 applications and online platforms: truthometer, voteometer etc.	At the time of project implementation broad interest, good outreach. Data pool and statistics; expe-	Perceived as non-neutral; vocal, candid and confrontative approach vis-à-vis politicians.

				rience with applications and social media.	
Foreign Policy Initiative	+	Governance reform process in BiH, Foreign Policy and EU Integration.	Tried to promote debate on constitutional reform in BiH; many projects and research outputs on EU Integration.	Publications, trainings, e-learning to potentially co-ordinate with.	No relevant constitutional reform projects in the last couple of years. Almost entirely focused on issues of EU accession; yet limited constitutional reform relevance.
Konrad Adenauer Stiftung	++	Some constitutional reform focus.	Working with political leaders of second generation, issue based discussions. Support to the constitutional reform website (www.ustavnareforma.ba).	Co-ordination is needed to avoid overlaps (internships, study visits, issues).	It may be perceived non-neutral as it is under the aegis of German CDU and Christian-conservative background.

Annex 2: Project Phases and Evaluations Overviews

This table shows the objectives, outcomes (outputs) as they were formulated in the respective project documents or credit proposals.

Table 3: Project objectives and outcomes per phase

Phase	Duration		Objectives	Outputs / Outcomes	Implementers	Budget (CHF)
1	12.2004	09.2005	In the short- and medium-term this project will make a contribution to the constitutional discussion in Bosnia-Herzegovina. Moreover, the project will contribute that new, self-directed future prospects can re-emerge. [...] Switzerland will be able to position itself vis-à-vis other bilateral partners and international institutions respectively as a serious actor in the political dialogue.	○ Publications ○ Creation of a network ○ Focus on relevant future topics ○ Strengthening partnership BiH-Switzerland ○ Visibility of Swiss bilateral and multilateral presence	○ HRC	166'123
2	07.2006	12.2007	Permanent sensitivity of the wider public on the necessity of constitutional reform is the aim that should be maintained as a permanent process and firmed. Sensitivity is directed towards central issues like civil rights and relations between municipalities and state.	○ Promotion of political culture (discussions) and engagement of citizens ○ Support to local actors in processing of constitutional reforms ○ Promotion of networking between actors dealing with constitutional reform issues	○ HRC ○ Nezavisne Novine ○ Youth Information Agency	314'755
3	08.2008	07.2010	Constitutional changes are result of wide compromise, representing the interest of the entire citizenry of BiH, achieved through democratic process led by authorities in conjunction with civil society organisations, the media and the broader public. Strong emphasis is given to the state and nation building in BiH.	○ Public discussions ○ Strengthen networking, influence on political decisions and processes, integration of good practices ○ Capacity building to facilitate power-sharing and strengthen institutional processes and decision making ○ Improve basic knowledge of youth/students on divided societies ○ Capacity building of civil society exponents	○ HRC ○ ZDA	853'670
4	02.2012	11.2013	The project substantially contributes to set the basis for elaborating and articulating a real vision for BiH's development, for building up a democratic political culture (and system), as well as for promoting a participatory constitutional reform process.	○ Strengthening local governments and Associations of Municipalities and Cities in their role as constitutional reform promoter ○ Capacity building for youth representatives as active stakeholders of the constitutional reform ○ Strengthening the work of gender-oriented NGOs for constitutional reform ○ Capacity building for BiH parliamentarians, engaged in constitutional reform	○ HRC ○ AMC RS ○ AMC FBiH ○ ZDA ○ TPO Foundation + 10 subcontractors	1'082'619*

Note: Information regarding phase 1 translated from German into English. Formulation of the respective outcomes per phase shortened in comparison to original wording.

* Provisional data as of 28 February 2014.

This table shows key messages taken from the past evaluation reports of the first three project phases. The key messages are shortened. Evaluation dimension achievement (high, medium, low) assessed by the team leader. Score n/a where pertinent information on the evaluation dimension could not be identified from the respective evaluation report

Table 4: Key findings of past evaluations per phase

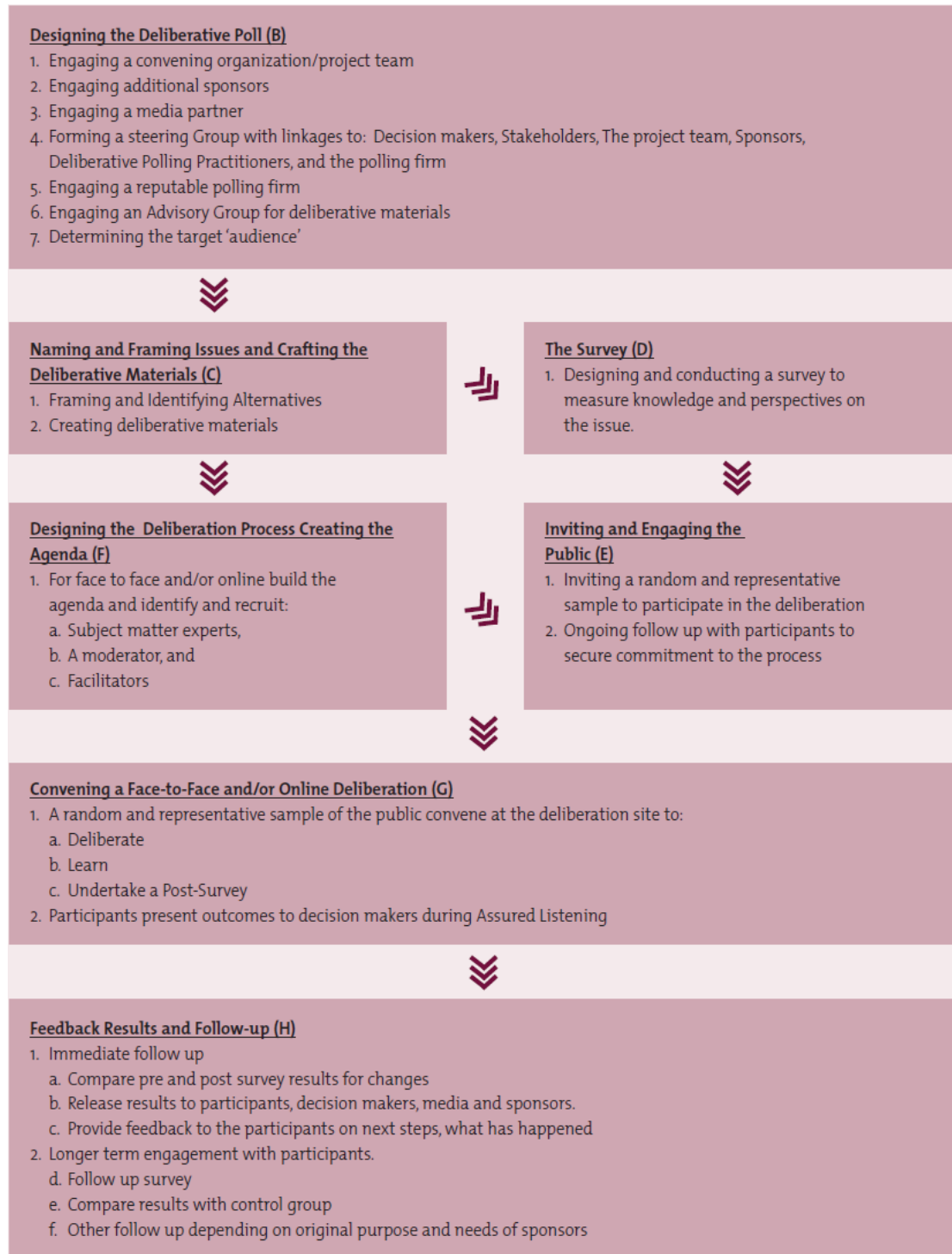
Phase	Type	Relevance	Effectiveness	Efficiency	Impact	Sustainability	Project Management
1	self-eval. (end-report)	high	high	n/a	high	medium	n/a
	Comments	importance of the project has been recognised by SDC	all deliverables delivered, minor deviations	n/a	- CR became one of the most important political issues, - visibility and recognition of Switzerland as partner in CR	- difficult to be noted, - first phase set the basis and was directed towards increasing awareness, - relevant actors followed-up project, - unique study of constitutional debate by local researchers	n/a
2	Ext. eval.	high	medium	low	n/a	medium	low
	Comments	in accordance with existing problems and needs in BiH	- activities contributed to effectiveness of the project, - managed to gain interest of wider public and majority participation	- single activities mainly efficient, - delays and changes of activities significantly changed, - links between activities and partners not established	- credibility of partnering NGOs increased - project operated in turbulent environment that was not conducive to achieving more impact	- increased interest, motivation, knowledge, capacity and recognition of project partners; 80 NGO-network "European Movement", - policy papers and legislative proposals and publications	no joint and elaborate monitoring system of the implementing partners

3	Ext. eval. 1	high	n/a	n/a	n/a	n/a	n/a
	Comments	- high beneficiary satisfaction and appreciation, - relevant in the pre-/post-October 2010 political environment, - relevant based on interview feedbacks	- reference to statements of interviewees on effectiveness; - learning products created	reference to statements of interviewees on effectiveness	valuable side-effects achieved	- constitutional changes need time, "quick fixes" are not possible	high quality role of SDC project manager and ZDA project director
4	Ext. eval. 2	high	high	high	medium	medium	low
	Comments	- beneficiaries expressed unreserved gratitude, - effective approach of managing highly sensitive project yet with low profile	- three objectives fully accomplished, two partially; - intense work carried was out	- outputs that were achieved outweigh the inputs, - good geographical coverage, - partners showed competence and leverage	- many aspects of overall goal accomplished, - momentum was created, despite overall unfavourable political context - CSOs considered as crucial stakeholders for CR	- culture-changing project that takes time, - closer cooperation enhances sustainability, - results represent valuable resource	- division of management between partners cumbersome, - insufficient interaction and flow of information, - lack of coordination, synchronisation and synergy

Note: Scoring high, medium, low, n/a according to assessment by team leader based on document review, comments taken from the respective reports. Formulation of the outcomes shortened in comparison to original wording. Ext. = external; eval. = evaluation.

Annex 3: Deliberative Poll Overview

Figure 2: Basic steps for developing and implementing a deliberative poll



Source: KBF-FRB and viWTA, 2005

Annex 4: Pros and Cons of Intervention Options

Option 1: Process orientation – who gets to participate, whose voice will be included, rulebooks and procedures

Pros	Cons
• neutral, non-contentious approach	• takes a long time to yield results
• leads to empowering different actors	• requires creative and skilled implementer who is able to put the dots together
• builds knowledge	• difficult to design and implement (reactive, adapt to different target groups and issues)
• builds horizontal and vertical links among different actors	• less visible constitutional <i>reform</i> focus
• approach is realistic, acceptable	
• flexible, able to react to needs as they arise	
• generates indirect impact (regarding topics and reach)	

Note: process-orientation can be coupled with issues of “more functional state and more sustainable state institutions” and “fundamental values”.

Option 2a: Issue based orientation – constitution/constitutional reform and implications for economy, education, agriculture etc.

Pros	Cons
• more related to citizen’s concerns	• limits the scope of the intervention to the selected issue(s)
• more related to local government’s responsibilities	• difficult to translate citizens’ concerns into constitutional implications (example: quality of education does not necessarily depend on constitution) – except e.g. functional state, fundamental values
• (in our consultations) preferred by civil society organisations	• the more specific the issue, the narrower the participation / outreach potential
• technical issues are in the focus rather than political issues	• prone to politisation (every issue is eventually seen through ethnic lens)
• attractive to donors (?)	

Option 2b: Issue based orientation – constitution/constitutional reform and functionality of the state and fundamental values

Pros	Cons
addresses the cost of the state(s)	creates asymmetric intervention / dialogue (FBiH, RS)
addresses European integration requirements	carries bad connotation (third entity, no entities, no cantons, fewer cantons)
	difficult to explain the aim and message of the intervention (i.e. regarding entities yes/no, cantons yes/no)

Option 3: Target group orientation – constitution/constitutional reform and meaning for / involvement of selected target groups (youth, women, elderly people, business persons, local governments, civil society organisations etc.)

Pros	Cons
“peers” talk to each other and can possibly be better rallied (→constituency)	is “dividing” / “exclusive” (already based on the choice of groups)
more likely to achieve concrete results	leaves little place to change to more suitable target groups during implementation
groups from the same background are used to work together, could have established networks to tap on	does not necessarily result in constitutional reform as the target group may not be decision makers nor have necessary link to decision makers
same working methodology is more likely to be already established amongst same / similar target groups	may fragment the intervention (either because of too many target groups or too few to make links among activities)
	harder to establish links between the activities/results

Annex 5: Terms of Reference



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Federal Department of Foreign Affairs FDFA
Swiss Agency for Development and Cooperation SDC

Terms of references (ToRs)

External Review of the Contribution to Constitutional Reform in Bosnia and Herzegovina (BiH)

1 Introduction and Background

1.1 Context

Bosnia and Herzegovina's Constitution, which is contained in Annex IV to the Dayton Peace Agreement, establishes a complex institutional architecture (1 State, 2 Entities, and 10 Cantons). The political system in BiH has evolved towards one that is ethnically based and highly fragmented, featuring an inordinately low level of trust among ethnic groups at both the political and societal levels. Thus BiH's Constitution is a special case, not only due to the degree of international involvement, but also due to the fact that it is the most dysfunctional national charter of Europe, if not of the world. Power is decentralised to such an extent that effective governance becomes impossible and decision-making in the State's institutions is paralysed by requirements for inter-ethnic consensus. The institutional structure is not conceived for a State of equal citizens, but divides power between ethnic groups, thus cementing earlier divisions and making it more difficult to overcome them. This reflects the fact that the objective of the adoption of the Constitution in 1995 was to stop the fighting and not to build a modern State. The main emphasis is on ethnic representation and safeguarding narrowly understood ethnic interests according to a zero-sum logic. Legally, the main flaw of these arrangements is that some provisions are based on ethnic discrimination, as pointed out by the Venice Commission and more recently the European Court of Human Rights (ECHR)¹.

While progress has been made under the current constitutional structure, it still offers too many possibilities for political obstructionism. The misuse of provisions such as the "entity voting"² and complex rules on quota prevents swift decision-making; it therefore permanently hinders necessary reform processes, and thus the country's capacity development to make rapid progress towards the European Union. Without constitutional change and reordering of governmental authorities, the country cannot realistically address the imperatives of the Stabilisation and Association Agreement (SAA)³; nor can it hope to finance the required state institutions.

The Council of Europe's Venice Commission concluded in March 2005 that a constitutional reform in BiH is necessary, because the current constitution lacks democratic content and is incompatible with the International Convention on Civil and Political Rights and the European Convention on Human Rights (ECHR).

The first comprehensive attempts at reforming "Dayton" came about in 2005 under the lead of the US Department of State. A set of constitutional amendments was agreed behind closed doors, the so called April package. However, the Parliament failed to ratify the amendments by the required two-thirds majority.

By signing the Prud Agreement in November 2008⁴, the leaders of the three main political parties committed themselves to initiate the process of Constitutional Reform and to introduce measures

¹ Case of Sejdic and Finci v. BiH; ECHR, Judgment 9, December 22, 2009 on the elimination of discriminatory regulations which prevents members of non-constituent peoples seeking election to the Presidency and the House of Peoples; new deadline to reach agreement March 2013;

² A provision in the Dayton Agreement that was intended as a safeguard mechanism for legitimate interests of the two Entities in voting on laws and reforms at state level, but which is often used by the Serbian MPs (22%) to veto state building endeavours;

³ In 2008 the EU and BiH, as a potential candidate for EU membership, signed the SAA within the framework of stabilisation and association process.

⁴ This was the first ever domestic attempt to reach agreement on reform matters without the involvement of the international community which also failed.

for harmonising BiH's Constitution with the European Convention on Human Rights. Still, the Prud leaders' meetings soon showed diverging views on the future organisation of the country.

In autumn 2009, a new international effort on BiH's Constitutional Reform was launched. The so called Butmir Process represented a joint EU-US initiative to break the long-standing political stalemate. This was one more process guided by the international community, including only top political decision-makers of the country, within the military camp in Sarajevo. This process was almost completely detached from citizens and civil society, and it failed again.

Finally, in December 2009, the European Court's for Human Rights judgment ordered the elimination of all discriminatory regulations from BiH Constitution which prevent members of national minorities to run for seats in BiH Presidency and BiH House of Peoples. This decision of the European court gave the calls for constitutional change a new sense of urgency. No agreement has been reached (see footnote on Sejdic-Finci case).

A major achievement is the adoption of an Amendment to the Constitution that establishes Brčko District as a unit of local self-governance. This step forward opens the way to the termination of supervision by the Office of the High Representative (OHR).

Political stagnation, nationalistic rhetoric and constant attempts to diminish the power of state continue. The debate about Constitutional Reform doesn't refer to the possible role of civil society.

The EU has been particularly ambivalent about the Constitutional Reform process, supporting the US-led efforts and then subsequently stating that constitutional changes are not a requirement, but are necessary underlying that the internal structure of BiH is in absolute jurisdiction and responsibility of local institutions.

1.2 Background of the Project and Preliminary Phases

As there is growing recognition that the constitutional system of BiH has severe differences and deficiencies and does not constitute an adequate framework for building a prosperous future, the Embassy of Switzerland and its Cooperation Office (SCO) started the Project "BiH Platform" in 2005, with the aim to initiate a discussion on the political future of BiH and to intensify the ongoing dialogue on constitutional issues. The need for transparency and involvement of all relevant stakeholders into a debate on constitutional changes, including the general public, has largely been ignored by the local politicians and representatives of the international community alike. Additionally, the issue of dysfunctional local self-governance has often been raised. Cognisant of this problem, Switzerland focused its support on municipal administration to which it could provide expertise – on topics like direct democracy, federalism, power sharing, decision-making, social integration of regions and minorities.

The Project has been implemented in three phases:

- The *Phases 1&2 (2005 – 2006)* tracked an approach through decentralised debates. The project promoted a new political culture involving citizens, in addressing constitutional issues through panel discussions at municipal and regional levels, conducted by local organisations and civil society associations. The citizen's awareness on the relevance of the Constitutional Reform was raised; more than 800 representatives of different age groups regularly participated in the events; 17 debates were broadcasted by eFM Student Radio, covering the territory with a total population of 500'000 citizens; the same debates were further transmitted through the wider network of radio stations in the whole country.
- *Phase 3 (08/2008 – 07/2010)* was designed after a careful political analysis and the request by official BiH representatives to continue the Swiss support for the Constitutional Reform process, now not only focusing on communal and regional tiers, but also on the state level, including the political parties. The respective policy dialogue jointly led by the Swiss Ambassador and SCO with the main political party leaders and with high positioned decision makers, such as the Chairman of BiH's Presidency or the Prime Minister of RS, confirmed the good reputation of Switzerland as neutral, proficient and not interventionist facilitator. The project further yielded relevant results in the citizens' participation at communal levels (16 debates with more than 800 citizens of about 70 municipalities). It specifically produced important effects in the new action lines: a) strengthening of institutional capacities in existing regional/inter-municipal structures – mainly the Entities' Associations of Municipalities and Cities (AMCs) –, b) training for Members of the Parliament and political advisors of the main

parties, on topics like power-sharing or consensus-making in multicultural countries, particularly bringing in relevant Swiss experiences.

Furthermore, progress was achieved in strengthening Civil Society Organisations (CSOs) and in mobilising the wider public (e.g. 33'000 citizens signed a petition for the inclusion of 30 constitutional amendments developed by civil society networks). 141 educational workshops implemented by 13 women's organisations increased the knowledge on active citizenship and women's human rights; the number of woman candidates on parties' lists raised by 6% as compared to last elections. The cooperation with political officials lead to learning on different models of Constitutional Reforms (e.g. Assemblée Constituante of Geneva). It resulted in the proposal to set-up a first Constitutional Commission, approved by BiH's Council of Ministers; but it never discussed in BiH parliament.

The *External Review of 2007*, conducted by local consultants, evaluated the project as successful related to a proactive inclusion of relevant civil society actors, which led to more in-depth understanding of constitutional changes among BiH's citizens. The project additionally benefited from an inherent flexibility and responsiveness to sudden political changes. A further continuation of the project was recommended with the recommendation to develop a vertically integrated approach and a close cooperation with key decision-makers at different levels of the government and with the representatives of the political parties.

The *External Review after Phase 3*, conducted by a Swiss and local expert in 2010, stated the strong relevance of the project and recommended its continuation. The main recommendation concerns the time notion; the reviewers affirm that a *Constitutional Reform is a culture-changing endeavour*, which requires a long-term oriented development and implementation plan (longer than initially anticipated by SDC). The review also stated that operational flexibility is required in order to further address changing context factors. Based on the findings of this review it has been decided to establish continuity, mainly to preserve the achieved results, but also to prepare the ground for possible future interventions in the frame of a more coherent strategic package.

A *bridging phase of 18 months* (06/2012 – 12/2013) has been designed. The former achievements of the present project build a solid base of trust among key partner's at all institutional and societal tiers; the provided Swiss expertise is highly recognised as relevant for BiH's context.

1.3 Bridging Phase

The *Overall Goal* of the current phase is to contribute to set the basis for elaborating and articulating a real vision for BiH's development, for building up a democratic political culture (and system), as well as for promoting a participatory constitutional reform process. It is obvious that all these projections are (have to be) long-term objectives of BiH's society and its governments at all tiers.

The *project aims to produce results* in four areas:

- Local governments are able to promote changes in policies which lead to the formulation of a constitutional frame relevant for self-governance;
- Applied knowledge about democratic processes, ethnic and social integration as well as human rights of young academics has been amplified ;
- Woman and men in political parties are proficient to play a pro-active role in their communities and groups (specially in promoting gender equality in all political processes); woman in rural areas are getting empowered and skilled to apply (defend) their civil and political rights;
- Members of Parliament (MP), other politically relevant stakeholders in leading and/or contributing to a constructive debate about a coherent and participatory Constitutional Reform (RF) process, have improved their respective knowledge and consistently apply it in relevant debates or decision making.

A *specific action line* of the bridging phase aims at setting elements for a coherent and more strategic package of future interventions to be realised by the local key partners.

The main *implementation methods* consist in educational and training programmes, networking activities and in a focused exchange of experiences between Swiss, international and BiH experts. Furthermore, public debates (with a particular emphasis on empowering women voters), as well as dialogues with political key actors are facilitated to establish vertical and horizontal anchoring of the results within the existing structures. The project is process oriented; it responds to the needs,

and builds upon potentials of RF key actors; thus, it is exposed to (and can be affected by) eminent changes in the country's socio-political context.

The project is implemented by the Human Rights Centre of the University of Sarajevo (HRC). HRC established sub-contracts for specific action lines with the Centre for Democracy in Aarau (Switzerland), the Intercultural Psychosocial Educational Foundation (TPO) in Sarajevo, and two AMCs. The Swiss Cooperation Office (SCO) in close cooperation with the Swiss Embassy is in charge of the overall guidance and the policy dialogue at upper governmental levels.

An *External Review, in the first semester of 2013*, has been planned with the main purpose to set the elements of decision making towards a more strategic support of the Swiss Cooperation to BiH's Constitutional Reform process; a support that is well inserted in the efforts of national key stakeholders and soundly coordinated with initiatives of the international community.

2 External Review 2013

2.1 Objectives and Scope of the Review

The Swiss Cooperation and the Swiss Embassy to BiH basically endorse the continuation of their commitment to support BiH's Constitutional Reform process towards its (necessary) long-term goals. SCO also proposes to further work under a similar approach as up to present – a combination of "bottom-up" and "top-down" measures. Nevertheless, the rather scattered set of action lines, which are presently implemented by different contracting partners, needs to be streamlined within a more strategic package (plan). The necessary analytical steps towards such a strategic frame, which have to be negotiated with the national key partners and possible other cooperation agencies (e.g. EU), must be clearly defined and set into a realistic planning schedule for a follow-up project (or a next phase).

The *External Review 2013 shall primarily serve* informed decision making on future opportunities for a coherent support package of the Swiss Cooperation to BiH's Constitutional Reform (CR) process, based on an assessment of achieved results during the previous project phases, since 2005.

The conclusions and recommendations of the review will represent the *key elements for the strategic orientation and realistic planning* of a new project (or a project phase); in particular proposing a realistic timeframe for Swiss support actions from 2014 onwards, taking into consideration its relevance (responding to BiH's longer-term perspectives for the CR) and its strategic sustainability.

Specific lines of the External Review:

1. General (brief) appraisal of outcomes and impacts of the project since 2005; reviewing the reports of former evaluations as well as collecting views and facts among key actors of the CR process (including politicians, representatives of governmental institutions at different tiers, representatives of civil society organizations and citizens groups). Key aspects of the appraisal include:
 - The setting of the Swiss support project in the political, social and institutional context, and its possibilities to provide an adequate contribution to the CR process in the future.
 - The setting of the Swiss support project in the frame of other initiatives of the international community to support BiH's CR; where can a Swiss project provide a specific comparative advantage in the future?
 - The relevance of the Swiss project's approach (its intervention strategy) to create ownership of the national key stakeholders in (and for) the CR process; problems to be solved and potentials to be mobilised.
 - The satisfaction of key stakeholders (and of the ultimate beneficiaries) of BiH's CR process, with a specific view on the Swiss support; specific expectations towards a further Swiss support.
2. Propose strategic elements for decision making on (and for planning of) a future coherent and strategic support package of the Swiss Cooperation to BiH's CR process. Key recommendations should include:
 - Opportunities for further strengthening the roles of the Parliament, the Local Government Institutions, the Civil Society and Citizens in BiH's CR process; in particular to put democratic mechanisms in place.

- Realistic measures to address main challenges of the CR process which can be supported by a future Swiss project; in particular to achieve a realistic (necessary) degree of consensus among the key stakeholders, with a specific focus on the political opinion (power) leaders.
- Key aspects to address in the future setting of the Swiss support to BiH's CR process within the frame of the respective international cooperation scheme (who is who, who does what, or who should do what, and where is the specific place of the Swiss).
- A proposal for the future implementation structure of the Swiss project – the roles of SCO and the Swiss Embassy, HRC as implementer (or who else), the role of Swiss and national experts, key actors in the project's steering platforms, key actors in the coordination with the international community.

2.2 Methodology of the Review

The External Review will be based on SDC evaluation standards and general evaluation principles. A fair understanding of the project's context as well as a good knowledge of Constitutional Reform topics will be prerequisites to make a realistic appraisal of achievements and to elaborate future oriented recommendations. The external consultants will have to keep this in mind when they follow up the method as proposed below:

- Analysis of relevant planning documents of the project, and CR reference documents – relevant policies and concepts of national and international key actors.
- Analysis of BiH's CR process in relation to the new Swiss CS 2013-2016 to BiH.
- Analysis of previous evaluation reports (2007 and 2010), as well as information from the project's monitoring system.
- Insightful analysis of the relevant context for BiH's CR process, as well as the role of democratic institutions in BiH; problems and potentials in the present situation, projections on future determining developments, especially with regard to the strengthening of democratic institutions in BiH in general.
- Semi-Structured interviews with representatives of key actors in BiH's CR process, with key actors who have been (are being) involved in the project, with representatives of democratic institutions in BiH and of other donor agencies and expert groups – a list of relevant contacts will be established by SCO.
- Semi-Structured interviews with representatives of SDC and the Swiss Embassy, of the project implementers, with the Swiss project coach (Prof. Stojanovic), and with members of the project's steering board.
- Verification of key findings and preliminary assessments, as well as presentation of conclusions and elements for decision making on future support actions of the Swiss Cooperation to BiH's CR process, as well as recommendations how to strengthen democratic institutions during a one-day workshop at the end of the assessments in the field.

2.3 Deliverables of the Review

The review team will deliver the following:

- A one-day workshop at the end of the field mission with the aim to: a) discuss / verify the findings, the conclusions and recommendations with all key project stakeholder groups; and b) present / discuss possible scenarios and projections on the future approaches of SDC's support actions to BiH's CR process, with SCO BiH staff, representatives of the Swiss Embassy, with staff of the project implementation unit, the Swiss project coach and with local partners / experts.
- A draft review report of maximum 20 pages, Arial 11 (plus annexes) on the findings and recommendations, featuring a specific chapter on projections and scenarios for new support actions of SDC to BiH's CR process. The report shall be written in English and submitted to SDC in electronic form. The report will be structured and formatted in accordance to the document "SDC External Evaluations – Formatting Instructions".
- A final review report (under the same conditions as for the draft report).

2.4 Review Team

The evaluation team will be composed by:

An international consultant, with good knowledge of the general and the specific CR context in BiH, with profound and up dated skills on CR and related topics, with a strong analytical ability to produce practice oriented projections for CR support actions within SDC's programme in BiH, as well as with good writing skills in English (to prepare a report in a easily understandable language).

A local consultant, with good knowledge of in BiH's CR context (horizontal and vertical dimensions), with strong analytical ability to produce practice oriented projections en the, as well as with good writing skills in English.

Two advisors will contribute to the review with complementary technical expertise: one expert with regard to potentials for inclusion of political parties and parliaments in BiH (3-5 working days) and one expert with regard to the political economy and strategic planning of a future intervention (8-12 working days). Both experts will contribute to the preparation of the questionnaire, partake in and report on selected interviews, contribute to the evaluation report with specific inputs and overall act as resource persons for the team leader. One of the experts will co-facilitate the debriefing workshop. The concrete tasks of the two advisors will be defined in separate terms of reference.

The team will be complemented by a *local assistant for logistics and translations*, mainly during the visits to project partners (according respective need).

2.5 Proposed Review Plan

The mandate will have to be carried out between 13 January and 3 March 2014 in accordance with the timetable below.

Activities	Dates	Duration
Preparation phase		
Preparation for the review / briefings with SDC Berne, consultations with SDC BiH / reading of reference documents / interview with the Swiss project coach	January	6 days
Mission		
Travel to and from BiH	19.01.2014 3./4.02.2014	2 days
Formation of evaluation team, familiarisation with the general situation in BiH and the project's context; initial briefing in Sarajevo with SDC BiH, representatives of the Swiss Embassy and the project implementers	20.01.2014	1 day
Revision of project documentation and reports / interviews with key stakeholders / visits to selected project partners and beneficiaries	until 02.02.2014	9 days
Systematisation of findings / verification and discussion in a one day workshop	03.02.2014	1 day
Finalisation phase		
Writing and submission of the draft report to SDC BiH	Deadline: 24.02.2014	5 days
Systematisation of feed-backs and writing of the final report (comments to be sent until 07.03.2014)	Deadline: 03.03.2014	2 days
Final De-briefing in Berne	tbd	1 day
Reserve		1 day
Eventual telephone interview before/after the mission		
Total		28 days

2.6 Roles and Responsibilities

Evaluation Team:

- Preparation and realisation of the review in accordance with the present ToR;
- Systematisation of all information collected, and regular communication on intermediate results, findings and conclusions with the SCO BiH contact persons;
- Organisation and moderation of the workshop at the end of the review mission;
- Elaboration, consultation and timely delivery of the draft and the final review report.

Evaluation Team Leader:

- Responsible for the coordination of the whole review programme; for the coordination of the evaluation team;
- Responsible for the quality of the review (including the designing of the detailed review concept, the definition of relevant key questions as well as the delivery of well processed findings and recommendations);
- Responsible for a smooth and efficient communication with all parties involved or addressed in the course of the review;
- Responsible for a timely delivery of the review report.

SDC:

- Overall follow up of the review; regular communication with the team leader through a specifically assigned contact person of SCO BiH;
- Facilitation of reference documents and information related to SDC's strategic focus in its cooperation to BiH, in general terms, as well as related to the CR process;
- Facilitation of access to facts and information based on the project's own M&E system;
- Facilitation of logistic support to the review team in cooperation with the project implementation unit;
- Support to the evaluation team in setting up meetings and contacts;
- Elaboration of a management response to the review report.
- Contracting of advisors, local consultant and local consultant for logistic and translation

Results, conclusions and recommendations of the evaluation team may be accepted or not by SDC. In no case SDC will influence the systematisation of facts and findings as well as the opinion making of the evaluation team.

2.7 Documents to be consulted for the Mission Purposes include:

Supporting Documents	
• Project Documents 2005, 2006, 2008, 2012 (ProDocs) • Credit Proposal CR Project, Phase 3, 2008 • Credit Proposal CR Project, Bridging Phase, 2012 • CR Project External Evaluation Reports 2007, 2010 • CR Project Operational Reports • SDC External Evaluations – Formatting Instructions • Swiss Cooperation Strategy (CS) to BiH 2013-2016	To be delivered in advance
• CR Project Monitoring Reports • Implementation Contracts with CR Project Partners • Project Steering Board Minutes • Other supporting Documentation	Available at project implementation unit

Sarajevo,
 Swiss Agency for Development and
 Cooperation (SDC)

Basel,
 Consultant: B,S,S. Economic Consultants

Annex 6: Mission Schedule

External Review of the Contribution to Constitutional Reform in Bosnia and Herzegovina – January 19 - February 4, 2014

Harald Meier, team leader
Edin Hodzic, local consultant
Orsolya Szekeley/Christian Haupt, advisors

Program

Translation (T); Driver

Date	Time	Topic	Location
January	6 days	Preparation (consultations, reading, administration)	Switzerland
HM		Interviews with Nenad Stojanovic (ZDA), Daniel Bochsler (ZDA), Stefanie Guha (SDC), Florian Bieber (University of Graz), Claudia Buess (SDC)	
January 19 Sunday	1 day	Travel to BiH	
OS, CH, HM	18.30	Formation of the evaluation team	
January 20 Monday		Familiarisation with the general situation in BiH and the project context:	
OS, CH, EH, HM	8.30	Formation of the evaluation team	Swiss Embassy
OS, CH, EH, HM	10.00	Briefing Swiss Embassy (Ambassador Schaller, Azra Sarenkapa)	Zmaja od Bosne
OS, CH, EH, HM	11.30	Briefing with Human Right Centre (Implementer): Sasa Madacki, director, Mia Karamehic, project manager, Miroslav Zivanovic, project manager 3th phase, Prof.dr. Asim Mujkić, Faculty of Political Science	Zmaja od Bosne Kampus
	13.30	Lunch	
OS, HM	14.30	Briefing with Association of Municipalities and Cities FBiH (Partner), Amir Kupusija, project manager; Mirela Causevic, project assistant	Musala 5/1
OS, HM	16.00	Briefing with TPO foundation (gender oriented NGO for CR) – Zilka Spahic Siljak skype, Amra Omerbasic	Vilsonovo setaliste 10
		Interviews with key stakeholders	
January 21 Tuesday			
OS, HM	9.00	OSCE, Fletcher Burton, Head of the Mission; David Campion, Chief Executive Officer	Fra Andjela Zvizdovica 1 t.A
HM, OS	11.00	Members of the expert group for reform of the FBiH constitution - Prof. dr Kasim Trnka (T)	Swiss Embassy
OS, HM	12.30	OSCE, Pietro Sardaro, Legal Advisor (formerly focusing on constitutional reform)	Fra Andjela Zvizdovica 1 t.A
OS, HM, EH	14.00	PILPG Public International Law & Policy Group Dr. Valery Perry, Chief of Party in BiH	Pasta Zen

OS, EH	16.00	Konrad Adenauer, Sabina Wölkner	Ferhadija 19 Driver
January 22 Wednesday			
HM, OS, CH, EH	8.30	Alliance of Independent Social Democrats (SNSD), Mr. Lazar Prodanovic (T) + Croatian Democratic Union (HDZ 1990), Martin Raguz (T)	Parliament BiH
HM, OS	10.00	Council of Europe, Hennessey Mary-Ann, Head of the CoE Office in BiH	Zmaja od Bosne 7-7a (Importane centar) Parliament BiH
HM, OS	13.30	Party of Democratic Action (SDA), Senad Sepic	Parliament BiH/ Klub poslanika
HM, OS, EH	16.00	Kurt Bassuener, Senior Associate, Democratization Policy Council	BBI (Torte i to)
January 23 Thursday			
	8.00	Pick-up in front of the hotel	
OS, EH, HM	8.30	NGO "Why not", Darko Brkan	Envera Sehovica 10
OS, HM	10.00	Mayor of Novo Sarajevo, Nedžad Koldzo (project component mayors for development) (T)	Municipality NS
OS, HM	11.30	Delegation of the EU to BiH and European Union Special Representative Andrea Batista, Political and Legal Adviser ok	Skenderija 3a
	13.00	Lunch	
OS, EH, HM	14.30	Youth NGO Kult, Merima Sabic ok	4. viteške brigade 34-36 Ilidza
HM	16.00	International Crisis Group, Srećko Latal ok	Hotel Sarajevo Driver
January 24 Friday			
HM, EH	08.30	ACIPS (The Association Alumni of the Center for Interdisciplinary Postgraduate Studies) – focuses on issues of EU integration, democracy, human rights etc.- Mr. Anel Makul	Kampus
OS, CH	13.30	BiH Parliament Chairman of the Constitutional Commissions House of People, Krstan Simic, Dragutin Rodić, Zijad Hasić (T)	Parliament (sala 2/I)
OS, CH	14.30	Alliance for Better Future Party (SBB) Ms. Ismeta Dervoz	Parliament BiH, room 232
OS, EH	16.30	Nedim Kulenovic, – component Capacity building of youth	Importane

January 25 -26		Switzerland	
January 27 Monday			
OS, HM	9.00	National Democratic Institute NDI, Amna Kadunic	Mehmeda Spahe 10/2
EH, OS, HM	10.30	BiH Parliament Chairman of the Constitutional Commissions House of Representatives Sefik Dzaferovic (T)	Parliament
	12.00	Lunch	
OS, HM	13.30	Nasa stranka-Our party, Dennis Gratz, Albin Zuhric ok	Branilaca Sarajeva 5/1.
OS, CH, EH, HM	16:00	Team work (Hotel city boutique)	Driver
HM	19:00	Briefing with Association of Municipalities and Cities FBiH, Mirela Causevic, project assistant	Musala 5/1
January 28 Tuesday			
HM	09:00	Coordination workshops and meetings: Hrle, Jelusic, Cilino, Sehic; Begun, Mukanovic	Hotel City Boutique
HM, OS	12.00	Trip to Banja Luka via Modrica (Lunch)	Motel Majna Alenka Savic
HM, OS	16.00	Meeting with the mayor of Modrica, Mladen Krekic (T) Hotel Bosna (Kralja Petra I Karadjordjevića)	Driver
January 29 Wednesday			
HM, OS	9.00	Party of Democratic Progress, Mr. Mladen Ivanic	Првог крајишког корпуса 130;
HM, OS	10.30	NGO Ostra Nula, Igor Kolundzija	Hotel Bosna
HM, OS	12.00	Tanja Topic, FES	Hotel Bosna
HM, OS	13.30	Helsinki Parliament, City of Banja Luka and Udružene žene Banja Luka (Associated woman BL) Svjetlana Markovic, Nada Golubovic, Lana Jajcevic (T)	Kalemegdanska 18
HM, OS	15.00	Association of municipalities and cities Republika Srpska (Aco Pantic, secretary general and team) (T)	I krajiskog korpusa
HM, OS		Return to Sarajevo	Driver
January 30 Thursday	07.00	Trip to Mostar	Driver

HM, OS	10.00	Dr. sc. Mile Lasić, Member of expert group for reform of the FBiH constitution (T)	Hotel Ero
HM, OS	12.00	Croatian Democratic Union (HDZ), Mr. Mate Franjicevic (T)	HDZ Office
HM, OS	13.30	Centre for Civil Initiatives, Ivica Cavar	Kalajdžićeva 4 – preko puta hotela "Bristol"
HM, OS	15.15	Nansen Dialogue Center Mostar (NGO) Voloder Vernes	Alekse Santica 19
HM, OS	19:30	Return to Sarajevo Mia Karamelic, Sasa Madacki HRC	Kampus
January 31 Friday			
OS, HM, EH	09.00	Niko Grubešić, Ministry of Justice	Trg BiH 1
OS, HM, EH	11.00	Doc.dr. Goran Markovic University of East Sarajevo	Pravni fakultet Pale, dekanat 2. Sprat Driver
OS, CH, EH, OS	14:00	Team work Preparation of the workshop	Hotel City Boutique
February 1 and 2		Work with the team Preparation of the workshop	
February 3 Monday			
HM, OS, EH, CH	9.00-12.00	Workshop/verification of findings	SDC
HM, OS, EH, CH	14.00	Debriefing Swiss Embassy	SDC
HM	16.00	Serb Democratic Party (SDS), Pandurevic	BiH Parliament (T)
HM	18:00	Jasna Jelisic, Political Advisor, EU Delegation to BiH	Franz & Sophie
February 4 Tuesday	06:30	HM Return	

Separate interviews during the mission:

- 29 January 2014: HM: Expert group for reform of the FBiH constitution Vehid Sehic (telephone interview)
- 25 January 2014: HM: José Guntern, SDC (telephone interview)

Separate interviews after the mission:

- 22 February 2014: CH: Dennis Besedic, Head UNDP CR Project; Marijana Marković, Project Officer UN CR Project
- 24 February 2014: OS: Dana Begun, USAID Bosnia and Herzegovina, Director Democracy Office
- 24 February 2014: HM/EH: Professor James Fishkin, Centre for Deliberative Democracy at Stanford University (telephone interview)
- 26 February 2014: HM: Professor Florian Bieber, University of Graz (telephone interview)

Annex 7: Literature

Project related documents:

Kreditantrag “Plattform Bosnien-Herzegowina”, 1.12.2004 – 30.09.2005, Sarajevo, Oktober 2004

Constitutional changes in Bosnia and Herzegovina, Platform BiH, Human Rights Centre, Sarajevo

Platform Bosnia and Herzegovina, Phase II – Contribution to Constitutional Changes – Phase 2 (July 01, 2006 – December 31, 2007)

Annual Operational Report (July 2006 – June 2007) on implementing the project “Platform Bosnia and Herzegovina, Phase 2 – Contribution to the constitutional reform, Human Rights Centre, Sarajevo, July 2007

Platform Bosnia and Herzegovina – Contribution to Constitutional Reform, Final Report, 01 July 2006-31 December 2007, Phase 2, Human Rights Centre, Sarajevo, May 2008

Credit Proposal, Contribution to Constitutional Reform in Bosnia and Herzegovina, Phase 3: 1 August 2008 – 31 July 2010, Sarajevo/Bern, February 2011

Project Document, Contribution to Constitutional Reform in Bosnia and Herzegovina, Phase III – (1 August 2008 – 31 July 2010), Human Rights Centre, Sarajevo

Final Report, Contribution to Constitutional Reform in Bosnia and Herzegovina, Phase III – (1 August 2008 – 31 July 2010), Human Rights Centre, Sarajevo

Operationeller Bericht, Projekt “The Swiss Contribution to Constitutional Reform in Bosnia and Herzegovina”, Tätigkeiten des Zentrums für Demokratie Aarau (ZDA), 1.8.2008 – 30.11.2010, Aarau, November 2010

Project proposal concept: Contribution to Constitutional Reform in Bosnia and Herzegovina: Phase IV

Credit Proposal, Contribution to Constitutional Reform (CR) in Bosnia and Herzegovina: Bridging Phase, Phase 4: June 10, 2012 – December 10, 2013, Sarajevo / Bern, May 2012

Project Document, Contribution to Constitutional Reform (CR) in Bosnia and Herzegovina, Phase IV (May 1, 2012-November, 2013), Human Rights Centre, Sarajevo

Contribution to Constitutional Reform (CR) in Bosnia and Herzegovina, Phase IV – Bridging Phase, Annual Progress Report, June 10.2012 – June 10.2013, Human Rights Centre, Sarajevo, August 2013

Conference, “The Swiss Contribution to Constitutional Reform: Wrapping Up and Looking Ahead”, Report, Sarajevo, November 2013

Contribution to Constitutional Reform in Bosnia and Herzegovina, Phase IV – Bridging Phase, OC 3/ OC 4, Final Report, August 1, 2012 – December 10, 2013, Centre for Democracy Studies Aarau (ZDA), University of Zurich, Aarau, January 2014

Contribution to the Constitutional Reform in BiH - Bridging Phase IV, 10 June 2012-10 December 2013, Yearly Progress Report, 01. July 2012 – 27. November 2013, Association of Municipalities and Cities of the FBiH and the Association of Municipalities and Towns of the RS, Sarajevo, January 2014

Draft Evaluation Report of the Platform B&H Phase 2, S. Ivandic, F. Vehabovic, A. Vezic

External Review of the Contribution to Constitutional Reform in Bosnia and Herzegovina (BiH), Phase 3, Andreas Gross, St. Ursanne

Human Security Division Western Balkans Strategy 2014-2017, Eidgenössisches Departement für auswärtige Angelegenheiten, Politische Direktion PD

Various financial reports issued by the Human Rights Centre and its partner organisations

Various other project related documents such as steering board meeting agendas and minutes, yearly plans of operation, grant applications and project outputs

Referenced documents:

(SDC 2009): Cooperation Strategy Bosnia and Herzegovina 2009-2012, State Secretariat for Economic Affairs and Swiss Agency for Development and Cooperation, Bern, May 2009

(SDC 2012): Cooperation Strategy Bosnia and Herzegovina 2013-2016, State Secretariat for Economic Affairs and Swiss Agency for Development and Cooperation, Bern, November 2012

(EC 2013): Bosnia and Herzegovina Progress Report 2013, {COM(2013) 700 final}, European Commission, Brussels, 16.10.2013

(EC 2012): Bosnia and Herzegovina Progress Report 2012, {COM(2012) 600 final}, European Commission, Brussels, 10.10.2013

(EC 2012a): Joint Conclusions from the High Level Dialogue on the Accession Process with Bosnia and Herzegovina and the Road Map for BiH's EU membership application, European Commission - MEMO/12/503, Brussels, 27 June 2012

(OECD 2010): Evaluating Development Co-operation: Summary of key norms and standards, Organisation for Economic Development, Paris, June 2010

(EPC 2010): Policy Brief. Constitutional reform in Bosnia and Herzegovina: preparing for EU accession, European Policy Centre, Brussels, April 2010

(Analitika 2013): Missing the Rules of Engagement: An Overview of Legal Frameworks for Citizen Participation in Local Decision-Making Processes in Bosnia and Herzegovina, Croatia and Montenegro, Analitika, Sarajevo, 2013

(Dryzek 2005): „Deliberative Democracy in Divided Societies: Alternatives to Agonism and Analgesia“, John S. Dryzek, 33 Political Theory 215, 2005

(Sunnstein 2000): „?Deliberative Trouble: Why Groups go to Extremes?“, Cass Sunstein, 110 Yale Law Journal 71, 2000

(CoE 2006): Parliamentary Assembly (PA) Council of Europe (CoE) Resolution 1513 (2006): Constitutional Reform in Bosnia and Herzegovina, Assembly debate on 29 June 2006, para. 20

(CoE 2008): Parliamentary Assembly (PA) Council of Europe (CoE) Resolution 1626 (2008): Honoring of obligations and commitments by Bosnia and Herzegovina, Assembly debate on September 30 2008

(CoE 2004): Parliamentary Assembly (PA) Council of Europe (CoE) Resolution 1384 (2004): Strengthening of democratic institutions in Bosnia and Herzegovina, Assembly debate on 23 June 2004, para. 3

(BTI 2014): BTI 2014 – Bosnia and Herzegovina Country Report. Gütersloh, Bertelsmann Stiftung, 2014

(KBF-FRB and viWTA, 2005): Participatory Methods Toolkit. A practitioner’s manual. Method: Deliberative Polling®, King Baudouin Foundation and Flemish Institute for Science and Technology Assessment, Belgium, September 2005

(PILPG 2013): 2013 Public Opinion Poll: “Constitutional Reform in Bosnia and Herzegovina: Engaging Civil Society”. Analysis of Results, PILPI, Sarajevo, October 2013. [Download.](#)

(Traljić, 2010): External Review of the Contribution to Constitutional changes in Bosnia and Herzegovina Project (Phase 3: 1 August 2008 – 31 July 2010, extended to November 30) and Empowering woman voters – 101 reasons to vote for women (March 2008 – October 2010), Sead Traljić, Sarajevo, 2010

Other pertinent documents:

Bosnien und Herzegowina nach den Wahlen: Chance für Weichenstellung nach Brüssel?, S. Wölkner, I. Marić, KAS, Sarajevo, 1/2011

Breaking the Impasse: Constitutional Reform in Bosnia, S. Sebastian, FRIEDE Policy Brief, March 2011

Civil Society Constitutional Reform Initiatives in Bosnia and Herzegovina: Assessment Report, PILPG, Sarajevo, August 2011

Constitutional reform in Bosnia and Herzegovina: preparing for EU accession, F. Bieber, EPC Policy Brief, Brussels, April 2010

Houdini in Bosnia: How to unlock the EU accession process, ESI Discussion Paper, Brussels, October 2013

Lost in the Bosnian labyrinth: Why the *Sejdic-Finci* case should not block an EU application, ESI Discussion Paper, Brussels, October 2013

Bosnia's Gordian Knot: Constitutional Reform, ICG Policy Briefing, Sarajevo / Istanbul / Brussels, July 2012