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GOVERNANCE ACCOUNTABILITY PROJECT, PHASE II (GAP2)

Urban Planning in BiH: A Contemporary Analysis of the Challenges and Path to Progress

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GOVERNANCE ACCOUNTABILITY PROJECT, PHASE II (GAP2)

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List of acronyms

BiH	Bosnia and Herzegovina
CEMAT	European Conference of Ministers responsible for Regional Planning
ESDP	European Commission's European Spatial Development Perspective
EKN	Embassy of the Kingdom of the Netherlands
ESPON	European Spatial Planning Observation Network
EU	European Union
FBiH	Federation of Bosnia and Herzegovina
GAP2	Governance Accountability Project, Phase II
GIS	Geo Information System
INSPIRE	Infrastructure for Spatial Information in the European Community
IT	Information Technologies
RS	Republika Srpska
SIDA	Swedish International Development Cooperation Agency
USAID	United States Agency for International Development

Introduction

During the post-war period, many expected Bosnia and Herzegovina (BiH) would introduce modern spatial planning practices. Unfortunately, due to the lack of appropriate governing bodies and entities tasked with spatial planning at the state level, as well as numerous socio-political, economic, and cultural changes, the spatial planning system followed a different path and development moved more slowly than expected. The devastation resulting from the war, the introduction of parliamentary democracy, the strengthening of private property rights, the transition to a market economy, a new territorial system, the European integration processes, and globalization, have all had unexpected consequences, resulting in the neglect of joint and long-term spatial planning to address community needs.

The spatial planning system should embody harmonized plans of the state, entities, regions, cantons, cities, and municipalities. At the state level, it is important to have a strategic framework for spatial development (i.e., a spatial planning system), and an implementation mechanism to address national-level interests, such as defining main traffic corridors, oil pipelines, gas lines, electricity distribution, ports, airports, national parks, nature parks, main waterways, and other areas with specially designated functions. At the entity, cantonal, or regional level, spatial planning should meet the needs of these smaller geographic areas and communities, e.g., entity and cantonal traffic corridors, infrastructure projects, protected natural areas, network of urban areas, tourism, and waterways. At the local level, spatial planning must address the needs of individual municipalities/cities, i.e., defining the use of space.

For properly structured spatial planning, it is necessary to coordinate both vertically and horizontally, as well as across sectors. Planning at all levels should be independent, but should be in line with the national framework and undertaken through cooperation, coordination, and consensus. However, currently in BiH, this type of planning faces numerous obstacles, including implementation of the new territorial system and delegation of authority within spatial planning. There is, unfortunately, a lack of correlation between the various players' needs and capacities. The newly-created local self-government units were given rights and obligations to manage new authorities, such as spatial planning. However, many of these newly-delegated authorities have not been supported by sufficient funding, and as a result, local governments have been unable to finance their operational needs. Therefore, the financing of development plans, spatial plans, or development projects for certain sectors has been barely sustainable for many of the newly-created small municipalities and certain cantons. Further, there is a lack of responsibility for this issue at the state level resulting in the absence of a strategy for spatial planning.

In addition, other problems exist, which mean that at the local government level, there are no practical land and spatial policies able to protect the social, economic, cultural, and environmental values of public space. This can be illustrated through the existence of many obsolete spatial plans, many of which were created during the previous Socialist period and thus are not appropriate for current socio-economic trends, such as private entrepreneurship and land market reforms. These problems exist at the cantonal level as well. While there is legislation on spatial planning, as well as spatial plans designed and adopted for a large number of cantons, the plans were not harmonized with the sector development plans at the entity level (e.g., agriculture, forestry, tourism, mining, culture, or traffic) nor with entity spatial plans, which has led to conflicts and delays in the development of certain sectors by entity-level ministries.

The RS adopted an entity-wide spatial plan (“Spatial Plan of the RS”) in 2007. In January 2012, the RS Ministry of Spatial Planning has begun coordinating with the RS Ministry of Administration and Local Self Governance to modify the plan so that it better considers the needs of municipalities. However, similar to the situation in the FBiH, the lack of spatial planning documentation at the municipal level poses a significant problem.

Over the past four and a half years, the Governance Accountability Project, Phase II (GAP2) has worked with 72 partner municipalities across the country to improve the organizational, technical, and managerial capacities of local governments. In 2011, GAP2 redoubled its efforts to assist partner municipalities and is supporting reforms within urban planning through

- the improvement of operations in compliance with contemporary principles;
- the application of information technologies (IT);
- more effective and efficient information sharing with citizens;
- the development of a more flexible planning methodology;
- streamlining of administrative procedures for potential investors; and
- professional education of operational (technical and managerial) staff, etc.

Recent History of Urban Planning in BiH

Until 1992, urban development was regulated by legislation that was based on socialist development theory. The last pre-war laws and supplementing regulations (not valid today), including the relevant methodology for preparation of spatial planning documentation, were adopted in 1987. At that time, plans were inflexible in terms of implementation and development (e.g., the possibility of different land use or of building a different type of structure than originally planned was not possible), containing narrow goals and specific final solutions. Plans were developed in a non-transparent way, whereby governmental bodies were the only participants in the process of their adoption and implementation. Immediately after the war ended in 1995, new entity-level spatial planning laws were introduced and implemented from 1996-2010.

During this period, spatial planning was still primarily defined as a state-level activity, and private sector interests were able to largely influence decisions. These new entity-level laws were flawed. Although they introduced citizen participation into the process, they did not create a basis for implementing more flexible planning and development strategies (they were basically identical in content with the laws from the Socialist period) and were often subject to change. In the RS, the process of plan preparation was simplified, and the obligation to include a proper program basis (a set of documents generated by the relevant level of authority - entity, canton, and municipality as the basis for creation of a spatial plan) was eliminated. While the loss of this step may have made the procedure faster and more efficient, it hindered the opportunity to create a harmonized planning strategy between the RS entity and local levels, something that is crucial to the first phase of establishing the new national spatial planning system that should ideally provide sufficient and adequate protection of public interests.

In the FBiH, planning was performed using the same methodology as in the previous period, including both the preparation and adoption of the program basis or preliminary feasibility study (for urban and spatial development plans), which provided more strategic support for implementation. Due to the complex political organization of cantonal and municipal administrations, plan preparation lasted two to three years. Political changes and the introduction of new program requirements, which would often require preparation to begin anew, drew out the process. Accordingly, in the FBiH, there was a problem with the efficiency of procedures and lack of flexibility in the plans.

In addition, the complex administrative procedures involved in issuing urban and building permits in both entities have been criticized by the domestic and international community. They rightly comment that foreign and domestic investment is difficult to attract unless a business-friendly environment exists at the local level.

Therefore, the new laws that were adopted in both entities in 2010 had a common goal: achieving efficiency in the field of urban planning through the reduction of procedures in administrative tasks and more flexible planning practices. The new legislation provides for new types of planning tools, including zoning. However, zoning methodology has not been clearly established, despite the fact that the supporting by-laws have been adopted. Thus, zoning plans have yet to be developed or piloted.

Implementing the new laws from 2010 has proven difficult due to problems in issuing location permits (a new form of urban permit and building permits). The institutions responsible for issuing these permits lack the capacity to perform their functions adequately. Multiple changes in legislation caused confusion at municipal departments for spatial planning and poor results in improving their efficiency. Changes to legislation also affect preparation, adoption, and implementation of plans, as well as the application of GIS tools, all of which require additional education and capacity building of relevant municipal staff in spatial planning practices.

Review of Existing Urban Planning Legislation in BiH

Urban Planning at the State Level

The Constitution of BiH does not explicitly treat urban planning and development as a state level responsibility. This lack of clarity has blocked the establishment of a dedicated line ministry or other organization with responsibility for monitoring, planning, and managing land use. Consequently, there is no state law or even a state strategy for urban development, which creates profound problems in the creation and implementation of larger planning, development, and construction projects. This includes the development of primary roads and energy corridors, defining protected areas of cultural, historical, and natural heritage, and other issues important for the state. Urban planning has been relegated to the entity level, with the result that the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS) treat and regulate these urban planning issues within their respective territories through separate legislation governing each entity.

Establishing a state ministry of urban planning and environmental protection, or a secretariat for urban planning and environmental protection within existing ministries, e.g., the Ministry of Civil Affairs would enable the preparation, adoption, and implementation of a state strategy for urban planning which would regulate and harmonize urban, environmental, regional, and national-cultural development at all administrative levels.

The primary responsibility of this state ministry would be to support and implement regional development strategies. Moreover, any regional development strategies should clearly define the role of cities (as officially designated, as opposed to municipalities) and promote the comprehensive development of settlements that collectively leverage the economic development and influence of neighboring cities, possibly even cross-border settlements—similar to the Euroregion model.

Urban Planning at the Entity and Local Levels

As noted earlier, urban planning and development in BiH is currently led by the FBiH and RS entities. These activities are governed in the FBiH by the Law on Urban Planning and Land Use (*Official Gazette of the FBiH*, no. 2/06, which was changed and amended in 2007, 2008, and three times in 2010), and in the RS by the Law on Urban Planning and Development (*Official Gazette of RS*, no. 55/10). Unlike in the RS, in the FBiH there are obligatory laws on urban planning at the cantonal level. FBiH municipalities implement these cantonal-level laws, along with municipal decrees on urban planning, harmonized with the higher-level laws, and more specifically, they establish rules related to municipal land (Image 1).

FBiH	RS
ENTITY LEVEL Law on Spatial Planning and Land Use (<i>Official Gazette FBiH</i> no. 2/06). Amendments in 2007, 2008, and 2010	ENTITY LEVEL Law on Spatial Planning and Development, (<i>Official Gazette RS</i> no. 55/10).
CANTONAL LEVEL Each of the 10 Cantons has its own Law on Spatial Planning	
MUNICIPAL LEVEL Decrees on spatial planning specific to each municipality	MUNICIPAL LEVEL Decrees on spatial planning specific to each municipality

Image 1: Urban planning legal authority within FBiH and RS

In the RS, the entity-level law governs urban planning, management of urban development from the entity level to the municipal level, and the roles for construction of building for all land in the RS regardless of ownership. In 2011, the Contents, Manner of Preparation and Adoption of Documents of Urban Development (*RS Official Gazette*, no. 59/11) and the Rulebook on Contents and Control of Technical Documentation (*RS Official Gazette*, no. 8/11) were adopted and describe in detail those activities related to the preparation of urban planning documentation and technical documentation. These are the main regulatory documents applicable throughout the RS. Besides these, each municipality enacts a decree on

construction (or urban development) in which all requirements for development reflecting the specific conditions of the territory are listed. These decrees must be in line with the RS Law.

In the FBiH, there is a Unique Methodology for Preparation of Plans defining the Contents and Methodology of Preparation of Planning Documentation (*Official Gazette of FBiH* no.63/04; 50/07). Changes and amendments to this legislation from December 2010 (led by GAP2) provide for the preparation of zoning plans, a new and more flexible planning tool.

The RS adopted an entity-wide spatial plan (“Spatial Plan of the RS”) in 2007. In January 2012, the RS Ministry of Spatial Planning has begun coordinating with the RS Ministry of Administration and Local Self Governance to modify the plan so that it better considers the needs of municipalities. However, similar to the situation in the FBiH, the lack of spatial planning documentation at the municipal level poses a significant problem.

Local Government Authorities in Urban Planning

Legislation in both entities mandates that local governments be directly involved in and responsible for the urban development in municipalities. Spatial planning and urban development activities have been influenced not only by legal procedures, but also by political interests, investor demands (particularly when the level of investment is considered significant), and the capacities of municipal departments responsible for the preparation and adoption of planning and technical documentation. From 1995-2010, municipal urban planning departments have been strongly influenced by private investors who became involved in planning and building operations, to the extent that there has been a visible change in the development of BiH cities over this period. This involvement has led to a decline in urban management and building standards, including a lack of adequate control of technical documentation, insufficient protection of norms and standards in design, reduction of inspections of construction sites, and a lack of respect toward the sites being developed. This is highlighted in the housing market that was commercialized to increase the profit of the building entrepreneurs.

Mechanisms to develop and maintain professional standards and public input should be established to address the lack of an overall municipal strategy for development. Further problems exist within the organization and equipping of the departments for urban planning and local government administrations more broadly. Department heads are often not technical specialists, but rather are chosen due to political affiliation, thus reducing the quality of service delivery. Candidates for department leadership should be held to strict standards and be capable of addressing their scopes of work. Staffing numbers are also often insufficient due to financial constraints and scarce human resources.

Harmonization of Spatial Planning with EU Standards

Among other obligations, BiH must harmonize its spatial policy with EU legislation in order to be eligible for EU membership. BiH must adhere to the principles of spatial planning for the European continent, contained in the European Commission’s European Spatial Development Perspective, 1999 (ESDP) and the leading principles of the European Conference of Ministers responsible for Regional Planning, 2000 (CEMAT), and also with other EU directives pertaining to spatial planning.

In line with EU principles, BiH legislation does provide for public participation in the urban planning process (in the form of public access to and discussion of urban plans and planning processes). However, this requirement in the legislation is so far not being implemented. In addition, other ministries that operate in areas related to spatial planning and development,

e.g., nature protection, water protection, cultural protection, tourism, traffic, and development have not harmonized their legislation and by-laws with those of the EU.

Compounding the lack of harmonization in the legal and regulatory framework is the absence of financial analysis to justify the level of spatial planning efforts. Moreover, spatial planning, when it is undertaken, is not coordinated with other vital planning efforts, i.e., economic and social development planning. BiH additionally lacks unified criteria and indicators, which would enable the monitoring and evaluation of the implementation of spatial plans. This is generally required by the Stabilization and Association Agreement and Temporary Agreement with the EU, thus obligating BiH to harmonize its legislation with the EU Acquis (Article 70).

BiH should also be actively involved in selecting and adopting internationally comparable spatial data. These data collecting activities not only include the development of statistically harmonized data, but also the creation of databases enabling performance monitoring of the use of space at the municipal, cantonal, regional, entity, and state levels. Since such databases serve as a foundation for spatial planning and development at all levels, it is important to set reliable criteria and indicators to help achieve sustainable development goals. The EU directive related to the availability of spatial data is the 2007 Directive Establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) has yet to be integrated into BiH legislation.

And, it is not only the various levels of government that lack the proper understanding of and adherence to European standards in the area of urban space and living environment, but the public as well. This becomes especially important when considering Bosnia's role in implementing any spatial planning efforts with cross-border, regional, and inter-state components. The EU has several of these types of programs which not only cover the EU geography, but also beyond the EU's borders as EU expansion presents certain organizational challenges, and BiH should participate in these types of programs and initiatives. For instance, the European Observation Network for Territorial Development and Cohesion program (2013 ESPON), is aimed at

“Support[ing] policy development in relation to the aim of territorial cohesion and a harmonious development of the European territory by (1) providing comparable information, evidence, analyses and scenarios on territorial dynamics and (2) revealing territorial capital and potentials for development of regions and larger territories contributing to European competitiveness, territorial cooperation and a sustainable and balanced development.”

All factors important to spatial development should adhere to the basic EU principles of spatial development that are rooted in harmonized and sustainable development through the strengthening of economic, social, and territorial cohesion. The harmonization of spatial development policy between BiH and the EU requires a new state-wide strategy. The existing framework of spatial development policy should be redirected, and decision-makers at all levels of government should be involved in the implementation.

System-Related Problems Limiting Proper Planning and Urban Development

The above review of the urban and spatial planning landscape in BiH has highlighted a number of constraints to the development and implementation of modern principles and practices of spatial planning at all levels of government in BiH. Some of the most serious problems are those related to legal and financial constraints, organization, standardization of procedures, and human resource capacities.

Legislative Constraints

Spatial planning legislation. The RS benefits from the fact that there is an entity-level law on urban planning and no further legislative layers between the entity and municipalities (i.e., no cantonal level of government, as in the FBiH). Theoretically, this should ease implementation of urban planning legislation and the development and adoption of by-laws at the local level. However, the RS law is in conflict with other RS legislation, and it is not harmonized with EU legislation governing urban and spatial planning.

While the FBiH entity-level law on urban planning should be the authority from which lower-level laws and regulations flow, land management is actually regulated by cantonal laws on spatial management. These cantonal laws contain specificities related to the cantonal level that are in contradiction with entity-level provisions (e.g., implementation of energy efficiency at the cantonal and municipal level), and thus cannot be implemented.

Additionally, the entity-level laws adopted in 2010 do not contain optimal procedures for the preparation of spatial planning documentation. The procedures remain quite arduous and contain unreasonable and/or redundant steps related to monitoring responsibilities and public participation in the spatial planning process. Further, the laws themselves do not precisely assign the responsibility for implementation of procedures. This situation poses a challenge for municipal urban planning departments that want to employ zoning methodology in spatial planning activities. The RS introduction of zoning methodology into the legal and regulatory framework was influenced by GAP (Phase I) technical assistance that assisted in drafting the new legislation and implemented pilot zoning activities in some RS municipalities from 2006-2008. However, the law and the complementary Rulebook on Contents, Model of Preparation, and Adoption of Plans do not go far enough. Improvements are needed, for example, in the analysis of natural features such as the local relief, climate, geology, hydrology, forests, water, and existing structures, as well as the application of bio-climatic factors and the principles of energy efficiency.

In addition, it is unclear what was utilized as the basis for the zoning plan model within the BiH legislation. The RS model lacks an analysis and assessment of natural, environmental, and technical restrictions of space by regulatory elements, which is critical to properly assessing space available for future development. An official map (the part of a zoning plan that reflects public interest in a specific plot of land) should contain public buildings and infrastructure as well as traffic corridors with defined horizontal profiles of roads and leveling. Urban standards (rules and conditions for building) should include, in addition to those set under the law, requirements related to street regulations, interpolation, landscaping, fire protection, bio-climatic characteristics of location (sunlight access, fresh air access, visibility, greenfields, position of underground waterways, etc.), and other regulatory elements arising from specific characteristics of space and matters that are subject to planning. The RS model of zoning must be improved to better incorporate these types of maps and standards.

The situation is similar in the FBiH. While the changes and amendments to the Law on Spatial Planning and Land Use from 2010 foresee zoning plans as a new, more flexible implementation tool, and the 2010 changes to the Unique Methodology of the Preparation of Plans clearly defined the contents of the zoning plan, these pieces of legislation do not contain some of the basic principles of zoning. This is a significant constraint that affects all cantons which are required to comply with the Unique Methodology.

Similar to the RS, the Unique Methodology also lacks analysis of the current situation, restrictions and characteristics of space, road plans, and the basis for a public infrastructure system. On the other hand, the land subdivision plan and graphical presentation of the basic horizontal dimensions of objects were included.

Overall, in the FBiH and RS, existing legislation is not satisfactory and should provide more flexibility and efficiency in spatial planning and land management while also providing a sufficient level of protection of the public interest.

Furthermore, the legislation also sets out overly specific criteria on the eligibility of urban planning institutes able to develop spatial and urban plans. It makes sense to regulate the entities authorized to carry out such vital work, however, many of the requirements in the BiH legislation are too rigid, impeding the efficient preparation of spatial plans. For example, in the FBiH, the Decree on Special Conditions requires that an organization/institute wishing to develop a spatial/urban plan must have six full-time, permanently employed engineers (professionals in specific sectors and with appropriate work experience) in addition to an economist; a requirement that only a few urban planning institutes can fulfill. The consequence of such requirements is that tenders for the development of urban and spatial plans are often repeated several times and without any success, resulting in a lack of spatial plans, especially at the municipal level.

Compatibility of spatial planning legislation with other laws in BiH and EU legislation. The Law on Urban Planning and Construction in the RS (RS *Official Gazette* no. 55/10), which was adopted in May 2010, requires that new buildings must be energy efficient. However, this requirement is not mentioned in the relevant articles of the implementing regulations. The Contents, Manner of Preparation and Adoption of Documents of Urban Development (RS *Official Gazette* no. 59/11) states that it is necessary to, amongst other things, respect energy efficiency requirements and analyze bio-climatic characteristics of the location undergoing urban planning (Article 11); but, these principles are not elaborated upon in the guidelines for planning documentation. The Rulebook on Contents and Control of Technical Documentation (RS *Official Gazette* no. 8/11) details the contents of the conceptual design and documentation itself, and while it states an obligation to design energy efficient buildings, detailed guidelines to meet this obligation are not provided.

In the FBiH, a set of by-laws were introduced in order to implement changes to the Law on Planning and Land Use from 2008. One of these, the EU-compliant Rulebook on Technical Requirements for Thermal Protection and Rational Energy Use (FBiH *Official Gazette* no. 49/09) defines all of the technical parameters to be used in building design that would render the structures energy efficient, and any plans for buildings that have more than 5,000 square meters of usable space must include a report on the technical, ecological, and economic feasibility of installing alternative energy supply systems. In addition, a “technical identity card” (the list of technical features of a specific structure including energy performance), as found in Croatian legislation, is required for all planned reconstructed and renovated buildings. But, the Rulebook cannot actually be applied given the fact that the FBiH is currently in the process of adopting a new set of laws governing the energy sector, which will require that the Rulebook be modified in line with the new legislation. Cantonal laws must also be amended, as they currently make no mention of energy efficiency requirements.

Financial Constraints

The entity and cantonal ministries for urban planning lack sufficient funds to co-finance municipal spatial plans and urban plans, which previously had been partially financed from the state budget. Additionally, severely constrained municipal budgets cannot finance the production of these documents, and thus the majority of municipalities in BiH are unable to create or update their urban planning documents. It is estimated that more than 50 percent of municipalities do not have current spatial or urban plans, and zoning plans have not been implemented yet. This has consequences not only for strategic planning, but also implementation.

Organizational and Standardization Constraints

Land survey and cadastre. Municipalities in the FBiH and RS lack up-to-date land surveys, the basis for the development of urban and spatial planning. In the FBiH, the responsibility for land surveys and property rights management lies within municipal administrative departments, and there is inadequate coordination with the urban planning departments. Municipal administrations must be reorganized in such a way to facilitate the development and sharing of information and products required by multiple departments. This disconnect is even more glaring in the RS. The responsibility for land survey and property rights management lies with entity-level agencies, completely beyond the grasp of municipal urban planning departments both in terms of locations and jurisdiction, even though the RS Law on Urban Planning and Construction requires municipalities to provide up-to-date land surveys to urban planners. Municipalities need to have control over land surveying functions.

In addition to the above-mentioned challenges, in accordance with the new Law on Cadastre that was adopted in 2011, the RS currently operates a system in which there are double entries in the land registry, neither of which is compatible with the FBiH land registry. The RS Geodetic Bureau, a centralized institution, has subunits located within the municipal level with responsibilities in land surveying, land ownership records, and related data collection. These local units are parallel to the ones within municipal administrations, which are also responsible for collecting and processing the same data. Communication, coordination, and data sharing between municipalities and the RS Geodetic Bureau's local units have become apparent problems, wherein different data often exists for the same plot of land. This problem needs to be resolved by developing adequate rules and procedures for local units of both institutions that would eliminate this duplication of data.

Standardization and spatial-informational system. Lack of standardization of the spatial information system in both entities further complicates the efficient functioning of local urban planning departments. The introduction of geographical information system (GIS) mapping in municipalities along with the development of municipal administration IT systems is taking place in the absence of governing rulebooks, which represents a significant problem in system functioning.

Spatial information systems have been in place for a longer period of time at all levels of government. However, the various systems do not apply common standards, such as the methodology used to create the systems, the content contained within the individual systems, and the mode of presentation of the stored information, and are, therefore, incompatible with one another. In addition, the fact that certain information that is relevant to the urban planning process is held by other municipal departments further challenges the use and value of existing spatial information systems. Again, developing a rulebook would aid the level of efficiency in the urban planning process.

The existing legislation and regulations do not provide enough instructions to guide the creation and maintenance of spatial databases or the sharing of information contained within the database. Having this guidance in place would significantly increase compatibility of spatial databases across all levels of government, within the municipal administration itself, and between urban planning institutes and other organizations involved in urban planning activities. In the same vein, there is no unified legislation to facilitate the use of simplified procedures to develop urban documentation, such as public consultative processes, and the use of updated land registry-cadastral surveys. Having a systematic approach to the collection and presentation of, and accessibility to, spatial data will also encourage monitoring of spatial management.

Planning procedures. The preparation and development of planning documentation procedures in the RS and FBiH have been expanded to include new steps, in accordance with each entity's respective new laws on urban planning and construction. The legislation aims to enable greater public participation and strengthening of expert monitoring, which are critical elements of the planning process. Recognizing though that the involvement of additional actors in the process further increases the time in which it takes to develop urban planning documents, improvements should be made within the existing legal framework to enhance the efficient functioning of municipal urban planning departments, namely through the reorganization of the departments and training of staff, so that they are able to quickly and effectively respond to input from citizens and experts.

Furthermore, the point in the process in which expert opinion is engaged could be improved. Currently, urban planning departments are required to organize professional debates on draft plans in later stages of the process, after the plans have already passed the phase of quality control and harmonization with citizen participation. The reopening of technical debates during the final phase, immediately before adoption can be counter-productive. If this involvement happens earlier in the process, it would be better.

Issuance of site conditions assessment and building permits. Based on the experience of two RS municipalities – Teslic and Mrkonjic Grad – it appears that the new Law on Spatial Planning and Construction has rendered the process of obtaining site conditions assessment permits even longer than obtaining building permits, which is opposite of the law's aim. Further, the majority of municipalities have not formed urban committees tasked with reviewing applications and granting permits. The lack of committees demonstrates clear challenges faced by many municipalities in identifying sufficient human and financial resources.

Human Resource Constraints

There are evident problems pertaining to human resource capacities in the area of urban planning and development, most notably at the managerial level at all levels government (entity, cantonal, and municipal). At the entity level (including cantonal level in the FBiH), the capacity of ministry staff is limited, despite the fact that they possess significant authority over the development of entity- or cantonal-level strategies for urban development in their jurisdictions, adoption of legislation, and establishment of the spatial planning policy at the entity, cantonal, and municipal levels. Ministries, according to the laws on urban planning, are responsible for the development of urban plans or strategies of entity (or cantonal) urban development, and give consent to all municipal and other urban area plans.

According to the new Law on Urban Planning and Construction of the RS (*Official Gazette* no. 55/10), the jurisdiction of the Ministry for Urban Planning, Construction, and Ecology of the RS has been extended to include the development of regulations for zoning plans in municipal urban areas and the issuance of approvals to initiate the development of all urban planning documents, from passing regulations to the urban plans themselves. Unfortunately, while the jurisdiction over urban planning at the entity level was significantly expanded, staff capacity has not kept pace. Increases in staff capacity and institutional reorganization are necessary—not only do more staff need to be hired, but more qualified staff need to be placed in positions to perform urban planning activities at the optimum level and by taking a multidisciplinary approach. This is particularly evident in the need to employ more architects, urban planners, and surveyors in all urban planning departments. Alternatively, planning institutes should be established at the entity and cantonal levels in order to perform the technical or specialist tasks during the urban or spatial planning process. The problem with this solution is a lack of funding allocated to this type of endeavor.

GAP2's Contribution to Urban Planning in BiH

Since 2005, both phases of GAP have sought to improve urban and spatial planning. These efforts have included the introduction of principals of modern urban planning to the operations of relevant municipal departments, the application of information technologies, more timely and effective provision of information to citizens, the introduction of flexible planning methodologies, streamlining of administrative procedures for potential investors, and professional training of personnel. To date, GAP2 has assisted 72 municipalities across the country, with visible results in several areas. The project has also contributed to new regulations related to zoning.

GAP2 began by helping select partner municipalities to establish Urban Permitting Centers (UPCs) within the GAP2-supported Citizens Service Centers. The UPCs were organized in such a way as to more efficiently and effectively issue building permits and manage urban development. To achieve this, GAP2 worked with municipalities to introduce zoning methodology using GIS technology, reduce illegal settlements, and reorganize municipal urban planning departments to more effectively perform their duties to support the permitting process. GAP2's work with municipalities in the RS led to some municipalities advocating for and participating in the drafting of the new law on urban planning which includes zoning methodology. GAP2's continued work on zoning in 2010 with partner municipalities has been of significant value, as the recession has constrained many municipalities from undertaking zoning activities.

Building upon these activities, GAP2 selected 10 pilot municipalities in 2011 (Bihac, Teslic, Mrkonjic Grad, Bugojno, Breza, Capljina, Gracanica, Livno, Novi Travnik, and Zivinice) whose urban planning departments would receive targeted capacity building. Training and technical assistance is focused on three areas: increasing the professional competence of staff to enable municipal departments to take on new responsibilities as a result of legislative reform in the area of urban planning, improving the organization and staff structure of the urbanism departments, and introducing or upgrading their GIS systems. Staff within municipal urban planning departments are responsible for taking an active role in the preparation and adoption of planning documents, including providing the informational foundations for planning, updating geodesic maps, increasing coordination across participants in the urban planning process, integrating monitoring into urban and spatial planning functions, and applying GIS as a tool for improved spatial management. GAP2 interventions aimed to equip spatial and urban planning department staff with the appropriate resources and

skills to carry out those required functions. While GAP2 activities have significantly raised the competencies of urbanism staff in pilot municipalities, there is an ongoing need for deeper and of course broader (i.e. scaled up) reform.

Measures to Improve Urban Planning in BiH

We believe the following measures are necessary in order to improve spatial and urban planning in BiH (these measures are explained in more detail in the following pages):

1. Establish and strengthen capacities and institutions of urban planning at the state level;
2. Amend existing legislation as needed to ensure more regular and timely preparation and updating of urban planning documentation at all levels of government;
3. Simplify criteria for urban planning institutes which unduly limit the availability of qualified organizations able to prepare and update urban planning documentation;
4. Introduce professional licensing of urban planning specialists in order to improve the quality of preparation of spatial and urban plans;
5. Through the legal and regulatory framework, establish and better define existing standards for:
 - a. implementation of zoning plans;
 - b. measures to align BiH with EU spatial and urban planning;
 - c. establishment of spatial databases;
 - d. exchange and distribution of spatial data; and
 - e. reorganization of the mode of operations of municipal departments and planning institutes in charge of urban planning at all levels.
6. Strengthen institutional capacities through the support and introduction of spatial information systems and the digitalization of urban planning data to monitor the use of space, i.e., implementation of urban plans;
7. Introduce M&E mechanisms to monitor the implementation of spatial plans.

Although these measures do not address all the problems that exist within the country's spatial and urban planning sector, they do address the priority issues. Changing these key things would result in a positive impact in the environment and successful spatial development in BiH.

1. *Establish and strengthen capacities and institutions of urban planning at the state level.* Establishing a state-level institution responsible for urban planning and environment will go a long way toward harmonized spatial planning in BiH. Along with other proposed changes to the current BiH Constitution, it would be important to establish a state-level mandate for urban planning. This would facilitate the creation of a state ministry of urban planning and environmental protection, or at the least the creation of secretariats for urban

planning and environmental protection within existing line ministries (e.g., the ministry of civil affairs). Such bodies would be responsible for establishing, coordinating, and implementing country-wide strategies related to traffic and energy corridors; protected cultural, historical, natural, and architectural heritage; environmental protection; and harmonization of the legal and regulatory framework with EU legislation; along with other vital aspects that serve as a foundation for economic development of the country.

2. *Amend existing legislation as needed to ensure more regular and timely preparation and updating of urban planning documentation at all levels of government.* Amending the existing legal and regulatory framework for urban planning is necessary at all levels of government in BiH. The amendments should enable more regular and timely preparation of urban planning documentation. For example, the FBiH Law on Urban Planning and Land Use does not impose sanctions on governments that do not fulfill their legal obligation to have a current and serviceable urban plan. Appropriate amendments to the law should outline the obligations related to the preparation of planning documentation, deadlines for adoption, and all other elements that ensure the timely and complete coverage of the entire territory with appropriate planning documentation.

3. *Simplify criteria for urban planning institutes which unduly limit the availability of qualified organizations able to prepare and update urban planning documentation.* Existing legislation sets forth overly strict regulations pertaining to those urban planning institutes qualified to prepare urban planning documentation. These organizations must be staffed with an exceedingly large number of highly qualified professionals and technical specialists, thereby limiting the availability of qualified organizations able to bid on urban planning work. This in turn impedes municipalities and other levels of government from securing urban plans. If the requirements, such as the number of permanently employed experts, were more flexible; a qualified organization could perhaps employ three full-time engineers (instead of the required six) and could hire other technical specialists as needed on a project basis. This would widen the pool of qualified organizations and make it easier for municipalities and other levels of government to carry out more competitive tender processes for these services.

4. *Introduce professional licensing of urban planning specialists in order to increase availability of expertise and improve the quality of preparation of spatial and urban plans.* Too few urban planning institutes are able to service the urban and spatial planning needs of municipalities and cantons. One solution would be to create professional licensing programs at the entity level, which would establish and maintain professional standards and a licensing procedure for urban planning specialists who could then be hired as permanent or project-based technical specialists.

5. *Through the legal and regulatory framework, establish and better define existing standards for:*

a) *Implementation of zoning plans.* The FBiH and RS laws on urban planning both provide for the use of zoning as a tool for efficient land management. However, the laws do not establish a uniform methodology for the development of zoning plans, nor is a methodology established for the preparation of spatial or urban planning documents.

b) *Measures to align BiH with EU spatial and urban planning principles.* It is necessary to establish new standards or better define existing ones that promote the principles and goals of EU urban development with regards to urban planning in BiH. This can be done

through rulebooks and legislation, with a special focus on directives pertaining to energy efficiency and the European Infrastructure of Spatial Information (INSPIRE).

c) *Establishment of urban databases.* Establishing appropriate IT standards for the creation and maintenance of urban and spatial planning databases would greatly improve the development and organization of urban planning documentation. In addition, having one set of definitions and a common format for urban and spatial planning data will enable the proper exchange of data which may be required across municipal departments and with other bodies involved in these efforts.

A working group, comprised of IT, urban planning, and legal experts, should be established and tasked with developing the IT standards, including definitions and database format, as well as proposed changes to existing legislation to allow for the implementation of these IT standards. An expert board, comprising representatives of urban planning departments at all levels of government, should then be convened to review the working group's proposals. Once finalized, the IT and legislative proposals should be submitted to the appropriate government bodies for approval. Upon approval, training on the creation and maintenance of these new IT standards should be conducted.

d) *Exchange and distribution of spatial data.* All municipalities in the FBiH and RS lack up-to-date land surveying maps, which significantly constrains municipal and cantonal authorities from preparing planning documentation and managing land use efficiently. While entity institutions for geodetic and property-rights issues are implementing digitalization activities and updating cadastral databases more quickly, the availability of land surveying-cadastral plans and updated cadastral data including utility lines remains inadequate.

A working group comprised of IT, urban planning, geodetic-cadastral, and legal experts should be formed and tasked with developing practical steps and related legislative amendments required to improve the distribution and exchange of geodetic-cadastral data required for urban planning activities. This effort can be undertaken in concert with the development of the above-mentioned uniform IT standards.

e) *Reorganization of the mode of operations of municipal departments and planning institutes in charge of urban planning.* In order to organize the mode of operations of urban planning bodies in BiH, it is vital to reorganize municipal urban planning departments, and to institutionalize public consultative practices in the urban planning process.

As a first step, municipal urban planning departments must be reorganized so that staff and resources are optimally aligned to undertake urban planning in conformity with new legislation and methodologies. This means that staff are tasked with specific areas of responsibility in the urban planning process, from data collection to monitoring efforts, with quality control as an overarching responsibility. The Rulebooks should reflect this reorganization of staff responsibilities. Second, municipalities and other levels of government must take steps to institutionalize public consultative practices. Responsibility for organizing and managing citizen participation must be put in the hands of municipal officials and not technical planning specialists from the planning institutes (who often charge as much for their efforts as preparation of the urban plans themselves). Further, the involvement of citizens in the urban planning process should be better defined, with more opportunities for public consultation being offered or even required as part of the urban planning process. The institutionalization of public consultative practices requires passing municipal by-laws.

More generally, as mentioned earlier in this paper, mechanisms to develop and maintain professional standards and public input should be established to address the lack of an overall municipal strategy for development. Department heads are often not technical specialists, but rather are chosen due to political affiliation, thus reducing the quality of service delivery. Candidates for department leadership should be held to strict standards and be capable of addressing their scopes of work.

6. *Strengthen institutional capacities through the introduction of IT systems to support spatial information systems and digitalization of urban planning data.* Institutional capacities will be strengthened if they are able to efficiently collect and analyze relevant spatial and urban planning data and documentation. Introducing IT systems will assist in these efforts and will enable information sharing across different levels of government.

7. *Introduce criteria and indicators to monitor implementation of spatial and urban plans and strategies.* Introducing standard criteria and indicators to monitor implementation of spatial and urban plans and strategies will significantly assist governments at all levels to analyze and evaluate the efficacy of their efforts and help to identify modifications where necessary. Ideally, these standard criteria and indicators should align with those utilized by EU institutions and do not contradict provisions found in the BiH legal and regulatory framework for urban planning. Additionally, the M&E results would also help governments as they perform financial analyses of the value and utility of spatial and urban plans.