

Association of Municipalities and Cities of the Federation of Bosnia and Herzegovina



Savez općina i gradova
Federacije BiH

Lobby Strategy

Sarajevo, September 2011



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Improving the Lobby Strategy of the SOGFBiH

(By Čamil Osmanagić and Gerrit Jan Schep, September 2011)

In the CDMA project Strategic Lobbying is one of the components of the Strategic Planning of the SOGFBiH (component 2).

For a brief and practical general explanation of advocacy and lobbying we refer to the guide of VNG International, *Advocacy and Lobbying by a Local Government Association (LGA)*. (Available at: www.vng-international.nl)

This document is Annex to the Strategic Plan of the SOGFBiH for 2011-2015 and includes:

1. An analysis of the present state of the advocacy and lobby of the SOGFBiH.
2. Upgrading the SOGFBiH Policy Cycle of Lobby Agenda.
3. Identifying key-intervention opportunities in the political processes and procedures relevant for the SOGFBiH Lobby.
4. Priorities for the Lobby Agenda of SOGFBiH, including planning.
5. Tools, instruments and methodology to facilitate and improve the lobby of the SOGFBiH, including planning.

The document is prepared with inputs from the staff and the Director of the SOGFBiH and in consultation with the President of the SOGFBiH, Mr. Vlado Alilović, Mayor of the Municipality of Vitez.

1.0 Analyzing present advocacy and lobby of the SOGFBiH

The core function of any LGA is to express, promote, defend and explain the interests of their members to other levels of government, as well as to partners and stakeholders of local government. Also, for the SOGFBiH this is the core of its existence, for which reason the larger part of the capacity of the Association is invested in. The SOGFBiH now has about five years of experience in advocacy and lobbying, and generally speaking the staff of the Association has become rather skilled and successful in lobbying.

Staff members of the SOGFBiH, who play an active role in the lobby of the SOGFBiH, reviewed some questions regarding lobby from which the following profile of the SOGFBiH lobby emerges:

1.1 The SOGFBiH lobby has strong points in:

- Identifying the relevant audience for the lobby.
- Defining clearly the lobby subject matter.
- Preparing the argumentation with a strong focus on factual information and legal aspects.
- Doing research and performing consultations (through e-mail) on regular basis among members of the SOGFBiH.
- Involving members and creating a common voice of members regarding the Association's lobby objectives.
- Performing lobbying in a diplomatic, friendly and non-aggressively oriented way.
- Having a legal position as the official representative of the local governments in the Federation of BiH, which the Parliament and the Government are obliged to consult in local government matters, e.g. for Law Proposals.
- Having built up and maintaining a communication network with the members of the Parliament (specifically the Committee for the Local Self-Government of the House of Representatives of the Parliament of the Federation BiH), as well as with relevant ministries.
- Having obtained a very strong position at the Constitutional Court, by defending in legal procedures the position of local government, and by winning court procedures to this respect. More than once the SOGFBiH used this legal weapon to block new legislation regarding local government that has been approved by the Federal Parliament or to revise existing legislation.
- Establishing good relations and becoming increasingly popular with the international donors to function as the gateway for these donors to contact, work with local governments, or to disseminate information, methods and good practice to them.
- Providing information to the public, counterparts and stakeholders through the (new) website of the Association.

1.2 Opportunities to improve the SOGFBiH lobby are:

- Working with an annually updated Lobby Agenda, which will be included in the Policy Cycle of the Association. The Lobby Agenda is the result of discussions in a joint meeting of the Committees of the Association and approval by the Presidency of the Association.
- Shifting from the mix of re-active lobbying (re-acting to plans and proposals of the Government) and active lobbying (setting and following the Lobby Agenda of the Association), towards an active lobbying dominated approach with lesser need for re-active lobbying.
- Although the Association has legal status to represent local governments towards the Parliament and the Government, in reality, the Association wants to be involved at an earlier stage of the policy making process of the Government (in the phase of preparing pre-draft and draft policy papers and legislation). This will also benefit the ambition of the SOGFBiH to do more active lobbying rather than re-active lobbying.
- Even more active involvement of Association's members in determining the lobby key-points and strategy that the Association already has, and more decisive process to determine the lobby spearheads, minimum and maximum target results, in the General Assembly of the Association.
- When the formal channels which are available to the Association and its friendly diplomacy do not deliver the targeted results, making use of more aggressive ways of lobbying and mobilizing the media and public opinion on the interests of local government in the Federation.
- Establishing an advocacy position with the Cantons of the Federation BiH to lobby for the interest of local government. Both, through the House of Peoples (2nd House of the Parliament of the Federation BiH), whose members are chosen by the Cantonal Parliaments, and directly at the Cantons, the SOGFBiH has no significant direct network with these counterparts. This situation extremely complicates lobbying of the Association in points where the Cantons also have an interest.
- The structure of the Presidency of the SOGFBiH consists of representative members (Mayors) from each Canton (10), plus representatives from the City of Sarajevo, elected President and Vice-President (13 in total). According to the Statute of the Association the Cantonal members in the Presidency have to organize meetings on regular bases in their respective Cantons. In reality this happens only in Unsko-Sanski Canton. The SOGFBiH wants to implement these meetings at the Cantonal level (according to the Statute of the SOGFBiH) and invite representatives of the Cantons to these meetings to improve communication for lobbying with the Cantons. However, this also requires more capacity to help organizing these meetings at the Cantonal level for the SOGFBiH office.
- Promote (although there is already a clear progress here) with the members of the Association the use of communication means of the SOGFBiH, such as the website of the Association, bulletins and brochures.
- Making use of modern techniques of communication with the members and the lobby counterparts, such as Linked-In and Twitter. With these freely available web-instruments available on internet the lobbyists of the SOGFBiH can create specific interest groups among members to consult them about the strategies and targets and to inform them about the progress of the lobby. It also makes it easier for the lobbyist to directly inform the lobby counterparts and maintain a network with them.

2.0 Upgrading the Policy Cycle of the SOGFBiH lobby

For optimal preparation and implementation of the lobby it is advisable to introduce a Policy Cycle at the SOGFBiH for the Lobby Strategy. This Policy Cycle is linked to the Strategic Plan of the Association, and it is an annual procedure to evaluate the Association’s lobby performance of the previous year and to (re)set the Lobby Agenda for the upcoming year. In this process the input from the members is crucial, because the lobby can only be effective when the Association speaks with one common voice.

Within the structure of the SOGFBiH, the General Assembly and the Presidency decide the lobby priorities and the final agenda. The five Committees and the Secretariat of the Association play an important role in preparing proposals for the Lobby Agenda.

Lobby Strategy Policy Cycle:

Step 1: Evaluate, analyze, prepare (by the SOGFBiH staff) and adopt the Lobby Strategy

- a. Evaluate the previous Lobby Agenda of the SOGFBiH and analyze the actual Work Plan of the FBiH Government, regarding local government interests.
- b. Organize a joint meeting of all five Committees of the Association:
 - i. Prepare materials for the joint meeting
 - ii. The meeting will result in a draft proposal of the next Lobby Agenda.
- c. Disseminate the draft proposal of the Lobby Agenda for comments to all municipalities
- d. Approval of the Lobby Plan draft by the Presidency of the Association.
- e. Adoption of the Lobby Plan draft by the Assembly of the Association.
- f. New Policy Cycle for the following year Lobby Agenda starts with a point “a.”

Output – The official SOGFBiH common opinion regarding its Lobby Agenda

Legitimacy

- o Joint sessions of all five Committees of the SOGFBiH*
- o The Presidency adopts final draft proposal for the Lobby Agenda*
- o The General Assembly adopts final Lobby Agenda for the next year*

3.0 Identifying key-intervention opportunities in the political process

Part of the success of the Lobby Strategy depends on detailed knowledge of the political process and procedures of policy and law making in the FBiH. Making official and non-official interventions at crucial junctions in the process may determine the difference between success, and failure of the lobby. In this paragraph an analysis and descriptions are made of relevant phases and steps of policy development in the Federation BiH at entity level.

Goal – “FOR” or “AGAINST” the legislative solution

Regular procedure of law proposing and adoption in the Federation of Bosnia and Herzegovina is based on different stages within that process. The procedure starts with production of a **Pre-Draft** by the responsible ministry, followed by producing a **Draft** of Law. Both documents will be discussed during different Sessions of the Government, where all Ministers are invited to comment on the Pre-Draft and the Draft in the sequential sessions. Before adoption of the Draft, the Government is obliged to ask the opinion of:

1. The Governmental Office for Legislation – opinion about norms, techniques and legal preconditions.
2. The **SOGFBiH**, the Association of Municipalities and Cities of the FBiH – opinion about content of the Draft, if it is related to issues which are important for the local governments.

*NOTE: The most desired lobby approach is to ensure that the SOGFBiH representatives participate in Work Groups for drafting legislative solutions.

**NOTE: It is important to note that a Law Proposal can be submitted on the part of the group of representatives in the FBiH Parliament.

Regular procedure of law adoption in the FBiH

In the policy and law making by the Federal Government and the Parliament we can identify five different stages.

Within these stages the SOGFBiH can officially intervene within five different situations. Those opportunities for intervention can be subdivided in two types and three ways of interventions.

After adoption of the Draft by the Government, the Draft will be delivered to the members of the House of Representatives and the House of the Peoples, for discussions on the Draft during their sessions. In these sessions representatives may ask questions, give remarks, and propose adjustments that must be addressed by those who propose the law. Finally, there will be a voting on **the Draft Law**. After the Draft Law is adopted by the Parliament (in both Houses), the Draft Law will be presented to the public, by means of organizing public discussions, where the proposer of the Draft Law must collect and take into consideration comments, proposals and suggestions before establishing a **Law Proposal**. The Law Proposal with the official Public debate Explanation will be discussed during different sessions of the Government, and forwarded to both Houses of the Parliament for adoption.

During the official session of the Parliament about the Law Proposal, the Parliamentarians are able to intervene, but only by making Amendments. The Parliament will then vote separately on every Amendment and finally on the Law Proposal with adopted Amendments. The **Law** is officially adopted by majority vote.

Note: The SOGFBiH can intervene while the law is in a draft or proposal stage, during preparatory meetings of the different parliamentary Committees, which are always scheduled a day before Parliamentary Sessions.

Within the policy and law making procedures by the Government and the Parliament we identified five stages:

1. Session of the Government, before adoption of the Draft Law, where opinion of the Association has to be presented.
2. Session of the House of Representatives where the Draft Law is discussed and adopted.
3. Session of the House of Peoples where the Draft Law is discussed and adopted.
4. Session of the House of Representatives where the Law Proposal is discussed and adopted.
5. Session of the House of Peoples where the Law Proposal is discussed and adopted.

Within these five stages the SOGFBiH has a good opportunity to officially intervene.

The opportunities for intervention can be subdivided in two types and three different ways of interventions.

Interventions can be:

1. Indirect interventions:

Preparing remarks, questions or amendments, to be presented to the Parliament, by supportive parliamentary members. The lobby focuses on providing those supporters with proper information, arguments and pre-draft proposals, which can also be provided to other members of the Parliament.

This approach can be used during following stages:

- a. **Remark** – During discussion before adoption of the Draft Law in the Parliament.
- b. **Question** – During discussion regarding Governmental explanation on rejected remarks (official Public Debate Explanation).
- c. **Amendment** – during discussion before the adoption of the Law Proposal in the Parliament.

2. Direct interventions:

Direct interventions are ensured by the Law on Principles of Local Self Government in the Federation of Bosnia and Herzegovina, which recognizes the SOGFBiH as the main and legitimate representative of local governments and their interests. For the lobby this creates the official right for the SOGFBiH to express in writing the opinion or point of view of the local governments in the Federation of BiH directly to the President of the Parliament, as well as the right to demand to speak during Parliamentary Session on behalf of the local governments.

This approach can be used during the following stages:

- a. During discussion before adoption of the Draft Law in the Parliament.
- b. During discussion regarding official Governmental explanation on rejected remarks.
- c. During discussion before the adoption of the Law Proposal in the Parliament.

Besides these two interventions there is a third possibility for the Association to advocate and stipulate the interests of the local governments. The SOGFBiH can, at any moment, organize a public debate about any issue of interest for local government.

Besides previously described processes, procedures in the Parliament can also be **Urgent**, and **Abbreviated Procedure**. These procedures are not relevant for the Lobby Strategy of the SOGFBiH, since they are used in specific cases. The Urgent procedure is only used in an emergency in order to prevent larger damages or to protect the public interest. The Abbreviated Procedure is used only if there is a need for technical and not substantial changes, such as minor mistakes, or simple changes of Law. If the Government is not misusing or abusing these procedures, they are not of interest for the Lobby Strategy of the SOGFBiH.

4.0 SOGFBiH Lobby Agenda Priorities

4.1 Laws drafted by the Association of Municipalities and Cities of the FBiH (current status)

1. **Law on Employees in the Units of Local Self Government** - Law on Employees in the Units of Local Self Government has been prepared by the Work Group of the Association, and forwarded to the relevant governmental bodies for further procedure, as per conclusion of the Presidency of the Association. However, it has not been yet forwarded in the Parliamentary Procedure. It is important to note that this Law has been included in the proposal of the Work Plan of Government of the Federation of Bosnia and Herzegovina for 2011. The Federal Ministry of Justice included this Law as a part of the planned activities in the field of public administration reform for the month of December.
2. **Forestry Law** – On 14.04.2009., The Constitutional Court of the Federation of Bosnia and Herzegovina acted on the request of the Municipality Konjic and the Association of Municipalities and Cities of the FBiH, and issued a ruling, that the Forestry Law (“Official Gazette of the FBiH”, Num.20/02, 29/03, and 27/04) violates the right on local self government. In this regard the FBiH Parliament was given an opportunity to adjust the Forestry Law with European Charter on Local Self Government and the Law on Principles of Local Self Government in the Federation of BiH in cooperation with the Association of Municipalities and Cities of the FBiH within six months from the date of publication of the judgment in the Official Gazette of the FBiH. After numerous attempts, the Association and Federal Ministry for Agriculture, Water and Forestry could not agree on the common text of the Forestry Law. Therefore, the Work Group of the Association drafted the Proposal of the Forestry Law that was proposed in the Parliament by the group of members of the House of Representatives. The Proposal of the Forestry Law produced by the Association was adopted by the Urgent procedure during the 32nd Session of the House of the Representatives of the Parliament of the FBiH on 14.07.2010.
3. **Law on Surveying and Cadastre** – The Work Group of the Association also has prepared Draft of the Law on Sureveying and Cadatre. This Law also has not been forwarded to the Parliamentary Procedure.

4.2 New Priorites Discussion

Because of their importance, the Association, in the near future, should focus on legislative solutions for the following Laws:

- A. Law on Financing of Local Self Government in the Federation of Bosnia and Herzegovina
- B. Law on Real Property Rights (This Law is in the proposal of the Work Plan of Government of the FBiH for 2011)
- C. Law on the Amendments of the Law on Public Revenue Sharing in the Federation of Bosnia and Herzegovina
- D. Law on Concessions
- E. Forestry Law
- F. Registry Law
- G. Law on Public Private Partnership
- H. Law on Consolidation of State Enterprises and Public Utilities

Strategic commitment for planning and implementation of the activities in this publication must be in accordance with the Work Plan of the Government and the Parliament of the Federation of Bosnia and Herzegovina.

5.0 Recommendations for the lobby of SOGFBiH

In this publication we mainly described how the SOGFBiH organizes its lobby, as well as the procedures to create one common voice for the Association. We call this the **Lobby Strategy Policy Cycle**, which ensures the members of the Association a participatory process and its legitimacy, and finally provides the Association with a solid **Lobby Agenda**.

Lobbying does not just relate to creating a common voice and defending and improving the legal position of local government. When looking at it from a broader perspective, lobby and advocacy of the Association can also influence other stakeholders than the Government and the Parliament, resulting in a different outputs like subsidies, transfers, Memorandums of Understanding, positive court decisions, positive image in media and press, etc.

Looking at it from a broader perspective lobbying can influence:

1. New legislation relevant for the local government of the Federation.
2. Opinions of politicians and members of the Government resulting in MOU's or Codex.
3. Cooperation between different tiers of the Government (Federal, Cantonal and Local Governments)
4. Cooperation with other stakeholders, such as different NGOs, private companies, etc.
5. Interpretation of laws and regulations by the Constitutional Court, legal representatives and Ministries.
6. Willingness of (international) donors to work with local governments through the SOGFBiH.
7. The opinion of the members of the SOGFBiH.
8. Public opinion on the position of local government (media and press).

The Lobby Strategy of the SOGFBiH should combine different targets (from points 1-8), actions and their timing to make the best possible mix of lobby elements.

Regarding the methodological approach to prepare the content of the Lobby Agenda (as a part of the Lobby Strategy); It is necessary to consider the following important aspects.

In designing the Lobby Agenda we advise the SOGFBiH to:

- A. **Set the right priorities** of the lobby topics. These topics will always differ in volume, depth and "difficulty level". In prioritizing the lobby topics, it is helpful to classify them in different dimensions, such as:
 - Not so - or - very important for the members.
 - Quick wins (short term) - and - long term strategic goals
 - Little - or - a lot of preparation required
 - Easy - or - difficult to negotiate
 - Low - or - high political sensitivity
 - Low - or - high media attention
 - Easy - or - difficult to implement
- B. Set the targets a bit higher than expectations. In doing so, beware that the targets are still **SMART** (Specific, Measurable, Achievable, Realistic and Timely).
- C. **Limit the topics**. It is important not to have too many topics. The volume of the Lobby Agenda must be designed in accordance with the capacities for interventions and implementation.
- D. Use **member initiatives** and **their knowledge and argumentation** as a starting point for the Lobby Agenda. **Use of municipal staff**, who are close to the real problems at local level, is a big potential for developing the right lobby proposals. We suggest to the SOGFBiH to design a **form and format**, to make municipal initiatives fully adequate for further continuation and work.
- E. Use **Discussions and consultations** with the members to identify the *right* objectives and targets.
- F. **Communicate internally and externally with** the other interested parties about the topics for lobbying and the objectives.
- G. The **argumentation** for the lobby objectives should always be based on facts and figures from a serious research.
- H. For research experience and good (or worst) practice the SOGFBiH can also use the **experience of NALAS** countries.
- I. **Benchmarking** as comparative analysis can also provide good arguments, "pro" and "contra".

In this publication we also described and pointed out formal ways and opportunities to intervene and influence (new) legislation relevant for the local government of the Federation of BiH. But, these lobby interventions, both direct and indirect, must meet two preconditions:

1. For the procedures in the Parliament, the SOGFBiH needs to ensure *Friends in the Parliament*, who are willing and ready to represent the SOGFBiH's interests in the Parliament.

2. In both cases, remarks, questions, amendments and letters from the SOGFBiH to the Presidents of the both Houses of the Parliament, as well as speeches in the Parliament, must be well prepared (see also previous paragraph).

Besides these recommendations, it is also good to underline the importance of some practical issues:

- Take care of the right addressing:
 - Ministries
 - Governments
 - Parliament
 - Those who can ensure changes
 - Those with whom we can work efficiently
 - Those who have influence on those who can ensure changes
- That the SOGFBiH official representative is the *right person*, respected and supported by others
- Take the adequate approach
- Be willing to make compromises (!)(acceptable minimum versus desirable maximum)
- Arrange media coverage
- Beware of the right timing

Finally, if all is well prepared with tools, instruments, and recommendations, and taking into account the processes described in this publication, there is no chance to lose, even when the set goal is not achieved immediately. Lobbying for the interests of the local government is a matter of endurance and perseverance. The SOGFBiH is fully ready to start the whole process again with same topics and set objectives.

This Lobby Strategy will be implemented and upgraded in accordance with the other strategic documents, to be compatible with the full set of the strategic documents including:

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|--------------------------------|-----------------------------------|--------------------------------------|
| <i>I. Strategic Plan</i> | <i>IV. Communication Strategy</i> | <i>VII. Service Development Plan</i> |
| <i>II. Annual Plan</i> | <i>V. Media Plan</i> | |
| <i>III. L&A priorities</i> | <i>VI. HRD Plan</i> | |