

The accession process to the European Union is currently being undertaken by six Western Balkan countries and Turkey. This process includes each country aligning its legislation with the standards of the European Union, which requires a wide array of reforms. One of the major components of these standards is gender equality.

This issue of Focus on Gender concentrates on gender equality as a significant condition in the European Union and accordingly in the accession programming process for Bosnia and Herzegovina as a potential candidate country.

In addition, this issue will give a brief overview of the European Union funded project, Gender Equality Facility, which aims to support the country through the role and functioning of the gender equality structures and mechanisms in aligning to the European Union gender equality acquis. Finally, the publication will present recommendations on how to further improve different segments related to gender equality in Bosnia and Herzegovina.

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WHY IS GENDER EQUALITY RELEVANT IN THE EU ACCESSION PROCESS?

Gender equality as a principle was first mentioned in Article 119 of the Treaty of Rome, which established the European Economic Community (EEC), as the right of "equal pay for equal work". Throughout the years, the significance, and efforts towards achieving gender equality have greatly increased. Today, gender equality is a core value of the European Union (EU) and is foreseen as such

in the three primary legal instruments of the EU in 2020: the Treaty of the European Union, the Treaty of the Functioning of the European Union (previously known as the Treaty of Rome) and the European Charter of Fundamental Rights (since 2009) as shown below.² Gender equality, as a core value, is also defined within the EU's secondary legislation.

EU primary law:

Treaty on the Functioning of the European Union:

- Article 8
- Article 10
- Article 79.2(d)
- Δrticle
- Article 151
- Article 157
- Article 165
- Declaration on Article 8 of the Treaty on the Functioning of th Furopean Union

Treaty of the Europear Union:

- Article 2
- Article 3.3
- Article 6
- Article 19

<u>Charter of Fundamental</u> Rights of the EU:

- Article 20
- Article 21
- Article 23
- Δrticle 33
- Articlo 31
- Article 39 and 40
- Article 52

Given that the gender equality principle applies to every sphere of life, it is therefore a significant aspect of the EU rules that not only the member states of the European Union need to comply with, but also all countries wishing to join the European Union. The rules, also known as the *acquis*, are the conditions and timing of a country's

² Consolidated TEU and TFEU available at https://bit.ly/389yixv

adoption, implementation, and enforcement, and they are divided into different policy fields, or chapters. While the EU Gender Equality Law is unevenly dispersed across the 35 Chapters of the *acquis*, gender equality is a key component of the negotiation discussions within Chapter 19: Social Policy and Employment; Chapter 23: Judiciary and Fundamental Rights; and Chapter 24: Justice, Freedom and Security.

Currently, the countries that wish to join the EU, also referred to as the accession countries and/or potential candidate or candidate countries, are in the Western Balkans and include Albania, Bosnia and Herzegovina, Kosovo*, Montenegro, North Macedonia, Serbia, and Turkey. Each of these countries is in a different stage of accession, which is the process of implementing the reforms and acquis required to join the EU.

MONITORING PROGRESS TOWARDS GENDER EQUALITY

In addition to the inclusion of gender equality in the foundations of the EU's legislation, the progress and achievements made have been measured since 2013 using the Gender Equality Index, which was developed by the European Institute for Gender Equality (EIGE). The results presented in the Index also identify the areas in which further work is required and thereby support the creation of better policies that will support greater advancements in gender equality.

The index includes six core domains and 31 indicators for measuring gender equality, in which the higher the score, the closer to gender equality. These domains are health, work, money, knowledge, time, and power. The overall score for the EU in 2021 was 68 points out of 100 on the Index, with Sweden and Denmark as the top-rated countries. Based on the current rate of progression (approximately 1 point every two years), gender equality may not be reached for another 60 years.³

The highest scoring domain for the EU in 2021 at 87.8 was in health, which measures gender equality in terms of health status, health behavior, and access to health services. The lowest scoring domain for the EU in 2021, at 55, was in power, which measures gender equality in decision-making positions across the political, economic, and social spheres.



^{*} All references to Kosovo, whether the territory, institutions, or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

3 European Institute for Gender Equality, https://eige.europa.eu/

Some of the accession countries have also participated in this index. Serbia was the first country, in 2016, to calculate the index and scored 58 this year (2021). In 2019, North Macedonia scored 62; Albania 60.4 and Montenegro 55.4 Both Kosovo and Bosnia and Herzegovina are in the process of calculating a partial index.

EU GENDER EQUALITY STRATEGY AND GENDER ACTION PLAN

One area in which the results from the Gender Equality Index are especially beneficial is in the EU's own documents, including strategies and action plans as related to gender equality.

The current EU Gender Action Plan 2021-2025 (EU GAP III) is focused on five action pillars that include the EU leading by example by making EU engagement for gender equality more effective; promoting the EU's strategic engagement at all levels; focusing on key thematic areas of engagement; and reporting and communicating on all results.⁵

Part of the strategic engagement pillar is that each country should create or update their EU gender country profile. The profile provides an analysis on the thematic areas of engagement and objectives set within EU GAP III. These areas are ensuring freedom from all forms of gender-based violence; promoting sexual and reproductive health and rights; promoting economic and social rights, empowering girls and women; promoting equal participation and leadership; integrating the women, peace and security agenda; addressing climate change and environment as well as digitalization. Based on this analysis, a country-level implementation plan (CLIP) which sets the policy priorities and identifies the actions and key objectives from the thematic policy areas should be developed.6

Another action pillar within EU GAP III is an increase in the EU's commitment on gender equality and women's and girls' empowerment. In 2019, 65% of external actions had gender equality and women's and girls' empowerment as a significant or principal objective. The new EU target for external actions for 2025 is at least 85%.⁷

The EU's strategy for gender equality in the accession countries has been developed step by step and includes three approaches:

- Political and policy dialogue with the countries;
- Gender mainstreaming (explicit and comprehensive) of all sectoral programs that are financed by instruments for preaccession assistance (IPA); and
- Further assistance for specific actions that target women or men in order to achieve gender balance and gender equality in all spheres of social life.⁸



INSTRUMENT FOR PRE-ACCESSION ASSISTANCE

One of the ways in which EU external actions are funded is through the Instrument for Pre-Accession Assistance. EU pre-accession funds are a sound investment into the future of both the enlargement region and the EU itself. These funds help the beneficiaries make political and economic reforms, preparing them for the rights and obligations that come with EU membership. In turn, the reforms should provide citizens with better opportunities and allow for the development of standards equal to the ones enjoyed by EU citizens. The pre-accession funds also help the EU reach its own objectives regarding a sustainable economic recovery, energy supply, transport, the environment, and climate change, among others.

⁴ European Institute for Gender Equality, Gender Equality Indices in the Western Balkans and Turkey, available at: https://bit.ly/3njqCxS

⁵ European Commission, Gender Action Plan - putting women and girls' rights at the heart of the global recovery for a gender-equal world, available at: https://bit.ly/3DAWns9

⁶ European Commission, EU Gender Action Plan (GAP) III - An ambitious agenda for gender equality and women's empowerment in EU External Action 2020, p. 7, available at: https://bit.ly/3kFRsP9

⁸ European Commission, Gender Country for Bosnia and Herzegovina, 2014, p. 13, available at: https://bit.ly/3wOIEMR

IPA III, from 2021 - 2027 is the newest form of assistance. IPA III will bring changes that include thematic windows instead of priority sectors and no country-dedicated budget,

which means that each beneficiary country will be in competition for the 14.2 billion € that are being allotted.9

Figure 2: EU IPA III Thematic Windows

1

Rule of law, fundamental rights, democracy

- Judiciary
- Fight against corruption
- Fight against organized crime/ security
- Migration and border management
- Fundamental rights
- Democracy
- Civil society

2

Good governance, acquis compliance, good neighbor relations and strategic communication

- Good governance
- Administrative capacity and alignment with the acquis
- Good neighborly relations and reconciliation
- Strategic communication, monitoring, evaluation and communication activities

Green agenda and sustainable connection

- Environment and climate change
- Transport, digital economy and society, and energy



Competitiveness and inclusive growth

- Education, employment, social protection and inclusion policy, and health
- Private sector development, trade, research and innovation
- Agriculture and rural development
- Fisherie

5

Territorial cooperation

- Interreg IPA Cross-border Cooperation Program Croatia-Bosnia and Herzegovina-Montenegro
- IPA Serbia-Bosnia and Herzegovina Cross-Border Cooperation Program
- IPA Cross-border Cooperation Program Bosnia and Herzegovina-Montenegro
- Interreg Danube Transnational Program
- Interreg ADRION transnational program
- Interreg Euro-MED transnational program

The basic principle that the EU wants to point out to beneficiary countries with IPA III is "lay a good foundation first" with the key foundations being rule of law, fundamental rights and freedoms, strengthening of democratic institutions, reform of public administration at all levels of government, and sustainable economic development and competitiveness.¹⁰

While gender equality has always been a significant aspect of this foundation, the emphasis on gender equality in IPA III is further underlined as one of the cross-cutting themes. Under each window, one of the key priorities listed under IPA III support is: "The proposed actions will be designed in a way to assess, address, and mainstream gender,

with special consideration to combatting all forms of sexual and gender-based violence, promoting gender equality, and empowering girls and women." ¹¹

Additionally, external programs that are funded by the EU need to apply three minimum standards:

- Conducting and using updated sector-/ policy area-specific gender analyses to inform decision-making on future actions and integrating these into all relevant dialogues, policies, strategies, programs and operations;
- Applying gender-sensitive and sexdisaggregated indicators and statistics to monitoring and evaluation; and

9 Ibid.

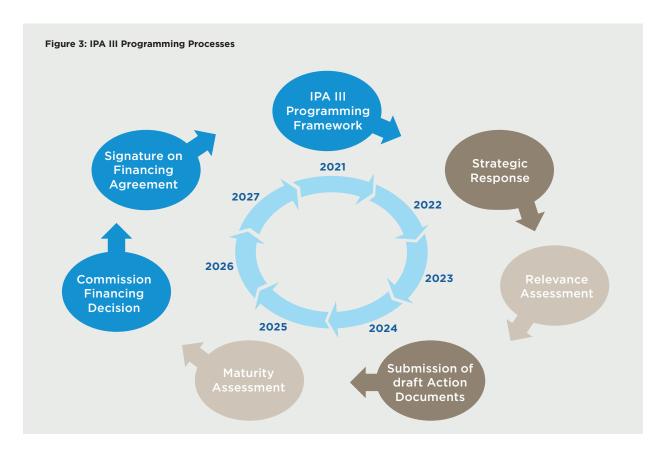
¹⁰ Direkcija za evropske integracije. (2021). Šta donosi insturment pretpristupne pomoći 2021-2027 - IPA III, pg. 7. Sarajevo, Bosnia and Herzegovina.

¹¹ Draft IPA III Programming Framework, 25 November 2020, available at: https://bit.ly/3ns60bT

 Giving robust reasons, based on the findings of the gender analysis, to substantiate any action deemed to not contribute to gender equality.¹²

There are several stages in IPA planning and programming during which the European Union or IPA III beneficiary prepare the following documents: Programming

Framework, strategic response, action fiche, and action document. It should be noted that IPA planning and programming is a cyclical process, meaning that beneficiaries are in a continuous process of reviewing and updating proposals for the current year while also starting preparations for the following year.



The Strategic Response describes how the beneficiary in question plans to utilize IPA III Financial Assistance to contribute to the overall and specific objectives outlined in the IPA III Programming Framework. In particular, it provides an articulation of actions planned across the key thematic priorities within each of the five thematic windows.

The Action fiches that are part of the Strategic document present project ideas. Only Action fiches that pass the process of

relevance assessment and receive a "green light" from the European Commission will be further developed and transformed into Action documents.

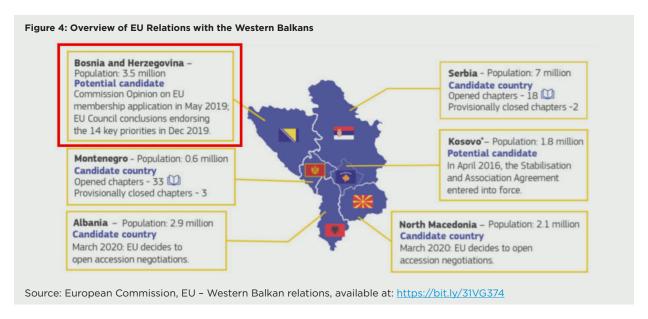
Actions documents are project proposals that are also submitted to the European Commission. Only those "mature enough" will be approved for financing. The last stage of the IPA Programming cycle is the signing of the financial agreement.



COUNTRY CONTEXT

Bosnia and Herzegovina is a potential candidate country to the European Union.

The figure below shows the country's status in relation to the other Western Balkan countries.



On February 15, 2016, Bosnia and Herzegovina submitted its EU membership application. Following the completion of the Commission's Questionnaire in 2018, the European Commission issued its Opinion on Bosnia and Herzegovina's application for EU membership, which states that the country still must dedicate considerable efforts to sufficiently fulfil the criteria in order to bring in line its constitutional framework with European standards and to ensure the functionality of its institutions to be able to take over EU obligations.

The Opinion also describes 14 criteria divided into four key areas that Bosnia and Herzegovina will need to further improve before negotiations for accession to the EU can be opened. Under the key area of fundamental rights, one criterion is to strengthen the protection of the rights of all citizens, notably by ensuring the implementation of the legislation on non-discrimination and on gender equality.¹³



Since the European Commission issued its Opinion on Bosnia and Herzegovina's application for membership, the subsequent annual country (previously referred to as progress) reports from 2020 and 2021 from the European Commission have monitored and noted the improvements or lack thereof in the implementation of these 14 key priorities.

Both annual country reports from 2020 and 2021 for Bosnia and Herzegovina note that limited progress has been made in the priority areas and in the different EU acquis chapters. In terms of fundamental rights, while the legislative and institutional framework is largely in place, the recommendation from 2020 to adopt a comprehensive strategic framework has yet to be implemented. The 2021 report states: Bosnia and Herzegovina is overall at an early stage/has some level of preparation regarding its level of preparedness and ability to take on the obligations of EU membership and needs to significantly step up the alignment with the EU acquis and implement and enforce the relevant legislation.14

STATUS OF GENDER EQUALITY IN BOSNIA AND HERZEGOVINA

As stated in Bosnia and Herzegovina's annual country reports from the European Commission, the infrastructure for gender equality in Bosnia and Herzegovina is largely in place, along with rules and regulations. It is the first country in the region to adopt the Gender Equality Law and the National Strategy for Gender Equality, as well as to sign Resolution 1325 and adopt the National Plan of Action. With the adoption of the Gender Equality Law in 2003, the formation of the gender institutional mechanisms was enabled.

The gender institutional mechanisms are the three institutions in Bosnia and Herzegovina that are dedicated to work on gender equality. These institutions are the Agency for Gender Equality of Bosnia and Herzegovina (AGE BiH) at the state level and two Gender Centers at the entity level, one in the Federation (FBiH) and one in Republika Srpska.

AGE BiH is mandated to prepare, monitor, and coordinate a periodical Gender Action Plan for Bosnia and Herzegovina (GAP BiH), which is based on proposals from state-level ministries, as well as the plans prepared by the Gender Centers. The GAP BiH serves as a policy document that guides ministries and other institutions in mainstreaming gender equality principles into the work of their institutions.

The third and most recent GAP BiH covers the time frame of 2018-2022 and has three strategic goals:

- Development, implementation and monitoring of the program of measures for the advancement of gender equality within governmental institutions per priority areas
- Establishing and strengthening the system, mechanisms, and instrument for the achievement of gender equality
- Establishing and strengthening cooperation and partnerships



However, the legal system in BiH remains challenging and continues to provide opportunities for gender-based discrimination due to the lack of harmonization of laws across political entities and their inconsistent implementation, as well as a lack of effective monitoring. There are many challenges and obstacles in achieving gender equality, including in political participation and decision-making; the economic environment; social protection and healthcare; education; civic participation; and in the context of human security.¹⁵

These challenges and obstacles are further confirmed by the most recent data. According to the Women and Men in Bosnia and Herzegovina 2021 publication, there is a 25-percentage point gender gap in employment; women only make up 17% of the management structures of the largest listed companies in BiH, and women only make up 6.7% of the professional military personnel of the Armed Forces of BiH. And, while women make up half the population of the country, only 4% of the elected mayors in the 2020 Local Elections were women.¹⁶

EUROPEAN UNION INTEGRATION PROCESSES IN BOSNIA AND HERZEGOVINA

A well-integrated gender equality perspective is a criterion in all EU-related projects, and it is often a prerequisite for financial support of international institutions and donors. In the draft of the IPA III Programming Framework, the European Union highlights that BiH needs to have a strong rule of law-based society and for that to be achieved, gender equality should be more effectively promoted and implemented in all areas.¹⁷

The National IPA Coordinator (NIPAC), as it is foreseen by the IPA regulation, holds the main responsibility for IPA programming (among several other responsibilities). In the case of Bosnia and Herzegovina, the director of the Directorate for European Integration (DEI) of the Council of Ministers of BiH is the BiH NIPAC. One division of DEI also functions as a supporting office for the BiH NIPAC Office. For IPA III planning/programming, the BiH NIPAC Office has established consultation fora, whose members are representatives of relevant institutions from all levels of authority and participants from civil society.

As gender equality is a cross-cutting theme in IPA III, the BiH NIPAC office has included the Agency for Gender Equality in all consultation for providing information and comments on each action document. In this regard, a gender analysis of eight IPA action documents was conducted: support to judiciary, support to internal affairs; public administration reform (including statistics); public financing; enhanced administrative capacities; environment and climate change; people; and aligned food standards. In addition, a gender analysis was drafted of an IPA program document on a cross-border cooperation program between Bosnia and Herzegovina and Montenegro.

Another important aspect of European integration lies in the national program for

¹⁵ UN Women (2021). Country Gender Equality Profile of Bosnia and Herzegovina. Sarajevo, Bosnia and Herzegovina, pgs. 11-13, available at: https://bit.ly/32p0V6V

¹⁶ Agency for Statistics of Bosnia and Herzegovina (2021). Women and Men in Bosnia and Herzegovina, available at: https://bit.ly/3C8UI2w

¹⁷ IPA III Programming Framework - draft, Nov, 2020, p.13.

the adoption of the *acquis* (NPAA), which is the main instrument for the harmonization of BiH laws with the European Union *acquis*.

The NPAA is a document prepared and adopted by the potential candidate country, which defines the measures that will be implemented in a given period, with the aim of meeting the criteria for European Union accession. It includes a plan to harmonize legislation with EU regulations and a plan to meet other obligations arising from the EU accession process. The NPAA provides a comprehensive overview of activities, the holders of these activities, and deadlines for their implementation.

Based on the Council of Ministers Decision on the coordination system of the European integration process in Bosnia and Herzegovina¹⁸, through which state, entity, and cantonal institutions as well as Brčko District are included, four bodies were established: the Working Groups for the EU integration process, the commission for the European Union integration process, ministerial conferences, and the collegium for the European Union integration process.

The 36 Working Groups, corresponding to the *acquis* chapters, are in charge of:

 technical finalization of written documents drawn up by the institutions in Bosnia and Herzegovina for information to the European Commission and other European Union institutions and technical finalization of other materials stemming

- from the commitments under the Stabilization and Association Agreement and the European integration process;
- participation in the process of programming of the European Union assistance, primarily in the context of the assessment of needs for ensuring financial and technical assistance of the European Union for the institution in Bosnia and Herzegovina in meeting their commitments in the European integration process;
- identification of the needs for translation of the acquis in cooperation with the institutions at all levels of government that handle translation in the European integration process;
- exchange of positive experiences and good practice among responsible line institutions at all levels of government for the purpose of efficient fulfilment of European integration obligations;
- as part of the pre-accession negotiations, the Working Groups, strengthened in terms of human resources, shall act as negotiating teams representing Bosnia and Herzegovina for specific areas of the acquis¹⁹

The gender institutional mechanisms participate in five Working Groups. All three are included in: political criteria²⁰, working group 19 - Social policy and employment, and 23 - judiciary and fundamental rights. The Gender Center of FBiH is also participating in Working Group 24 - justice, freedom, and security and working group 28 - consumer and health protection.²¹



¹⁸ Official gazette of BIH: 72/16

¹⁹ Article 9 of the Decision on the coordination system of the European integration process in Bosnia and Herzegovina, Official gazette of BIH: 72/16

²⁰ Decision on establishing a working group for political criteria, a working group on economic criteria and a working group on public administration reform, Official gazette BIH: 41/17, available at: https://bit.ly/3uxzZfZ

²¹ Decision on establishment of working groups for European integration, Official gazette of BIH: 34/17, available at: https://bit.ly/3N6nmka



UN WOMEN'S WORK ON GENDER EQUALITY AND THE EU INTEGRATION PROCESS

One action financed by the European Union under IPA II is the Gender Equality Facility (GEF) project that brings together gender equality and the EU integration process.

The two-year project aims to strengthen the effective implementation of domestic and international legal frameworks concerning gender equality and women's rights; mainstream gender into European Union integration and planning processes for preaccession assistance; strengthen institutional mechanisms for gender equality in line with EU standards; and support institutions in correctly aligning with the EU gender equality acquis.

The gender institutional mechanisms are at the forefront of the project with three institutions focused on European Integration included as partners. These institutions are the Directorate for European Integration; the Office of the Government of the Federation of Bosnia and Herzegovina for European Integration; and the Ministry for European Integration and International Cooperation of Republika Srpska.

All project activities have a specific focus on EU priority sector areas. During the project's

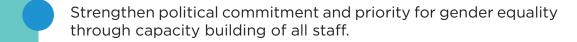
first year, the focus was on agriculture and rural development; competitiveness and innovation; and democracy and rule of law. The second year will focus on EU4people (employment, social protection, ...); climate and the environment; and internal affairs.

Sector-specific work has thus far involved over 50 institutions at the state and entity levels, as well as Brčko District. GAP BiH Committees and civil servants tasked with providing gender expertise in sectoral areas, i.e. gender focal points and IPA focal points as well as representatives of statistical institutions have participated in activities that included: practical gender mainstreaming trainings in the specific context of the IPA programming process; workshops on monitoring and evaluating GAP BiH and how to improve the process; and workshops aimed to support the identification of additional sources of administrative data for gender statistics.

In close collaboration with the project's main beneficiaries and partners, the second year of implementation will follow and build upon the cycle set within the first year and include analysis of the second-year sectors, which will then be the basis for the capacity building of focal points within these sectors on gender mainstreaming and EU integration processes. The second year will additionally measure in which areas progress has been made in aligning with the EU gender equality acquis and areas in which gaps still exist and further support is needed.

RECOMMENDATIONS FOR ACTION

GOVERNMENT ON ALL LEVELS



Support the creation of permanent gender focal points by including all the tasks of the gender focal points in their job descriptions.

Apply gender mainstreaming in legislation and all respective policy areas.

Approve mandatory submission of all policy plans and legislation to gender institutional mechanisms prior to governmental and parliamentary procedures.

GENDER INSTITUTIONAL MECHANISMS AS RELATED TO GAP BIH

Discuss opportunities for the improved implementation of GAP BiH through semi-annual thematic sessions with commissions/committees for gender equality at state and entity levels.

Consider the adoption of an operative plan for monitoring and reporting that would cover the entire GAP BiH validity period.

Improve cooperation with local self-government units, for the purpose of data collection.

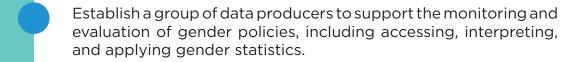
Support capacity building efforts to focal points in relevant institutions to improve the reporting process.

Establish a register of international assistance in the area of GEWE (gender equality and women's empowerment).

Organize annual meetings with representatives of civil society organizations (CSOs) and create a unique database of CSOs across policy areas.

STATISTICAL INSTITUTIONS

Establish mechanisms for the harmonization and standardization of the three statistical *Women and Men* bulletins in terms of periodicity, methodology, and the range of indicators covered.



- Establish a gender statistics network that involves statistical and other institutions.
- Involve users of data such as local CSOs, academia, and media in the statistical institutions' consultation processes during the planning and preparation phases.
- Improve cooperation among the three statistical institutions and three gender institutional mechanisms to define additional statistics that need to be gender-disaggregated and specific statistical data that are part of the statistical program of the European Union.

INSTITUTIONS FOR EUROPEAN UNION INTEGRATION

- Prepare annual training on "gender equality in IPA programming" for IPA programming participants.
- Conduct trainings on EU and IPA processes for the gender institutional mechanisms.
- Develop guidelines on how to integrate gender equality and other horizontal themes early in the programming of IPA III for all members of consultation fora.
- Provide opportunity for the greater inclusion of the gender institutional mechanisms in the Working Groups related to IPA and NPAA processes.

INTERNATIONAL COMMUNITY

- Consider increasing the capacities of the gender institutional mechanisms, due to the requirements resulting from IPA and NPAA programming processes.
- Support the establishment of robust mechanisms for monitoring the implementation and impact of GEWE policies.

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