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**Bosnia and Herzegovina 2016 Report**

*Accompanying the document*

**Communication from the Commission to the European Parliament, the Council, the  
European Economic and Social Committee and the Committee of the Regions**

**2016 Communication on EU Enlargement Policy**

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# 1. INTRODUCTION<sup>1</sup>

## 1.1. Context

The EU initiated in December 2014 a renewed approach to Bosnia and Herzegovina (BiH), which provides for the re-sequencing of the conditionalities in order for the country to progress towards the EU and address the socio-economic challenges it faced. Following the adoption of a written commitment to reforms by the Bosnia and Herzegovina institutions and leadership, the renewed approach led to the entry into force of the Stabilisation and Association Agreement (SAA) between Bosnia and Herzegovina and the EU on 1 June 2015, replacing the Interim Agreement (IA) which had been in force since 2008. In July 2015, the country adopted a Reform Agenda aimed at tackling the difficult socio-economic situation and advancing the rule of law and public administration reforms. Its implementation has continued with meaningful progress. In September 2016, the EU Council invited the European Commission to submit its opinion on the EU membership application of Bosnia and Herzegovina, submitted in February.

Regular political and economic dialogue takes place between the EU and Bosnia and Herzegovina in the framework of the SAA/IA structures. Bosnia and Herzegovina initialled in July 2016 a protocol for the technical adaptation of the SAA/IA, to take into account its bilateral traditional trade with Croatia. The signing of the protocol is pending. The suspension of the Autonomous Trade Measures will be lifted once the protocol on the adaptation of the SAA is provisionally applied. Shortcomings in the judiciary continued to be discussed in the Structured Dialogue on Justice.

## 1.2. Summary of the report

As regards the **political criteria**, the electoral legislation was improved, with a number of OSCE-ODIHR recommendations being followed and local elections organised broadly in an orderly manner, despite incidents in some municipalities which need to be investigated. Despite efforts to resolve the Mostar issue, elections could not take place there this year. The Bosnia and Herzegovina Parliamentary Assembly and the entities' parliaments made progress towards adopting outstanding reform priorities, in particular those stemming from the Reform Agenda. Cooperation between state-level, entity-level and Brčko district parliaments has improved. However their role and capacities in the EU integration process need to be further improved. Cooperation between the BiH Council of Ministers and the entities' governments was effective as regards the Reform Agenda, the implementation of which needs to continue. The coordination mechanism on EU matters was adopted by the Council of Ministers in August. A strategic programme for the country's legal approximation with the EU *acquis* has yet to be adopted.

Bosnia and Herzegovina's constitution remains in breach of the European Convention on Human Rights, as per the ruling in the *Sejdić-Finci* case. Constitutional Court decisions have yet to be fully enforced throughout the country.

While some progress has been made in establishing institutional mechanisms for cooperation between governments and civil society organisations (CSOs), a strategic framework for cooperation with civil society needs to be developed.

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<sup>1</sup> This report covers the period from October 2015 to September 2016. It is based on input from a variety of sources, including contributions from the government of Bosnia and Herzegovina, the EU Member States, European Parliament reports and information from various international and non-governmental organisations. As a rule, legislation or measures which are under preparation or awaiting parliamentary approval have not been taken into account.

Bosnia and Herzegovina is at an early stage with the reform of its public administration. Backsliding has been recorded with the changes to the Federation entity's legal framework for the civil service, increasing the risk of politicisation. A harmonised approach to policy development and coordination between different parts of the administration is still largely lacking. The adoption of a new strategic framework for public administration, as well as a strategy on public financial management are needed.

Bosnia and Herzegovina's justice system has some level of preparation. Some progress was made on accountability and integrity. The action plan needed to implement the 2014-2018 justice sector reform strategy has yet to be adopted. Politically motivated threats on the judiciary by some politicians in the country continued. Judicial independence remains to be strengthened.

Bosnia and Herzegovina has some level of preparation in the fight against corruption. Some progress was made with the adoption of action plans at various levels of governance but their fragmentation makes implementation less effective. Corruption remains prevalent in many areas and continues to be a serious problem. The declared political commitment on this subject did not translate into concrete results.

Regarding the fight against organised crime, Bosnia and Herzegovina has some level of preparation. Some progress was made notably to improve inter-agency cooperation. However, financial investigations need to be stepped up. Fighting organised crime remains fundamental to countering criminal infiltration of the political, legal and economic system of the country. Bosnia and Herzegovina still needs to meet international standards on anti-money laundering and countering the financing of terrorism. Bosnia and Herzegovina has been seriously affected by the phenomenon of foreign terrorist fighters and radicalisation. Bosnia and Herzegovina has already taken important measures to deal with this problem which needs to be complemented by further steps to identify, prevent and disrupt the flow of foreign terrorist fighters travelling to conflict areas such as Iraq and Syria.

More work is required addressing human rights and minorities' issues. Some progress was achieved in particular with the adoption of amendments to the anti-discrimination law. The strategic, legal, institutional and policy frameworks for the observance of human rights remain in overall need of substantial improvement. There is some level of preparation on freedom of expression. However, no progress was made in this area. Cases of political pressure and intimidation against journalists need adequate legal follow up. The financial stability of the public broadcasting system remains to be addressed, as well as the issue of the lack of transparency of media ownership.

With regard to regional cooperation, the country continued to participate actively in regional initiatives. Bosnia and Herzegovina took over the chairmanship of the Central European Initiative in January.

As regards the **economic criteria**, Bosnia and Herzegovina is still at an early stage in developing a functioning market economy. Some progress has been made in modernising the labour legislation, improving the business environment and addressing weaknesses in the financial sector in the framework of the agreed Reform Agenda. However, the public sector is inefficient and private sector development is slow. Strong and continuing political support for the swift implementation of much-needed structural reforms, in line with the agreed Reform Agenda, will be key.

Bosnia and Herzegovina is at an early stage in building the capacity to cope with competitive pressure and market forces within the Union. There was no progress in improving the country's competitiveness, but implementation of Reform Agenda measures is ongoing.

Regarding approximation with **European standards**, there is some level of preparation in the fields of public procurement and internal market. The country achieved some level of preparation in the transport area; the adoption of a Framework Transport Strategy at State-level in July is a step forward towards the country benefitting from the connectivity agenda. Country-wide strategies in the areas of agriculture, energy and environment are yet to be adopted. Further sustained efforts are also needed as regards justice, freedom and security matters, the competition area, industry and SMEs, agriculture, environment and climate change policies, energy, and information society and media. The results of the population and housing census conducted in October 2013 were published on 30 June 2016, in line with international standards and recommendations.

## **2. POLITICAL CRITERIA**

### **2.1. Democracy**

#### **Elections**

The electoral legislation was improved, with several OSCE-ODIHR recommendations being followed. Local elections were organised in October 2016 and were broadly conducted in an orderly manner. However, some incidents were recorded and will need to be adequately addressed. Due to a lack of political agreement, the 2010 Constitutional Court decision concerning the respect of the basic democratic right of the citizens of Mostar to vote in local elections has yet to be implemented.

Municipal elections were organised in October 2016 and were broadly conducted in an orderly manner. However, a number of incidents took place in some municipalities and resulted in the closing of the polling stations in one municipality and a temporary closing in several others. Bosnia and Herzegovina authorities need to investigate these incidents and ensure the appropriate judicial follow up. The election legislation was amended in May and June 2016 to incorporate the gaps identified by OSCE/ODIHR and GRECO on campaign financing, the party and independent candidate deregistration process, the increase in the threshold for distribution of mandates on candidate lists, and increased fines for violating the election process. A number of municipalities struggled to collect the necessary funding to hold the elections. Despite renewed efforts, an agreement on implementing the 2010 Constitutional Court's decision on elections in Mostar has yet to be reached, and after 6 years the citizens of Mostar still cannot exercise their democratic rights. The Constitutional Court decision needs to be implemented as a matter of priority.

#### **Parliament**

The Bosnia and Herzegovina Parliamentary Assembly and the entities' parliaments made progress towards adopting outstanding reform priorities, in particular those stemming from the Reform Agenda. While cooperation between state-level, entity-level and Brčko District parliaments improved, their role and capacities in the EU integration process need to be further improved.

The **Parliamentary Assembly of Bosnia and Herzegovina** further delivered on its legislative agenda, with a focus on legislation stemming from the Reform Agenda. The oversight role of the assembly improved as its committees repeatedly organised specific sessions to review the activities of the executive. During the reporting period the assembly also adopted several multiannual strategic documents to increase legislative efficiency, transparency, public

outreach, dialogue and cooperation. The Secretariat of the Parliamentary Assembly also started to share its capacities with entity and Brčko District parliaments.

The Stabilisation and Association Parliamentary Committee (SAPC) was established in November 2015 as part of the Stabilisation and Association Agreement (SAA) bodies. However, it failed to adopt its Rules of Procedures due to insistence by some delegates from Bosnia and Herzegovina for the inclusion of a voting mechanism provision which would not comply with European standards.

The **Republika Srpska National Assembly** continued to adopt legislation to implement the Reform Agenda. The assembly's EU Integration Committee was active and fostered cooperation with other parliamentary institutions in Bosnia and Herzegovina and abroad. However, fast-track procedures were often used for law-making, which raises questions about the quality of the adopted legislation. In October 2015, the assembly adopted conclusions which included the possibility for representatives to be sanctioned through *Republika Srpska* entity courts for their political activities at state level, a provision not in line with European standards.

The work of the **Federation of Bosnia and Herzegovina (FBiH) Parliament** resumed after the new parliamentary majority was established in October 2015. Coordination with cantonal assemblies improved, in particular on shared powers. While the parliament adopted a number of Reform Agenda-related legislation, the overall decision-making process was slow due to disagreements in the coalition. The Federation House of Peoples remained short of three Serb delegates, including the Deputy Chair, which had a negative impact on the legislative process. The functioning of the parliament also continued to be hampered by the lack of space in its rented premises and insufficient capacity to deal with European integration-related issues.

The work of the **Brčko district assembly** committees, including the Committee for European Integration, remained problematic due to frequent lack of quorum at meetings and the limited capacity of the district assembly's services. The Committee for European Integration held only two meetings.

The four parliaments adopted a joint concept of cooperation on EU matters. This led to an improvement in inter-parliamentary cooperation, including through the work of the parliamentary forum on European integration, which held quarterly meetings on EU issues. Members of sectoral committees of the four parliaments were also active in joint activities about the Bosnia and Herzegovina EU integration process.

## **Governance**

Bosnia and Herzegovina institutions further addressed reform priorities. Cooperation between the Bosnia and Herzegovina Council of Ministers and the entities' governments was effective as regards Reform Agenda implementation. The coordination mechanism on EU matters was adopted by the Council of Ministers in August. A strategic country-wide programme for the country's legal approximation with the EU *acquis* has yet to be adopted. Bosnia and Herzegovina's constitution remains in breach of the European Convention on Human Rights, as per the ruling in the *Sejdić-Finci* case and subsequent judgments. Constitutional Court decisions have yet to be fully enforced throughout the country.

The Dayton/Paris Peace Agreement put an end to the 1992-1995 war. The country's **constitution**, which is Annex 4 to the Agreement, established a complex institutional architecture that remains inefficient and which is subject to different interpretations. The constitution prevents citizens who do not declare themselves as Bosniaks, Croats or Serbs from standing as candidates for the Presidency and the House of Peoples of the Parliamentary Assembly. The *Sejdić-Finci*, *Zornić* and *Pilav* decisions of the European Court of Human

Rights recognised this as a breach of the European Convention on Human Rights. A large number of Constitutional Court decisions are yet to be implemented at various levels across the country.

The **Presidency of Bosnia and Herzegovina** played its role in the EU integration process, including in the submission of the EU membership application in February. The Protocol on adaptation of the SAA to take into account Croatia's accession to the EU was initialled in July.

The **Council of Ministers** remained proactively committed to advancing the country's EU integration agenda. In October 2015, it adopted the action plan for implementing the Reform Agenda at the state level, which led to reforms being adopted in areas such as debt management, anti-money laundering, customs policy and fight against organised crime. In August, the Council of Ministers adopted the Decision on the coordination mechanism in EU matters.

Countrywide strategies in areas such as agriculture energy and environment have yet to be adopted. These strategies will help the country to fully benefit from EU pre-accession assistance. The role and capacity of the Directorate for European Integration will need to be further improved. Its new Director was appointed in November 2015, but due to political disagreements the Directorate could not fully assume its coordinating role in the framework of the SAA. Pending an agreement on the coordination mechanism and the establishment of relevant structures, only two SAA sub-committees could be held. A national programme for the country's legal approximation with the EU *acquis* has yet to be adopted; the programme is a legal obligation under the SAA.

The **Federation of Bosnia and Herzegovina Government** continued to deliver on reform priorities as defined in the Reform Agenda. This included the adoption of legislation in areas such as labour market, fiscal responsibility and business environment. The appointments to the supervisory boards of public companies, which initially had led to the break-up of the post-election ruling coalition, proceeded smoothly. The Federation Office for European Integration still lacks administrative capacity to coordinate EU affairs across the different levels of government within the Federation entity and with the rest of the country. The Federation Government and the cantons cooperated on EU integration issues only sporadically.

The **Republika Srpska Government** adopted a number of laws in the framework of the Reform Agenda, notably in the areas of labour market, fiscal responsibility, bankruptcy and combating the grey economy. However, the government also adopted conclusions including provisions on direct reporting to the European Commission, a practice which directly challenges the need for the country to ensure a single channel of communication with the EU. At the same time, the entity government refrained from participation in developing countrywide strategies until the establishment of the coordination mechanism on EU matters, with a major negative impact on programming and implementing the EU's financial assistance in key sectors. *Republika Srpska* Government organised in September 2016 a referendum, ignoring the Bosnia and Herzegovina Constitutional Court decision to suspend the referendum until it decides on its constitutionality

The **Brčko District Government** held three sessions on European integration. In November, the government adopted an action plan on the implementation of measures arising from the Reform Agenda, and adopted reforms in areas such as public internal financial control and assets seizure.

Entity legislation remained largely in line with the European Charter of **local self-government**. However, a lack of clarity remained in the division of powers between the entities, cantons and municipalities, with a relatively low level of financial autonomy at municipal level.



The **Ombudsman's Office** continued to lack adequate human resources and faced serious financial constraints, which were detrimental to its overall performance. This makes it harder for the office to carry out its functions, including on the implementation of the anti-discrimination legislation. Systematic cooperation between the Ombudsman's Office and the civil sector remained limited. The new Ombudsmen were appointed in November through a transparent and fair parliamentary selection process that included civil society representatives and was compliant with European standards and the Paris Principles.

### **Civil society**

There was **some progress** in establishing institutional mechanisms for cooperation between governments and civil society organisations (CSOs), as well as for public financing of CSOs. However, a strategic framework for cooperation with civil society needs to be developed and full use should be made of the e-consultation web platform. Transparent procedures are needed for allocating public funding to CSOs at all governance levels.

An empowered civil society is a crucial component of any democratic system and should be recognised and treated as such by the institutions. An institutional mechanism for consultations, the e-consultation web platform, was launched in April and involved 9 ministries and 14 agencies at state level. Twenty-three institutions at all levels of government designated specific bodies or contact points in charge of dialogue and co-operation with CSOs. Sector-specific consultations with CSOs were occasionally organised through dedicated working groups. However, for the legal framework to be implemented efficiently government representatives and CSOs need an expanded role and there needs to be greater political commitment to the process. A strategic framework for cooperation with civil society has yet to be established at all levels of government. Some progress was noted at local level, where an additional seven municipalities adopted a legal framework for transparent funding of CSOs on the basis of clearly defined criteria and monitoring and evaluation tools. However, the distribution of public funds to CSOs is not fully transparent and systematic.

**On civilian oversight of the security forces**, the Joint Parliamentary Committee for Security and Defence played an active role in ensuring democratic control over the armed forces of Bosnia and Herzegovina. The Parliamentary Military Commissioner continued to oversee the protection of human rights and freedoms in the armed forces and the Bosnia and Herzegovina Ministry of Defence. The armed forces continued to dispose of unstable ammunition while building sustainable capacity to manage the rest of the stockpiles. The large stockpiles of weapons and ammunition under the responsibility of the armed forces and the widespread presence of weapons held illegally by the population remained issues of concern.

### **2.2. Public administration reform**

Bosnia and Herzegovina is at an **early stage** with the reform of its public administration. **No progress** was achieved in the past year and backsliding has been recorded with the amendments to the legal framework for the civil service in the Federation entity, increasing the risk of politicisation. The insufficient political support for countrywide reforms and the fragmentation of the public service are hampering efforts to carry out institutional and legislative reforms. A harmonised approach to policy development and coordination is still largely lacking. In the coming year, Bosnia and Herzegovina should in particular address the Commission's recommendations from last year:

→ develop, adopt and start implementation of a new countrywide strategic framework for public administration reform with strong political leadership and guidance;

→ ensure implementation of an effective human resources management system, in particular in recruitment, and amend civil service legislation in an inclusive and evidence-based process to reduce the risk of politicisation of the civil service at all administrative levels;

→ adopt a countrywide reform programme for public financial management that is aligned with the new strategic framework on public administration reform.

### Policy development and coordination

The **policy-making system** in Bosnia and Herzegovina is very fragmented. A ‘whole-of-government’ approach is provided for in the legislation but challenges remain over how to put it into practice. There was some progress in moving towards countrywide strategy development, including an agreement between the state and the entities’ governments to set up an inter-institutional structure for public administration reform strategy development. At the same time, coordination between the state and the entities’ institutions still needs to be substantially improved.

At state level, the first medium-term work programme and action plan of the Council of Ministers for 2016-2018 was adopted in January, in line with the 2014 decision on mid-term planning, monitoring and reporting procedure. The entity governments have similar legislation in place to ensure financial sustainability of government programmes. Nevertheless, the lack of countrywide medium-term planning remained a major weakness. A coordination mechanism on EU matters was adopted and its effective implementation is necessary for improved planning and monitoring of the European integration process. In July the BiH Council of Ministers adopted a decision on the procedure of harmonisation of legislation with the EU *acquis*. Next steps should include the adoption of a national plan for the approximation to the *acquis*.

Some aspects of **inclusive and evidence-based policy and legislative development** are in place, but the quality of policy and legislative proposals should be further improved. **Public consultations** are regulated by law but are still not fully implemented. At state level, an e-platform for public consultation on legislative proposals was launched in April, but the improvements are yet to be assessed. Regulatory impact assessments are enshrined in law but are not carried out systematically due to insufficient staff capacity. Financial impact assessments are carried out for draft legislative proposals but not for strategic documents.

The lack of countrywide medium-term policy planning is a serious obstacle to **public scrutiny of government work**. At state and entity levels some transparency is ensured through publicly available reports and the publication of government agendas and summaries of decisions. However, publicly available reports do not allow comparing achievements with specific policy objectives.

### Public financial management

Bosnia and Herzegovina continued to address public finances on a sub-system basis by adopting separate debt management or internal financial control strategies in the absence of an all-encompassing **public financial management reform programme** (PFM). However, ministries of finance at all levels expressed commitment to preparing a comprehensive PFM strategy. In June, the *Republika Srpska* entity adopted the information note on development of a 2016-2020 PFM strategy for *Republika Srpska* and tasked its Ministry of Finance with participating in the development of the countrywide PFM strategy after the entity strategy has been adopted. In July, the BiH Council of Ministers adopted a decision on establishment of a working group with a view of producing a countrywide PFM reform strategy.

A budget preparation and management information system is used in the different levels of the administration for budget planning and for the medium-term budget framework while the

public investment management information system is still being brought up to its full capacity. Budget preparation and adoption timelines improved in 2016, except in the Brčko District where the 2016 budget was adopted after the legal deadline.

The institutions at all levels have considerable weaknesses in internal control and public procurement, making the systems vulnerable to inefficiency and waste. Social contributions and pension entitlements, which account for a significant portion of public funds, are managed by extra-budgetary funds that are neither integrated into the budget process nor into budget documentation such as the medium-term or annual budgetary outlooks. The inclusion of the pension fund in *Republika Srpska's* treasury system as of January 2016 to stabilise its liquidity has yet to produce the expected results.

Bosnia and Herzegovina has not yet achieved sufficient **budget transparency**. Annual budgets are published and annual reports on budget implementation are produced by the Ministry of Finance and Treasury and audited by the Supreme Audit Institution. Similar provisions also apply in the entities and in the Brčko District. The lack of harmonisation on the charts of accounts at state level and in the entities hampers access to consolidated data.

In the context of budget scrutiny, follow-up on external audit findings and recommendations needs improvement. In-year reporting is insufficient, as is citizens' participation in the budget process. There has been no attempt to prepare a citizens' budget at any of the government levels.

#### Public service and human resources management

The legal framework on public service in Bosnia and Herzegovina is very fragmented, with different laws applying to the civil service at different levels of government. In December 2015 the Federation entity amended its law on civil servants, removing senior and middle management positions from the remit of the civil service. This was a significant setback on ensuring the political neutrality of the civil service, as it enables the Federation entity to make political appointments and dismissals at senior and middle management level. Similar provisions were also adopted by the Sarajevo canton in August, although to a lesser extent. Currently, the application of two articles on recruitment of the Federation law has been temporarily suspended pending a Constitutional Court decision on the merit of a case challenging the law on procedural and substantive grounds.

The principle of **merit-based recruitment and promotion** for civil servants is generally enshrined in legislation, but its application is hampered by unclear legal provisions, formalistic application of procedures and low capacity of selection committees. The criteria for **dismissals** and disciplinary procedures, including the possibility to appeal, are also enshrined in the laws. In practice the number of dismissals is low.

**Human resources management (HRM)** remained fragmented and inefficient due to absence of a central policy-making institution at state and entity levels. There are four main civil service agencies which perform centralised HRM functions, but they are not empowered to lead and monitor implementation of the civil service policy and legal framework. HRM units have been established only in a small number of institutions. HRM information systems have been put in place at different levels of administration, but are not used as tools for decision-making and planning due to lack of complete information and legal obstacles over data protection. Further efforts are needed to establish a unified personnel database.

The **remuneration system** is not transparent and does not ensure equal pay for equal work because different salary regulations are in force at different levels of administration. Additional fees for participation in committees are still paid in the Federation entity. A fair and objective job evaluation and classification system is still to be implemented.

The right to **professional development** is not fully ensured or monitored. The state and the entities have training strategies in place, but without external donor funding resources are insufficient to cover the needs. Performance appraisals are regulated and carried out regularly. However, a close link has yet to be established between performance appraisal and professional development and mobility.

**Integrity in public service** is relatively well addressed at state level through anti-corruption and integrity plans, codes of conduct for civil servants, rules on incompatibility of office and the work of the Agency for Prevention of Corruption and Coordination of the Fight Against Corruption. However, the Agency has limited power to enforce these plans and the perception of corruption remains high.

#### Accountability of the administration

The overall organisation of the public administration in Bosnia and Herzegovina is affected by complex constitutional arrangements that are not conducive to ensuring clear **lines of accountability**. The structure and powers of the different public administration bodies are regulated by overlapping and unclear legislative framework. This has resulted in over 40 institutions that report directly to the Council of Ministers rather than to their line ministries. Within institutions, managerial accountability is not yet rooted in the administrative culture (See *Financial control*).

The institutional set-up and resources to protect the **citizens' right to good administration** are insufficient. The Ombudsman's Office is relatively active in issuing recommendations, although it rarely acts on its own initiative. However, the rate at which the public administration implements such recommendations is low.

The **right to access public information** is regulated by law at all levels. The laws are mutually consistent and ensure a wide scope of access, but implementation is not uniform in practice. When citizens are not given access to public information, administrative inspection is authorised to act upon the complaint and penalise the responsible person or institution. There is also a second-instance body to review appeals and issue final decisions at the level of the state institutions. However, there is no independent body to deal with appeals.

On the **right to administrative justice**, the judicial review of administrative acts is decentralised and handled by general courts. Public trust in the courts is generally low. The **right to seek compensation** in cases of wrongdoing is rarely exercised due to the lack of a legal framework on public liability.

#### Service delivery to citizens and businesses

Due to the country's highly decentralised responsibilities for service delivery, there is a need for an increased focus on **user-oriented administration**. Public satisfaction with government services is not regularly measured. The e-signature does not function at state level due to incomplete secondary legislation and therefore the scope of available e-services is limited to providing information. An operational plan to establish the interoperability framework at the level of Bosnia and Herzegovina institutions was adopted in December 2015. However, further development of e-services is held back by the lack of a countrywide approach and differences in how the state, the entities and the Brčko District apply the legal framework for e-signatures, develop e-government portals and implement an interoperability framework. The Constitutional Court of the Federation entity invalidated the monopoly of notaries in the conduct of legal-civic matters, thus potentially extending the scope of eligible service providers for citizens and business.

The current legal framework at different levels enshrines the key principles of good administrative behaviour, but there is room for further **simplification of administrative procedures**. Special administrative procedures still need to be reviewed and either abolished or brought in line with the law on administrative procedure. Exemptions should be minimised and allowed only when they are duly justified.

#### Strategic framework for public administration reform

Since the countrywide **strategy for public administration reform** (PAR) expired in 2014, Bosnia and Herzegovina has embarked on developing a new strategy, in line with the objectives of the Reform Agenda. Governments displayed **political support** to the reform by approving the Information Note on the Operational Plan paving the way for the actual drafting process. Members to the inter-institutional working groups responsible for drafting the strategy have been nominated at all levels. The development of the strategy is at an early stage.

Despite the expiry of the 2014 strategy and its action plan, the Public Administration Reform Coordinator's Office continued to implement projects financed with the PAR Fund. The annual report for 2015 declared a 65 % rate of implementation but the current monitoring framework lacks clear performance indicators that would make it possible to determine how far reform objectives have been achieved.

The public administration reform sector coordination mechanism under the previous strategy continues to provide an effective structure for cooperation with entity and Brčko District levels. However, the PAR strategy implementation is not **financially sustainable**. Cost estimates for human resource needs and other costs of implementation are not reflected in the annual budgets and the medium-term expenditure frameworks at all levels.

### **2.3. Rule of law**

#### **Functioning of the judiciary**

Bosnia and Herzegovina's justice system has **some level of preparation**. **Some progress** was made in addressing some of last year's recommendations on accountability and integrity in the judiciary, namely through the adoption by the High Judicial and Prosecutorial Council of a set of guidelines on conflict of interest, drafting of integrity plans and disciplinary measures. However, a number of recommendations were not fulfilled. The action plan needed to implement the 2014-2018 justice sector reform strategy was not adopted. The slow reduction of the utility-cases backlog in the courts and inadequate procedures for execution of court decisions continued to harm judicial efficiency. Sanctions for breaching disciplinary and ethical rules were not yet much of a deterrent. Politically motivated threats on the judiciary continued. Judicial independence, including from political influence, remains to be strengthened.

In the coming year Bosnia and Herzegovina should in particular:

→ adopt the action plan needed to implement the 2014-2018 justice sector reform strategy and establish a clear monitoring system;

→ implement the guidelines adopted by the High Judicial and Prosecutorial Council on conflict of interest, disciplinary sanctions and integrity in the judiciary; introduce more qualitative criteria for appointment and appraisal of judges and prosecutors; continue developing training programs, notably for the initial level and managerial positions, including on ethical and disciplinary matters;

→ reform the execution procedure laws to reduce effectively the utility-cases backlog in courts and introduce court-annexed mediation in selected pilot courts.

#### Strategic documents and budget

The **action plan** accompanying the 2014-2018 countrywide **justice sector reform strategy**, with new adjusted timelines for implementation, has not yet been adopted by the BiH Council of Ministers. A ministerial conference, encompassing justice ministers at all levels and including representatives of the Brčko District Judicial Commission (BDJC) and the High Judicial and Prosecutorial Council (HJPC) is responsible for supervising the implementation of the justice sector reform strategy. The conference held a meeting in March, but has not yet adopted its rules of procedure, which are a prerequisite for the establishment of the technical structures monitoring the implementation of the various areas of the strategy. Implementation of some specific activities under the strategy did nevertheless start. The authorities need to take more decisive action to implement the strategy, notably by adopting its action plan and by providing adequate budgetary allocations for each activity envisaged therein.

#### Management bodies/judicial/prosecutorial council

The **High Judicial and Prosecutorial Council** is the key institution managing the judiciary throughout the country. The HJPC's annual reports are widely published online and presented before legislative bodies at all levels.

Shortcomings remain in the law on the HJPC, notably concerning appointment and disciplinary procedures, conflict of interests, declaration of assets as well as the right to appeal HJPC final decisions. These need to be addressed in the light of the opinion of the Venice Commission and the recommendations issued by the European Commission as part of the EU-BiH Structured Dialogue on Justice. Other improvements regarding transparency of the HJPC sessions, strengthening voting procedures as well as disqualification and relocation of judges and prosecutors need to be addressed through changes in the relevant rules of procedures.

#### Independence and impartiality

The principles of **judicial independence and prosecutorial autonomy** are set out in the legislation at all levels and enshrined in entity constitutions, although not in the Bosnia and Herzegovina constitution. There are no established procedures carrying penalties against undue influence or threats to judicial independence. Politically motivated threats against courts and prosecutor's offices continued, particularly at state level. Such practices need to be addressed forcefully.

The constitutional and legal framework needs to ensure full protection against unlawful pressure on the independence, impartiality and autonomy of judges and prosecutors. There is a need to broaden the grounds for appeal against final HJPC decisions including those on appointments of judges and prosecutors and their transfers as well as in disciplinary proceedings.

#### Accountability

To complement existing legislation and improve the overall accountability of judicial office holders, in July - in the context of the implementation of the Reform Agenda - the HJPC adopted guidelines related to the prevention of conflict of interest in the judiciary, the drafting of integrity plans in the judiciary and the improvement of disciplinary proceedings. Conversely, the very loose regulations on **declarations of assets** require some financial statement from judges and prosecutors, but no publicity or verification mechanism exists. This has yet to be adequately addressed through the improvement of the legislative framework.

Efforts need to be stepped up to ensure efficiency and effectiveness of the disciplinary procedure, also by revising the existing legal framework. The scope of some disciplinary offences is still to be clarified and the sanctioning policy needs to be stricter as deterrent sanctions in disciplinary rulings against judges and prosecutors remained rare. Over the

reporting period, the Office of the Disciplinary Prosecutor registered 899 complaints against holders of judicial and prosecutorial functions and issued 912 decisions on merits, including the last years' remaining cases. It initiated 31 disciplinary proceedings which resulted in 28 sanctions being imposed, mainly written/public reprimands or salary reductions and only one dismissal. Decisions not to prosecute need to be based on a clear reasoning and there needs to be a possibility for effective legal remedy.

The HJPC can still reverse the final decision of the Disciplinary Prosecutor, which has limited possibilities for appeal. As disciplined judges and prosecutors may still get promoted, there is the need for taking disciplinary measures duly into account in the promotion system.

**Codes of ethics** for judges and prosecutors exist, but there is no formal enforcement mechanism with the power to initiate disciplinary cases. Corruption in the judiciary still needs to be more forcefully addressed.

#### Professionalism and competence

Procedures regulating the entry into or advancement in judicial careers based on merit and promotion are in place and focus on candidates' professionalism and performance assessed against some objective indicators. However, there are a number of shortcomings that need to be addressed as a matter of priority, mostly through revision of by-laws to ensure that the appointment and career management of judges and prosecutors become more transparent, efficient and professional. This requires, in particular, publishing the questionnaire for the entry-level exam, rationalising the number of competitions, conducting more quality-based performance appraisal, including for top-managerial posts at all levels and introducing integrity checks. Moreover, the legislator has to address the lack of effective legal remedy against the final decision on appointment and performance evaluation. Dismissal is regulated by objective criteria under the law on the HJPC. Very few dismissals have actually occurred.

#### Quality of justice

**Training** for judges and prosecutors in Bosnia and Herzegovina is provided through the judicial and prosecutorial training centres in the entities. These centres have their own budget. They have not yet undertaken a regular, comprehensive and analytical **training** needs assessment on the basis of career development, job competencies and regular performance reports. Multiannual training programmes need to be systematically developed and an independent monitoring and assessment system needs to be introduced. The content, methodology and delivery of training need upgrading, particularly on building specific capacity to handle complex cases.

**Monitoring and measuring** of the day-to-day activities of courts and prosecutors' offices take place through the 'case management system', which evaluates the performance of judges based on the annual workload. All courts and prosecutors' offices regularly produce statistical reports for the HJPC and an annual activity report, which is submitted to their respective justice ministries and to the HJPC.

Over the reporting period, 38 196 new case access codes were issued to professionals for the '**online access to court cases**' web service while the system recorded more than 420 000 user logins. While courts' work is increasingly transparent, access is still limited to interested parties and requires payment of a fee. This includes access to electronic versions of selected decisions.

To achieve greater transparency, the conditions for recording court proceedings need to be improved and selected court decisions need to be made available to a larger number of parties, while also fully complying with data protection legislation.

In order to increase the **consistency of jurisprudence** across the country, in the absence of a state-level supreme court, the three joint panels of the highest-level courts in Bosnia and Herzegovina held seven meetings. This has helped to achieve better harmonisation of case-law in civil and administrative matters, but not yet for criminal law.

On **alternative dispute resolution methods**, the use of in-court and out-of-court mediation requires qualitative improvement. Judicial conciliation continues to be used more frequently than mediation. Only two cases went to mediation, compared with 6 280 cases adjudicated using judicial conciliation, meaning that barely 1 % of cases were solved through alternative dispute resolution methods. A proposal was made for better court-annexed mediation, and the opening of pilot courts with this type of mediation is under way. The aim is to bring the mediation system in Bosnia and Herzegovina into line with European standards and best practices.

The **budget** allocated to courts and prosecutors' offices throughout the country and the HJPC in 2016 was EUR 119.35 million (slightly higher in absolute terms than in 2015), i.e. 0.81 % of the country's GDP, which is, however, slightly less than in 2015 when the allocation corresponded to 0.85 % of the GDP.

### Efficiency

The average **length of court proceedings** during the first six months of 2016 fell for first instance cases, with an average of 354 days taken to complete a case (404 in 2015 and 437 in 2014). For second instance, the average length rose again slightly to 273 days (269 in 2015 and 239 in 2014). In 2015, there were 420 883 incoming cases and 452 485 completed cases in all courts across the country. This gives a clearance rate (i.e. the percentage of completed cases compared to newly filed cases) of 108 %.

The **backlog for pending court cases** by end of June 2016 was reduced by 5 % compared with 2015 with a total of 356 019 pending cases. As a result of the implementation of their backlog reduction plans, courts completed 111 282 old cases out of the 187 118 cases that were planned in 2016, achieving 60 % of the plans' targets already in the first six months of 2016.

The average duration of pending non-utility-related civil cases before first instance courts in Bosnia and Herzegovina in the first half of 2016 was 511 days, a fall of 10 days compared to end of 2015. These achievements are the direct result of the HJPC's attempts to improve judicial efficiency. The bulk of the case backlog was made up of over 1.7 million of unpaid utility bills cases as of June 2016.

The HJPC launched a system to improve registration of unpaid utility bills cases in 22 municipal/basic courts and 14 utility companies. The system allows for the immediate processing of these cases during the last stage of enforcement. By 30 June 2016, there were 547 146 cases registered into the system with 289 923 (52,97 %) still pending. To make serious inroads into this specific backlog, the system will need to be supplemented by more comprehensive legislative and institutional measures, in particular with regard to amending execution procedure laws in the entities and making the debt collection more efficient.

### **Fight against corruption**

Bosnia and Herzegovina has **some level of preparation** in the fight against corruption. **Some progress** was made to address last year's recommendations with the adoption of action plans at various levels of governance. However, the legal and institutional framework remained inadequate and the fragmentation of the action plans makes their implementation less effective. The lack of enforcement of the legislation had a detrimental effect on citizens and institutions.



Corruption remains prevalent in many areas and continues to be a serious problem. The declared political commitment on this subject did not translate into concrete results.

In the coming year, Bosnia and Herzegovina should in particular:

- adopt consistent action plans and ensuring the implementation and monitoring of anti-corruption strategies, particularly at state- and *Republika Srpska* entity levels;
- establish prevention bodies, where not yet set up, and ensure that they cooperate with the Agency for Prevention of Corruption and Coordination of the Fight against Corruption;
- amend legislation to ensure effective monitoring of conflicts of interest at state, Federation entity and Brčko District levels and improve legislation governing asset declarations and protection of whistle-blowers;
- ensure the implementation of tougher penalties for corruption-related crimes in order to achieve a more deterrent effect.

### Track record

In 2015, there were a total of 140 **investigations** at state level into financial crimes and corruption, out of which 77 (55 %) were finalised and 23 sent to the Bosnia and Herzegovina Prosecutor's Office. There were no final convictions in high-profile cases in the reporting period. From 1 September 2015 to 15 August 2016 there were a total of 296 confirmed indictments countrywide, while the number of convictions was 173, a majority of which were suspended sentences. Most of the convictions were for abuse of office or authority.

Audit reports, tax administration reports and financial investigations continue not to be used in a systematic and complementary way to fight corruption. The political authorities should ensure that law enforcement bodies are fully empowered to act effectively and impartially when investigating corruption allegations. According to HJPC data, in 116 cases a total of EUR 1 015 365 was confiscated.

There is still no track record of effective control of political party and electoral campaign financing and some of the GRECO (Group of states against corruption) recommendations still need to be addressed. Asset declarations remained governed by separate and uncoordinated pieces of legislation, making their implementation ineffective, including the penalties imposed.

The Commission for Determination of Conflict of Interest in *Republika Srpska* adopted 36 decisions, while in 14 cases a conflict of interest was found. Implementation of conflict of interest rules in other parts of the country remained uneven. Due to administrative impediments, the state level commission has not decided in any case since its formation. The conflict of interest has not been monitored in the Federation entity. In the Brčko District, the authorities entrusted the task of deciding on conflict of interest cases to the Brčko District Election Commission. However, legal impediments prevent that body from performing its tasks, making changes to the law necessary. There is no policy in place to prevent corruption in the private sector. Corruption risk assessments analyses in the health and education sectors were made. These areas remain particularly prone to corruption and conducting risk assessments in a more systematic manner is a first positive step that should lead to further measures to effectively address corruption.

There are different laws governing access to information, but common flaws in their implementation were reported, including the lack of automated statistical information. 223 cases of information complaints were referred to the Ombudsman in 2015, as opposed to 218 in 2014.

Following the entry into force of the law on whistle-blowers in 2014, a total of three individuals were granted the status of whistle-blowers, while eight requests were rejected. However, the law covers only the state-level public sector.

#### Institutional framework

The state level Anti-Corruption Agency is almost fully staffed, has an appropriate budget and has moved to new premises. At entity level, *Republika Srpska* has a dedicated body. The members of the prevention body within the Federation entity were appointed in April. Dedicated corruption prevention bodies were set up in several cantons, notably Sarajevo, Central Bosnia, Una-Sana, Bosnian-Podrinje Goražde, and Herzegovina-Neretva, and in the Brčko District.

On **law enforcement**, the capacity to investigate economic, financial and public procurement-related crimes remained weak. Greater specialisation is needed within the police and judiciary in order to fight corruption.

#### Legal framework

The legal framework was changed to some extent. The Federation of Bosnia and Herzegovina Parliament adopted amendments to the entity law on conflict of interest, which handed over implementation to a state-level commission. In the Brčko District, amendments are needed to the law on conflicts of interest to ensure that it is properly implemented.

In March, amendments to the Federation entity criminal code were adopted, to regulate crimes related to influence peddling. In May, amendments to the law on Political Parties Financing, addressing some of GRECO recommendations were adopted. The Federation entity law on suppression of corruption and organised crime has not started being implemented. A new *Republika Srpska* entity law on suppression of corruption, organised crime and the most serious forms of commercial crimes was adopted in April. Cantons have limited or no specific anti-corruption legal framework. There is still no effective criminal justice policy including on penalties, which do not act as a deterrent.

Rules are in place on the immunity of members of parliaments in criminal procedure and procedures governing the lifting of immunity. Rules on personal data protection by the police are not sufficient and generally not implemented, while penalties for breaches are not dissuasive.

#### Strategic framework

During the first year of implementation of Bosnia and Herzegovina Anticorruption Strategy, out of 98 activities 25 were implemented completely, 63 are in the process of implementation while the implementation of 10 activities have not yet started. Policy documents for the 2013-2017 period are in place in Republika Srpska. In September 2016 the government of the Federation entity adopted a 2016-2019 Anti-Corruption strategy as well as the Action Plan for its implementation. Policy documents were adopted in Sarajevo Canton in October, Canton 10 in March, Bosnian-Podrinje Canton Goražde in May and Tuzla Canton in September. To overcome the fragmentation of powers across the country's various administrative layers, the fight against and the prevention of corruption require dedicated and specialised bodies at all levels of government with appropriate coordination channels and a holistic vision. In this context, the Anti-Corruption Agency issued a set of recommendations on prevention structures and policy documents to ensure coherence and efficiency. Strategic documents need to be improved by including in particular a solid risk assessment and clear identification of benchmarks. Robust monitoring mechanisms have yet to be established.

Corruption risk assessments in the health and education sectors were made. These areas remain particularly prone to corruption and conducting risk assessments in a more systematic manner is a first positive step that should lead to further measures to effectively address corruption.

### **Fight against organised crime**

Bosnia and Herzegovina has **some level of preparation** on the fight against organised crime. **Some progress** was made to address last year's recommendations, by improving to some extent inter-agency cooperation. However, financial investigations remained underused. Fighting organised crime remains fundamental to countering criminal infiltration of the political, legal and economic system of the country.

In the coming year Bosnia and Herzegovina should in particular:

→ strengthen the framework for inter-agency cooperation among law enforcement bodies to allow for the establishment of specialised multi-agency investigation teams for complex cases involving organised crime, economic crime and corruption and to make it possible to dismantle criminal networks;

→ improve regulation on mutual access to databases and the exchange of information between law enforcement agencies and prosecutors' offices, stipulating procedures and mutual access rights in more detail;

→ further develop effective asset confiscation and recovery systems at all levels, including capacity for conducting financial investigations, fully implementing adopted joint minimum standards for assets seizure system in Bosnia and Herzegovina, based on the EU minimum standards.

### Track record

There have been 30 convictions against 116 persons for **organised crime**. In the same period, 43 organised crime investigations against 238 suspects were ordered, while 84 persons were indicted in 19 cases for organised crime. Some large-scale operations took place, including in cooperation with EU Member States. In 2015 criminal assets worth EUR 1 015 365 were subject to confiscation orders in a total of 116 cases.

Bosnia and Herzegovina remained a country of origin, transit and destination for human trafficking for labour exploitation, sexual exploitation, begging and forced marriages. The number of identified victims of human trafficking increased threefold, of which 80 % were women and girls. The Federation entity did not make changes to the criminal code that would ban all forms of human trafficking. This limits the ability of the country as a whole to prosecute trafficking crimes.

There is no overall policy for carrying out **financial investigations** on a systematic basis and the precautionary **freezing of assets** during the early phase of investigations is rarely applied. Specialised anti-terrorism, human trafficking, drugs, cybercrime and financial investigations units are broadly in place at state and entity level, though with insufficient capacity. A Financial Investigation Unit has yet to be established at Federation entity level. The joint counter-terrorism task force is not functioning properly and its operational capacity has to be further strengthened. Institutional capacity to effectively address various forms of organised crime needs substantial improvement.

**Arrangements for practical cooperation between prosecutors' offices and the police** require structural improvements to guarantee a more effective judicial follow-up. The system for electronic data exchange of police and prosecution registries is operational, although some

technical aspects of the system are being updated and improved. Better regulation continues to be needed on determining access rights to data and databases.

There is no operational countrywide DNA database and DNA profiling capacity remains limited. Swift exchange of forensic data with other countries does not take place. The automated fingerprint information system (AFIS) is outdated and of limited use.

Joint minimum standards on **civil possession and the carrying of weapons** which were adopted in July 2015 started being turned into respective laws across the country. Full implementation will bring a harmonised legal framework within Bosnia and Herzegovina and improve alignment with relevant EU standards in this field.

The Operational and Strategic Agreement with Europol was signed in August.

#### Institutional and operational capacity

There is the need throughout Bosnia and Herzegovina to further improve capacities for financial investigations and assets seizure in order to tackle organised crime and corruption. In the Federation entity the agency responsible for managing seized assets is not yet fully operational.

#### Legal framework

The legislation on the confiscation of criminal assets is partially aligned with the *acquis*. However, provisions on minimum standards governing asset seizure have yet to be consistently incorporated into the legislation across the country. The Brčko District adopted a new Assets Seizure law in July 2016. The Federation entity faces serious delays in applying the legislation on asset seizure.

#### Strategic framework

The 2014-2016 **strategy on the combat of organised crime** is in place. However, there is a lack of efficient mechanism to overview the implementation of the high number of action plans by the various law enforcement agencies across the country and to secure a consistent approach in tackling organised crime. Inspired by the Europol methodology, a serious and organised crime threat assessment (SOCTA) is in place, providing a strategic picture of organised crime in the country. However, its findings have not yet been translated into a coherent national security policy based on clear priorities. A new strategy on the combat of organised crime for the following period and the new SOCTA need to be drafted.

Activities to implement the country's 2013-2016 strategy for controlling small arms and light weapons (SALW) continued. A new SALW strategy for 2016-2020 was adopted in September 2016.

Bosnia and Herzegovina lacks a comprehensive overall strategic approach to address the issue of **cybercrime** and cyber security threats. Existing capacities to combat cybercrime and respond to cyber security threats need to be strengthened. Computer emergency response team (CERT) capacities need to be introduced at the state level and for the Federation entity, while existing CERT capacities in the *Republika Srpska* entity need to be enhanced.

The additional Protocol to the Council of Europe Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, needs to be implemented was ratified by Bosnia and Herzegovina and entered into force in 2006. It needs to be implemented effectively.

#### The fight against terrorism

In June, new members to the body to oversee the implementation of the **Bosnia and Herzegovina strategy for the prevention of and fight against terrorism** for 2015-2020

strategy were appointed by the Council of Ministers. However, the body is not yet fully operational. The action plan to implement the Strategy was adopted in October 2016.

Bosnia and Herzegovina has been seriously affected by the phenomenon of foreign terrorist fighters and radicalisation. The phenomenon needs a dedicated response strategy by the intelligence and law enforcement community and a coherent judicial policy towards offenders. Efforts need to be stepped up to identify, prevent and disrupt the flow of foreign terrorist fighters travelling to conflict areas such as Iraq and Syria.

Pockets of radicalisation have been identified across the country, in particular in the Wahhabi community. De-radicalisation and prevention of radicalisation programmes are to be developed and introduced.

Provisions in the state criminal code criminalising acts of joining foreign para-military and para-police forces ('foreign fighters') started to be used in criminal proceedings with 8 cases being investigated. In one case, three persons were convicted with prison sentences. In 2016, for the terrorism criminal offences 34 investigations were ordered against 43 persons. In two cases, the Bosnia and Herzegovina Court imposed a total of nine convictions for terrorism related criminal offences.

The capacities of the counter-**terrorism** task force have yet to be significantly strengthened. The task force's operational component is still awaiting rules on its financing and confirmation of the formal status of its members. The counter-terrorism capacity of the Bosnia and Herzegovina's Prosecutor's Office increased with the appointment of eight new prosecutors dedicated to terrorism cases.

Bosnia and Herzegovina still needs to meet international standards of the Financial Action Task Force (FATF) on anti-money laundering / countering the financing of terrorism (see also 4.1.3 and 4.3.2).

**2.4. Human rights and the protection of minorities**

Some progress was achieved over the reporting period in addressing last year's recommendations on effectively addressing human rights and minorities' issues, in particular with the adoption of relevant amendments to the anti-discrimination law. The strategic, legal, institutional and policy frameworks for the observance of human rights are in need of substantial improvement. The provision on the death penalty in the constitution of the *Republika Srpska* entity still needs to be repealed.

In the coming year, Bosnia and Herzegovina should in particular:

- Adopt a countrywide strategy for human rights and non-discrimination.
- Introduce a harmonised, consistent, effective and free legal aid system across the country and ensure non-discriminatory access to justice.
- Revise the Roma action plan on employment, housing and healthcare in line with the operational conclusions from the Roma seminars, including the necessary budget to implement agreed actions.

Bosnia and Herzegovina has ratified all major European and **international human rights instruments**. However, it has not yet fully implemented the 128 accepted recommendations from the 2014 Universal Periodic Review. This includes recommendations on constitutional changes to recognise the equality of all citizens, prevent discrimination against minorities and gender-based violence, ensure non-discrimination, inclusive education, criminal code reform on war crimes and harmonisation of law and policy at all levels of government.

Since September 2015, the **European Court of Human Rights** (ECtHR) has found at least one violation of the European Convention on Human Rights (ECHR) in three cases, relating to the right to liberty and security and to prohibition of discrimination. A total of 838 new applications were allocated to a decision-making body, bringing the number of pending applications to 1 027. The remaining outstanding cases relate mainly to repossession of occupancy rights, missing persons and discrimination on ethnic grounds. No progress was made in implementing the Court's judgments on the *Sejdić-Finci and Zornic* cases.

There is still no overarching policy document on **promotion and enforcement of human rights**. The Ombudsman still lacks adequate human and financial resources to perform its functions as national human rights institution. Training on the ECHR and ECtHR case-law continued for judges, prosecutors, legal associates and advisers of the Constitutional Court and the Court of Bosnia and Herzegovina.

On the **right to life**, the provision on the death penalty in the *Republika Srpska* entity constitution has still not been repealed.

A national preventive mechanism for **prevention of torture and ill treatment** in line with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment has still not been established. Reports of ill treatment of suspects in some police stations and of prisoners in some prisons and detention facilities remain a matter of serious concern which needs to be addressed. A state law on the rights of civilian victims of torture during the war, in compliance with the Convention against Torture, has yet to be adopted.

Legislation on the **prison system** is not sufficiently harmonised throughout the country. The psychiatric institution in Sokolac, intended to provide mandatory psychiatric treatment requested during criminal proceedings, is not operational as funds were never allocated for its functioning. Execution of criminal sentences was hampered by the lack of coordination and harmonisation of procedures across the country. The backlog in the execution of criminal penalties in the Federation entity was considerably reduced, with 196 cases awaiting execution as of April. Existing penitentiary legislation still needs to be aligned with European standards and effectively implemented. Healthcare services in prisons remained deficient due to insufficient resources and medical staff.

**Protection of personal data** in Bosnia and Herzegovina is partially harmonised with European standards. The number of complaints received by the Agency for Personal Data Protection decreased to 121 in 2015 from 140 in 2014. The Agency provided 259 expert opinions and conducted 90 inspections. There is still no legal obligation to consult the Agency for Personal Data Protection on draft laws that include provisions on personal data. The staffing of the Agency needs to be strengthened.

The constitutional and legal guarantees on the **freedom of thought, conscience and religion** continued to be generally upheld. While religious tolerance was symbolically promoted on some well-publicised occasions, cases of discrimination on religious grounds continued to occur, as well as incidents targeting religious sites.

### **Freedom of expression**

There is **some level of preparation** on freedom of expression. However, **no progress** was achieved in this area and no progress was made in addressing last year's recommendations. The financial stability of the public broadcasting system was not addressed. Political pressure and intimidation towards journalists, including physical and verbal attacks, continued during the reporting period, without appropriate judicial follow-up. There was no attempt to address the issue of the lack of transparency of media ownership.

In the coming year, Bosnia and Herzegovina should in particular:

- ensure sufficient protection of journalists and an appropriate law enforcement response to cases of threats to journalists;
- finalise the reform of the public broadcasting system, including securing the funding of public broadcasters, harmonising relevant entity broadcasting legislation with the state-level law, and securing political neutrality of the steering boards;
- adopt appropriate legislation on media ownership transparency, including for online media.

### Intimidation of journalists

Political and financial pressure on the media continued. Cases continued to be reported, mainly involving intimidation and threats to journalists, verbal and physical attacks, hacking of websites, political, institutional and economic pressure and defamation. In March, members of an extremist group registered in the *Republika Srpska* entity and in Serbia, physically and verbally attacked N1 and RTV TV crews. The *Republika Srpska* authorities did not condemn the attack in public and the *Republika Srpska* police issued only two minor offence orders to perpetrators.

### Legislative environment

Legal provisions guaranteeing freedom of expression are in place. However, political and ethnic lines continue to divide the public sphere and drive the development of legislative proposals in the media sector. The *Republika Srpska* National Assembly adopted amendments to the Radio and Television of *Republika Srpska* (RTRS) law in May. The amendments further distance the entity's broadcasting legislation from the state-level law and disrupt the functioning of the three public service broadcasters within the public broadcasting system of Bosnia and Herzegovina.

### Implementation of legislation/institutions

The political, institutional and financial independence of the Communications Regulatory Agency (CRA) continued to be an issue of concern. The Council of Ministers of Bosnia and Herzegovina confirmed the appointment of the acting Director of the CRA as Director of the regulatory authority in April. The CRA's political neutrality, independence and its public perception as a neutral body have yet to be ensured. The Bosnia and Herzegovina Council of Ministers' decision on the use of the surplus revenues of the CRA may further harm the Agency's financial and operational independence.

There were shortcomings in the implementation of the freedom of access to information act, in particular on remedies when access is denied. The institutions do not run the test of public interest before limiting the right to access to information, interpreting the legal provisions in a way that protects private rather than public interests.

The Central Election Commission refused to publish the asset disclosure statements of the officials running in elections, in line with the interpretation given by the Agency for Protection of Personal Data. This was contrary to the Bosnia and Herzegovina election law. The Reform Agenda commitment to start publishing asset disclosure forms of officials holding judicial functions has yet to be implemented.

### Public service broadcaster

All types of broadcasting are licensed by the CRA in accordance with the law on communications of Bosnia and Herzegovina. However, the independence of the three public

service broadcasters within the country's public broadcasting system has yet to be ensured. The public broadcasters in the two entities continued to be exposed to political influence.

In March, the Federation Parliament launched the procedure to change the law on RTV, which would allow the appointment of steering board members of Radio-Television of the Federation entity in one year without holding the CRA vacancy procedure. The Federation entity failed to adopt appropriate amendments to harmonise the entity's broadcasting legislation with the state-level law and secure depoliticised, merit-based selection and appointment of the steering board. Due to the lack of a politically independent steering board, RTV remained open to political influence.

The appointment of the RTRS steering board could not yet be completed due to political disagreement in the ruling coalition at the Republika Srpska National Assembly. The steering board of RTRS remained politically affiliated and the entity broadcaster remained under the firm political control of the ruling party and with a deterioration of the RTRS editorial policy.

Due to political obstruction, the statute of the state-level public service broadcaster Radio and Television of Bosnia and Herzegovina (BHRT) was not amended and the statute of the public broadcasting corporation was not adopted as provided for under the law on the public broadcasting system of Bosnia and Herzegovina.

#### Economic factors

Transparency of media ownership has yet to be fully achieved and the accessibility to full information is yet to be secured due to problematic legal provisions hampering systematic insight into ownership structures. This is especially problematic for online media, which are often not registered as media businesses.

The rules on government financing of the media need to be improved. The country still lacks a law on media ownership transparency. Public broadcasters that are not part of the public broadcasting system are financed from municipal and cantonal budgets and remain under strong political influence. Legislation addressing State aid and competition includes provisions that seriously hinder broadcasters' independence and ability to operate, which harms freedom of expression in the country.

At entity level, *Republika Srpska* has a legal possibility to fund both public and private media. Lack of transparency and clear criteria in the distribution of subsidies are a serious concern. Media integrity is also harmed by the advertising practices of public companies and advertising agencies linked to political parties.

#### Professional organisations, professional conditions

The Bosnia and Herzegovina Journalists' Association is the most active civil society organisation in the field of freedom of expression, the freedom of the media, the protection of journalists and media integrity. The complaints commission of the Press Council of Bosnia and Herzegovina continued to work and mediate between readers and the media, making sure that readers' complaints are addressed by editors.

**Freedom of assembly and association** are enshrined in the constitutions and legislation at different levels of authority in the country. These rights were generally upheld. There is no common register of political parties but 103 political parties officially registered for the 2016 local elections.

On **property rights**, the Commission for Real property Claims of Displaced persons and Refugees has not yet resumed operation. There are 7 ongoing administrative disputes before the Court of Bosnia and Herzegovina in which this Commission is a respondent party.



Concerning **non-discrimination** policies, some initial steps were undertaken at state-level to develop comprehensive human rights and anti-discrimination strategies. In August amendments were adopted to the Bosnia and Herzegovina law on prohibition of discrimination to include age, sexual orientation, gender identity and disability as grounds for discrimination.

The *Sejdić-Finci* ruling of the European Court of Human Rights has still not been implemented, meaning that people not belonging to one of the three constituent peoples are still not allowed to stand for office in the House of Peoples and the Presidency of Bosnia and Herzegovina. No progress was achieved in eliminating the ‘two schools under one roof’ phenomenon, which is in breach of the relevant ruling of the Federation Supreme Court. The common core curriculum is not yet applied throughout the country.

Amendments to the Federation criminal code concerning hate crimes were adopted in April. The amendments provide a definition of a hate crime, with a comprehensive list of protected grounds including race, colour, religious beliefs, nationality or ethnicity, language, disability, sex, sexual orientation and gender identity. At least 146 alleged bias-motivated incidents were reported to the police in Bosnia and Herzegovina in 2015. The number of reported incidents decreased in comparison with the previous year. The prevailing forms of bias were nationality, ethnicity, religion and sexual orientation. A mechanism to collect data on hate crimes and discrimination cases has still not been established. In 2015 no verdicts on hate crime charges were issued by courts; there needs to be consistent judicial follow-up and a systematic and comprehensive monitoring of hate crimes. Relevant legislation on hate speech regarding in particular the elements of incitement, intention, the public nature and the contents of the crime still needs to be harmonized. A Declaration condemning hate speech was adopted by the National Assembly of the Republika Srpska entity in October 2016.

Legal provisions providing **equality between women and men** are broadly in place but their implementation continues to be ineffective. Gender impact assessments of policy and legislative processes are not implemented, although they are provided for in legislation. Women are still underrepresented in politics and public life. Permanent gender equality bodies have not yet been established under the aegis of cantonal governments. Annual operative plans to implement the gender action plan were adopted in the *Republika Srpska* entity in December.

Lack of effective implementation of legislation on the prevention of and protection from gender-based violence, in particular domestic violence, remains a concern. Relevant legislation is still not harmonised with the Istanbul Convention on preventing and combating violence against women and domestic violence. Statistical data is still not robust enough to provide enough insight on how the law is implemented. A harmonised system for monitoring and data collection on cases of violence against women is still lacking. Entities’ domestic violence laws are not yet harmonised. There are no departments specialised in gender-based violence cases in relevant institutions, including in the police and the public sector. Access to free legal aid and court representation is very limited. The number of protective measures issued remained low, and the general system of response and support to victims needs to be improved. Existing safe houses remained in most cases strongly underfunded, in breach of existing legislation, with some having closed down as a result.

On the **rights of the child**, no specific budget was allocated to implement the 2015-2018 action plan for children adopted last year. Children with disabilities represent 70 % of the total number of children placed in institutional care, which is a matter of concern. Use of foster care and alternative solutions need to be further promoted. The exploitation of children and child begging remain issues of concern and violence against children continues to be widespread.

Reporting of violence against children remained weak, resulting in few cases being brought before the courts. Only one case was investigated by the Ombudsman’s Office in 2015. Not all

children in Bosnia and Herzegovina are covered by compulsory health insurance and concerns continued over the regression of these rights and the exclusion of marginalised groups such as Roma children and other social categories.

The legal framework on juvenile justice is in place but requires further harmonisation across the country. Appropriate by-laws on protection and treatment of children and juveniles in criminal proceedings are now in place, but lack of capacity still impedes meaningful implementation. The country has no strategy against juvenile offending in place. The absence of separate units for juveniles during pre-trial detention and in police stations across the country is a breach of international standards. The use of alternative measures to juvenile detention needs to be stepped up, as detention should only be a last resort. Support to juveniles upon release from an institution is still insufficient, with only limited reintegration measures undertaken. The Orašje educational-correctional facility has been operational since June. Proceedings in civil and administrative cases are still not conducted in a child-friendly consistent and harmonised manner across the country and measures for child victims and witnesses, while in place, are not applied in a reliable way.

The **rights of persons with disabilities** are still not effectively protected. The status-based approach continued to result in significant financial inequalities among different categories and detracted from the financial sustainability of social protection, making this category of people very vulnerable.

On the rights of **lesbian, gay, bisexual, transgender and intersex (LGBTI)** persons, the Federation entity adopted amendments to its criminal code in April which include hate crimes on several grounds including sexual orientation and gender identity. The *Republika Srpska* and Federation entities adopted in December and March respectively annual operational plans based on the gender action plan for 2016, including also LGBTI-related measures. There have still been no indictments over the 2014 attack on the Merlinka Festival. Another public attack on LGBTI persons occurred in March in Sarajevo, leading to one person being injured. The attacks were not classified as hate crimes but as misdemeanours. Same-sex couples are continuously discriminated against through the legal system, which fails to provide them with any of their social and economic rights. The transgender community remained marginalised and no efforts were taken to simplify the procedure of legal sex change, which would enable legal gender recognition without having to complete medical transition.

Issues of **labour and trade union rights** are covered in section 4.1.8.

The fragmented, overall incomplete and un-harmonised legal and institutional framework does not ensure equitable **procedural rights** and maintains discrimination in access to justice. Without clear minimum common standards for free legal aid applicable to the various levels of authorities, this right continues to be upheld in an uneven way, particularly to the detriment of the most vulnerable groups.

Free legal aid agencies have not yet been established in two cantons. Legislation on free legal aid is yet to be adopted at state and Federation entity levels and in two cantons. A comprehensive transitional justice strategy and unified legal basis for a compensation mechanism for wartime gross human rights violations across the country have yet to be adopted.

The legal framework for the protection of **minorities** is largely in place and in line with the Council of Europe Framework Convention for the Protection of National Minorities. The state-level and *Republika Srpska* entity councils of national minorities are operational and the Federation entity Council of National Minorities in Bosnia and Herzegovina was reactivated in March. However, no progress was achieved to implement existing laws due to the continued

lack of coordination between the state and the entities. The state-level strategic platform on national minorities has not yet been adopted.

National minorities continued to have a low presence and participation in political and public debates and in the media. The effectiveness and impact of national minority councils at state and entity level is hindered by insufficient resources and lack of political leverage in decision-making. Politicised and complex appointment procedures also undermine the legitimacy and ability of the councils to operate properly.

The **Roma** remained the country's most vulnerable and disadvantaged minority. The lack of reliable data hampers effective policy-making on this issue. A more comprehensive and integrated approach needs to be adopted for the social inclusion of Roma. The number of school drop-outs and unemployed Roma remained very high and access to the labour market remained hampered.

Work started on revising the 2013-2016 Roma action plans on housing, employment and healthcare. In 2015, the Bosnia and Herzegovina Ministry of Human Rights and Refugees reduced the budget for implementing the Roma action plans on healthcare, employment and housing from EUR 1.5 million to EUR 1 million. This reduction did not reflect lower needs due to an improvement of the situation on the ground.

No progress was observed on measures to preserve and promote Romani language, culture and history. The Romani language was not offered as an elective subject in any school in the country, nor was any other alternative provided for learning the language. In March, the Joint Human Rights Committee of the Bosnia and Herzegovina Parliamentary Assembly adopted a conclusion proposing 8 April as Roma Day and 5 November as Romani language Day.

Progress continued on implementing the Roma action plan on housing. However, the Roma community continued to experience major difficulties in accessing healthcare services and the labour market. The civil registration process has yet to be fully completed with 57 people remaining at risk of statelessness.

On **refugees and internally displaced persons**, some progress was made on the Annex VII Dayton Peace Agreement strategy, in the areas of repossession of property and occupancy rights, reconstruction of houses and infrastructure for returnees and IDPs. However, significant attention is still required on damage compensation for property that cannot be returned, access to healthcare and to employment, health and social protection, safety and demining, and education. Some 7 500 people are still accommodated in 45 collective centres throughout Bosnia and Herzegovina and continue to live in difficult conditions.

## **2.5. Regional issues and international obligations**

Implementation of the **Dayton/Paris Peace Agreement** continued. The *Republika Srpska* entity Government continued to hold joint sessions with the Serbian government as part of the Special and Parallel Relations agreement.

The country's cooperation with the **International Criminal Tribunal for the former Yugoslavia (ICTY)** is satisfactory. The Office of the Prosecutor of the ICTY noted that, save for one case, the State Prosecutor's Office has taken prosecutorial decisions in all war crimes cases that had been transferred to the jurisdiction of Bosnia and Herzegovina before confirmation of an indictment (the 'Category II' cases).

On the **domestic prosecution of war crimes**, the backlog of war crimes cases was further tackled. The number of indictments increased with 92 filed indictments against 169 suspects between September 2015 and 15 August 2016. Over the same period, courts in Bosnia and

Herzegovina confirmed 80 indictments against 150 suspects and concluded 62 cases at first instance against 91 suspects.

There was a continued positive trend in the successful prosecution of **war crimes cases involving sexual violence**. Final convictions amounted to 25 cases. A large number of potential cases remain and more efforts are required, particularly to ensure institutional understanding to improve victims' confidence in the judicial system and avoid re-traumatisation of victims and witnesses.

The societal and economic stigmatisation of conflict-related sexual violence victims with low socioeconomic status and limited access to justice remains a matter of concern in the absence of a state-level programme to improve their status. Such a programme, which should also include a comprehensive legal and policy framework, is yet to be adopted. Women who were victims of the war do not have the same status in the two entities.

There was an increase in the use of predominantly in-court **victim and witness support**. However, its long-term sustainability remains at risk due to insufficient domestic financing. Judges and prosecutors are increasingly aware of the benefits of proper support structures. Psychological support to victims and witnesses before, during and after war crimes trials increased, predominantly due to international financing, but remained insufficient to cover the magnitude of people involved, particularly in entity courts.

The implementation of the national war crimes strategy objectives continued, including through the transfer of less complex cases by the state-level judiciary to other judicial levels and the state-level judiciary taking over the most complex cases from other jurisdictions. The initial deadline of 7 years to have the most complex cases solved by December 2015 was not met and a new revised deadline has yet to be agreed, alongside a reinforcement of the role of the Supervisory Body to ensure the successful implementation of the strategy. As of end-December, 335 of the most complex cases were completed, leaving 358 pending. Some 450 less complex cases were completed, 426 of which through transfer to other judicial levels, while 357 remained to be completed.

Bosnia and Herzegovina still maintains a bilateral immunity agreement with the United States, granting US citizens exemptions from the jurisdiction of the **International Criminal Court**. In doing so, it does not comply with the EU common positions on the integrity of the Rome Statute or with the related EU guiding principles on bilateral immunity agreements. The country needs to align with the EU position.

Bosnia and Herzegovina, Serbia, Croatia and Montenegro continued to closely cooperate under the **Sarajevo Declaration Process**, which aims to find sustainable solutions for 74 000 people who became refugees and displaced persons as a result of the armed conflicts in the former Yugoslavia during the 1990s. All countries need to further step up efforts to deliver on the implementation of the agreed housing solutions. Some progress was made on implementing the regional housing programme in Bosnia and Herzegovina, with a number of housing solutions provided. Efforts are needed to further ensure a quality beneficiary selection process conducive to a speedy implementation of the housing projects.

The unresolved fate of **missing persons** from the conflicts of the 1990s remained a matter of concern in the Western Balkans. The Central Records on Missing Persons of Bosnia and Herzegovina indicate that 6 808 people are still missing as a result of the conflict. Ascertaining the fate of missing persons remains vital for reconciliation and stability in the region. While the Missing Persons Institute of Bosnia and Herzegovina is financially sustainable, its ability to fulfil its mandate is impeded by political pressures. A support fund for the families of missing persons, which is provided for by the law on missing persons, has still not been established.

The lack of local forensic capacity, especially in the Federation entity, continued to hamper the process of identifying remains. In April, Bosnia and Herzegovina ratified the Protocol on cooperation with Serbia in the search for the missing persons.

**Regional cooperation and good neighbourly relations** form an essential part of Bosnia and Herzegovina's process of moving towards the EU. The country continued to participate actively in regional initiatives, including the South-East European Cooperation Process, the Regional Cooperation Council, CEFTA and the 'Western Balkans Six' initiative. In November, Bosnia and Herzegovina successfully concluded its first 6-month Chairmanship of the Committee of Ministers of the Council of Europe. In January, Bosnia and Herzegovina took over the Chairmanship of the Central European Initiative.

The impetus given through the '**Berlin process**' and the Western Balkan Six initiative, notably on the EU's **connectivity agenda**, continued to foster increased regional cooperation. In December, a prioritised list of investment projects in the transport sector was endorsed by the Bosnia and Herzegovina National Investment Committee.

On **regional judicial cooperation**, the Protocol signed between the Prosecutor's Office of Bosnia and Herzegovina and the Office of the War Crimes Prosecutor of Serbia on cooperation in prosecution of perpetrators of war crimes, crimes against humanity and genocide continued to provide results, with two additional indictments for war crimes filed and further confirmed during the reporting period in Bosnia and Herzegovina, one indictment confirmed and a guilty plea agreement reached in Serbia and one case transferred to Serbia from Bosnia and Herzegovina. The two protocols signed with the Croatian and Montenegrin Prosecutor's Offices are yet to produce concrete results.

Relations with **Albania** remained friendly and without open issues. The Albanian President paid an official visit to Bosnia and Herzegovina in February.

There are no official relations with **Kosovo**, as Bosnia and Herzegovina does not recognise Kosovo as an independent state. Bosnia and Herzegovina maintains a strict visa regime *vis-à-vis* Kosovo. The Ministry of Foreign Affairs continued issuing individual short-term visas to citizens of Kosovo only if they have an invitation from a foreign diplomatic mission or international organisation accredited in Bosnia and Herzegovina, or for humanitarian reasons. An amendment to normalise the visa procedure for all citizens of Kosovo was still pending.

An agreement on the collocation of diplomatic and consular offices with the **former Yugoslav Republic of Macedonia** was ratified in March 2016.

In April, the Agreement on the state border between Bosnia and Herzegovina and **Montenegro** entered into force. A Protocol on cross-border supervision was signed in December.

Overall, relations with **Serbia** remained good. In November, the Council of Ministers of Bosnia and Herzegovina and the Serbian government held their first joint session, which was followed by the signing of several bilateral agreements and memoranda, including on missing persons, the environment and telecommunications, construction of the inter-state bridge across Drina river, on international road transport of passengers and cargo, in the field of radiation and nuclear safety. The agreements were subsequently ratified by the country's Presidency. Bosnia and Herzegovina Presidency members and the Minister of Foreign Affairs visited Belgrade in December. The Serbian Prime Minister took part in an investment forum in Srebrenica in November.

Relations with **Turkey** remained good. A number of bilateral agreements were ratified, such as the Agreement on international carriage of passengers and goods by road, the Agreement on cooperation in the area of veterinary medicine and the Agreement on cooperation in the area of

science and technology. Bilateral contacts have been frequent, with the Presidency and a delegation of the Council of Ministers of Bosnia and Herzegovina paying official visits to Turkey in December and April, respectively. The Turkish Prime Minister attended the opening of the rebuilt Ferhadija Mosque in Banja Luka in May.

Relations with *Croatia* remained good, with frequent bilateral visits. In March the Presidency of Bosnia and Herzegovina paid an official visit to Croatia. In October, Bosnia and Herzegovina ratified the Agreement on rights and obligations for use of water from public water supply systems that cut across the state border. An Agreement on European Partnership between the two countries was signed in May 2016. However, no progress was made towards resolving further outstanding bilateral issues, including property issues and border demarcation.

### 3. ECONOMIC CRITERIA

Key economic figures	2014	2015
Gross domestic product per capita (% of EU28 in PPS)	29	29
GDP growth (%)	1.1	3.0
Unemployment rate (female; male) (%)	31.2/25.3	30.9/25.9
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)	59.2	59.2
Current account balance (% of GDP)	-7.5	-5.6
Foreign direct investment (FDI) (% of GDP)	2.6	1.4

Source: Eurostat

In line with the conclusions of the European Council in Copenhagen in June 1993, EU accession requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.

The monitoring of these economic criteria should be seen in the context of the central importance of economic governance in the enlargement process. Each enlargement country prepares an Economic Reform Programme (ERP) annually, which sets out a medium-term macro-fiscal policy framework and a structural reform agenda aimed at ensuring competitiveness and inclusive growth. The ERPs are the basis for country-specific policy guidance jointly adopted by the EU and the Western Balkans and Turkey at ministerial level in May each year.

#### 3.1. The existence of a functioning market economy

Bosnia and Herzegovina is still at an **early stage** in developing a functioning market economy. **Some progress** has been made, such as steps to modernise labour legislation, improve the business environment and address weaknesses in the financial sector. However, achieving stronger and sustainable economic growth will require a more efficient public sector and a more dynamic private sector development. Strong and continued political support for the swift

implementation of much-needed structural reforms, in line with the agreed Reform Agenda, will be key.

In line with the ERP recommendations and the Reform Agenda and in order to support long-term growth, in the coming year Bosnia and Herzegovina should pay particular attention to:

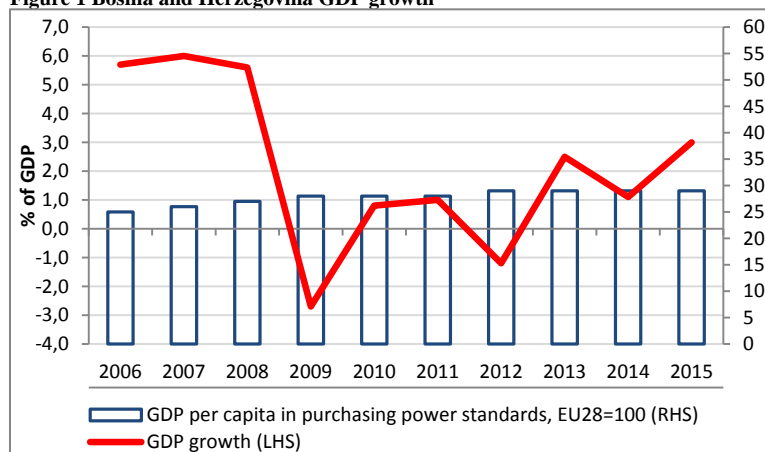
- improving the quality of public finance by enhancing the growth-friendliness of investment, improving the targeting of social spending, and strengthening debt management;
- strengthening the financial sector, by addressing non-performing loans and enhancing banking sector supervision and developing a new resolution framework;
- improving the provision and quality of timely and exhaustive statistics, increasingly applying European and international standards.

### Economic governance

**Bosnia and Herzegovina has strengthened its commitment to market-oriented reforms.** Implementation of the Reform Agenda and other reforms in view of complying with the economic accession criteria has made progress. In addition, the authorities agreed with the IMF on a 3-year reform programme in support to the Reform Agenda, and which is in force since September. However, chronic and time consuming disputes between the various governmental stakeholders resulted in substantial delays and have strongly impeded the effectiveness of economic policy. In the 2016 Economic Reform Programme (ERP), the authorities presented, among others, an ambitious, back-loaded fiscal consolidation path, substantially lowering both revenue and expenditure. However, a particular concern is the disproportionate use of delaying investment in order to achieve spending reductions. Important ERP policy guidance measures agreed at the Economic and Financial Dialogue on 12 May 2015 have not been implemented.

### Macroeconomic stability

Figure 1 Bosnia and Herzegovina GDP growth



**Economic growth remained resilient, but growth is still too low to lead to a noticeable improvement in the citizens' living conditions.** In 2012, the economy contracted by 0.9 % and, as a result of heavy flood damages, output growth slowed down to 0.3 % in 2014. This brought average annual GDP growth over this period to 1.4 % only. However, in 2015, output growth bounced back to 3 %. In the first half of 2016, output

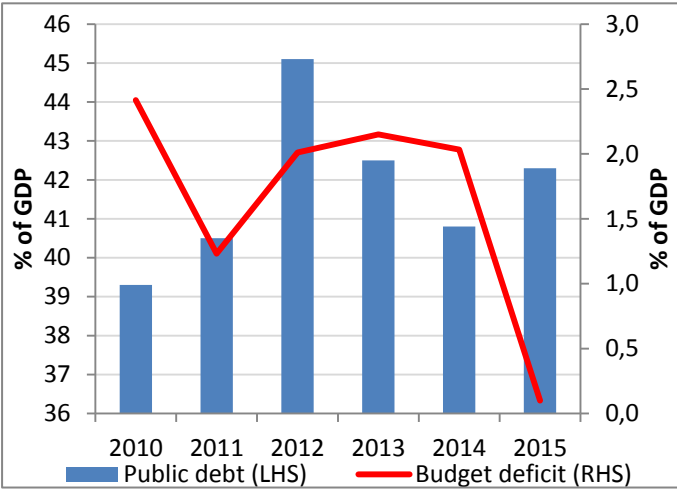
growth was 1.7 %. Important drivers of growth were domestic demand, in particular private consumption, as well as external demand. The resilience of private consumption is probably a result of stable inflows of workers remittances, and improving real disposable income, benefitting from low inflation and increasing employment. Domestic and foreign investment appears to have remained subdued, reflecting a poor business environment but also concerns on longer-term growth perspectives. Industrial production strengthened in the second half of 2015 and first half of 2016, partly reflecting stronger demand from abroad. Overall, data since the

beginning of the year point to moderate but solid economic growth. Still, *per capita* GDP<sup>2</sup> remained at about 29 % of the EU average in 2015, only slightly up from 28 % in 2011.

**External imbalances have continued to decline, but remain substantial.** In 2015, stronger export demand and lower prices for the import of energy and raw materials have resulted in a slight improvement in the country's trade and current account balances. The trade deficit shrank from 29.6 % in 2014 to 26.4 % in 2015, while the current account deficit dropped from 7.5 % of GDP in 2014 to 5.6 % in 2015. The substantial trade deficits are still primarily financed by inflows of transfers, such as remittances, and by service exports. Net foreign direct investment (FDI) declined from 2.6 % of GDP in 2014 to around 1.4 % of GDP in 2015, which is low when compared to peer countries. Net foreign exchange reserves continued to increase, reaching a robust level of about 30 % of GDP in mid-2016, covering some six months' worth of imports.

**ERP policy guidance:** Develop a comprehensive strategy to foster the resolution of non-performing loans by banks, including all relevant stakeholders with a view to reducing risks to financial stability and the real economy. Follow-up on plans to upgrade the legal infrastructure of the financial system and conduct an asset quality review of smaller banking entities. Establish a bank lending and inflation expectations survey in order to better gauge underlying credit and price dynamics.

Figure 2 Bosnia and Herzegovina fiscal developments



**ERP policy guidance:** Improve the quality of public finances: Enhance the growth-friendliness of public spending, among others by increasing public investment, and contain spending for public employment. Improve the targeting of social spending and establish a comprehensive inventory of public sector payment arrears. Furthermore, strengthen the country-wide public debt management capacities, in particular improving

<sup>2</sup> Expressed in purchasing power standards.



**Monetary policy has remained in line with the country's policy challenges.**

The currency board arrangement with the euro as anchor currency was maintained and continues to enjoy a high level of confidence and credibility. This approach has served the economy well so far. However, it also implies that the burden of adjustment to external shocks has to be accommodated by other policy areas, including fiscal policy. This requires a more responsible fiscal policy, necessitating the building-up of sufficient fiscal buffers and a stronger emphasis on medium-term stability.

cooperation and the flow of information from local data providers to the state level. Set-up an enforceable rules-based framework to instil discipline at all levels of government.

The overall price level continued to decline, although at a slower pace. In the first eight months of 2016, the overall level of consumer prices was 1.3 % lower than a year before. The drop in the price level was mainly driven by a limited number of commodity groups, such as transport, while prices for housing, health and education rose by some 1-2 %. Important factors for the low domestic inflation were lower prices for imported commodities, such as energy and basic commodities and the stable exchange rate towards the Euro.

**The general government accounts were close to balance in 2015, although the quality of fiscal governance remained low.** Preliminary data point to a slight surplus in the overall public sector accounts of some 0.7 % of GDP in 2015, compared to a deficit of 2.0 % the year before. This substantial fiscal adjustment of 2.7 percentage points of GDP appears to have been primarily the result of delayed investment spending and a maintaining spending on public sector wages at pre-year level. As a result, public spending dropped from 45.8 % of GDP in 2014 to 43.2 % in 2015. 2 percentage points of this drop in spending came for lower investment, declining as a percentage of GDP from 4.1 % in 2014 to 2.0 % in 2015. An important factor for the sharp decline in spending has been the difficulty in accessing international capital markets. Total revenues of the public sector declined slightly, from 43.8 % of GDP in 2014 to at 43.2 % in 2015. However, both, the spending and the revenue ratios are still rather high when compared to peer countries. Despite ongoing preparations to improve the targeting of social spending and to reduce payment arrears, the quality of public spending is still very low.

**The increase in public debt slowed down in the first half of 2016.** General government debt has steadily increased in recent years, reaching 41.9 % of GDP by the end of 2015. However, during the first half of 2016, the increase in debt decelerated, partly reflecting difficulties in accessing foreign capital markets. Debt service payments in 2015 increased to 0.8 % of GDP on the back of intensified issuing of short-term government securities to make up for the non-disbursement of tranches under the IMF Stand-by Arrangement.

**The macroeconomic policy mix is largely appropriate.** The approach of maintaining an euro-based currency board arrangement and low fiscal deficits has supported confidence and avoided the build-up of major macroeconomic imbalances. However, the implementation of fiscal policy has not devoted sufficient attention to improving the quality of public spending, for example through a better targeting of social transfers and stronger public investment, which would increase the country's growth potential in the medium-term.

## Functioning of product markets

### *Business environment*

**ERP policy guidance:** Introduce e-payment services on taxation and fully implement the law on electronic signature in order to

**The legal framework concerning market entry and exit has improved, although actual barriers to entering and leaving product markets are still high.** The

increase transparency and reduce space for tax evasion, corruption and regulatory complexity.

Federation entity adopted a new company law and both entities have started to improve their bankruptcy legislation, in particular with a view to simplify and accelerate procedures. However, there is still much to be done to align with international standards. Registration costs have been marginally reduced. However, overall, the number and duration of required procedures for entering or leaving the product market are still high and constitute a competitive disadvantage for the country.

**The rule of law and the functioning of the judiciary are still crucial issues.** Property rights are not yet fully established, as in some areas the coverage of real estate registration is still low. Regulatory and supervisory institutions often lack necessary resources and independence. In particular, financial sector supervision suffers from fragmentation and a lack of competences and resources. The country's international ranking in terms of business environment is very low.

**ERP policy guidance:** Improve the provision of timely and exhaustive statistics, applying European and international standards, in particular in the area of population statistics, national accounts and government finance statistics. Furthermore, strengthen the provision of data from data providers to producers of official statistics.

**The informal economy is estimated at 30-50 % of GDP and plays a central role, providing (unregistered) jobs and income but also distorting competition and eroding the base for taxation and social security contributions.** As a result, rates for

taxes and social security contributions are higher than would be necessary otherwise. This leads to a significant tax wedge on labour, which in turn impedes the creation of formal employment and has a negative impact on the country's international competitiveness.

**Strengthening the rule of law, simplifying contract enforcement procedures and fighting corruption remain essential.** Although a few steps have been taken to improve the legal rules governing business, the situation remains problematic. The country's administrative and judiciary capacities are limited, especially on settling commercial disputes, which often are still not discussed in commercial, but civil courts. The enforcement of commercial contracts remains cumbersome: When measuring the number of procedures, the necessary time and the involved costs, no significant improvement appears to have taken place during the last 10 years, requiring 37 different procedures, taking on average 595 days and costing 34 % of the claim value.

#### *State influence on the product market*

**Direct state influence on the economy has remained significant,** with public sector spending accounting for more than 40 % of GDP, generating about 22 % of the country's value added and employing about 26 % of the country's labour force. In the Federation entity, the role of state appears to be significantly higher than in Republika Srpska, reflecting the more complex administrative structures but also the fact that privatisation of state-owned companies is still at an early stage.

**State subsidies and guarantees are still significant and constitute a heavy burden on public finances.** According to available data, public sector subsidies to industry and agriculture account for some 1.3 % of GDP. Together with loan guarantees provided by the Entities to non-viable public enterprises this represents a significant cost and in particular a substantial contingent liability, impeding the predictability of public spending.

### *Privatisation and restructuring*

**The privatisation process** in the Federation entity started in 1999 but continued to suffer from delays despite the adoption of privatisation strategies in 2014 and 2015. Attempts to sell 14 earmarked companies were largely unsuccessful, so far. This leaves the assets still to be privatised at two-thirds of the initial stock of state-owned capital for privatisation. The Federation entity has made some progress in preparing privatisation projects. In the *Republika Srpska* entity the privatisation of state-owned companies is more advanced. However, progress in selling or liquidating remaining assets has been limited. Overall, strategic sectors such as transport, energy (and telecom in the Federation entity) are still dominated by state-owned companies. Proceeding with privatisation would stimulate competition in those sectors and relieve public finances from a recurring burden.

### Functioning of financial markets

#### *Financial stability*

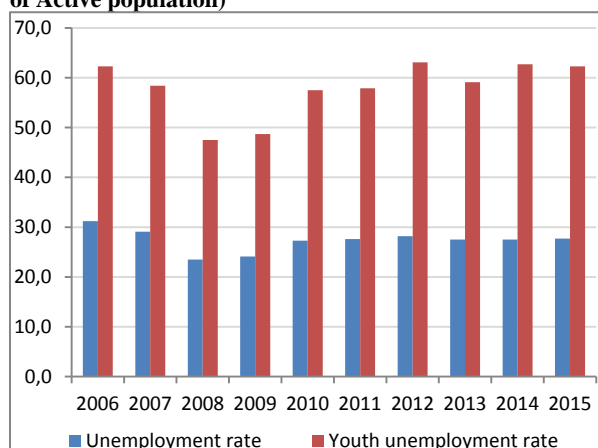
**Banking sector supervision and resolution suffer from fragmentation and insufficient data sharing among relevant stake holders.** The central bank's analytical capacities are still not sufficient. The sector's overall capital endowment with respect to its risk, the so-called capital adequacy ratio, recovered to 15.8 % by mid-2016. On country level this is above the regulatory minimum of 12 %. However, in some cases, weak capital endowment and insufficient surveillance are an issue. Banking sector profitability has been low, but improved in mid-2016. Credit risk indicators for the banking system have been improving slightly: Ratios of non-performing loans (NPLs) were close to 12 % in mid-2016, which is lower than in many peer countries but still high in terms of credit risks. Interest rate spreads have remained at a rather high level, at some 4.5 percentage points for corporate loans and at above 6 percentage points for household loans. Although spreads for household loans have declined during the last months, such high differences point to weaknesses in the sector's efficiency. Legislative changes to facilitate loan restructuring and NPL solutions are still insufficient.

#### *Access to finance*

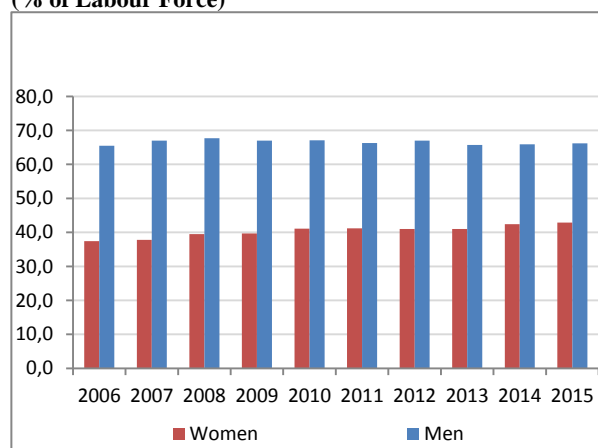
**Bank lending to the private sector has remained low, in particular loan provisioning to corporations.** The share of bank lending to GDP is low, accounting for 59 % by end-2015. Furthermore, credit lending has been growing at a low rate, largely due to weak lending to private corporations. The financial system continues to be dominated by the banking sector, which accounted for 87 % of total financial assets. The number of banks is high in relation to the available market size, although it has declined to 25 after the licences of two small local banks have been withdrawn and two smaller banks have merged. The sector is dominated by a few larger banks, while the size of the remaining banks is rather small. The share of foreign-owned assets in the banking sector increased to over 90 %, which is high but in line with peer countries. Only two majority state-owned banks remain, of which one is a development bank, which is in the process of liquidation. Both together account for less than 3 % of the sector's assets. The size of capital markets in relation to GDP is limited, with a value of capital market assets accounting for about 33 % of GDP. The size of the non-banking sector, mainly investment funds and insurance companies, increased slightly, with the sector's assets reaching 13 % of GDP by end-2015. However, this is still markedly below pre-crisis levels.

### Functioning of the labour market

**Figure 3 Unemployment in Bosnia and Herzegovina (% of Active population)**



**Figure 4 Participation rates in Bosnia and Herzegovina (% of Labour Force)**



**Substantial and persistent labour market imbalances point to a poor functioning of the labour market's allocation mechanism, alongside issues related to education and training.** Unemployment rates have declined in recent months. However, the level of unemployment is still high. In terms of registered unemployment, the rate decreased from 43.6 % in 2014 to 42.9 % in 2015, while results from the annual labour force survey (using ILO methodology, which accounts for undeclared work) point to a decline in unemployment, from 27.7 % in April 2015 to 25.4 % in April 2016. This decline in the rate is mainly a result of increased employment, while the number of unemployed has remained unchanged. The significant and persistent difference between the registered and survey-based labour figures indicates a fairly large informal labour market. At the same time, activity and employment rates remained at strikingly low levels of 44.1 % and 31.9 % respectively. Employment in the public sector continued to account for a large proportion of employment (31.2 % in 2015). The high proportion of long-term unemployment, accounting for some 85 % of job-seekers reflects a high structural component in unemployment. The high youth unemployment figure dropped slightly, from 62.7 % in 2014 to 62.3 % in 2015. Furthermore, persistent and large differences between female and male participation rates (32.1 % and 54.9 % in 2016) suggest that labour market conditions remain adverse for women.

**ERP policy guidance:** Reinforce the capacities of the employment services and target active labour market policies in particular to vulnerable youth, women and long-term unemployed. Reduce the unsupportive tax wedge and disincentives for the unemployed and inactive persons to take up formal work. Improve the co-operation between the education system and labour market institutions.

### **3.2. The capacity to cope with competitive pressures and market forces within the Union**

Being competitive in the EU also requires the existence of a functioning market economy.

Bosnia and Herzegovina is **at an early stage** in achieving the capacity to cope with competitive pressures and market forces within the Union. For the time being, the limited progress in proceeding with the reform agenda measures has not yet translated into noticeable improvements in the country's competitiveness. The overall level of education and spending on research and development are low. The quality of the country's physical capital is eroded and transport and energy infrastructure are insufficiently developed. The speed of structural adjustment and further trade integration are slow.

In line with the ERP recommendations and in order to support long-term growth, in the coming year Bosnia and Herzegovina should pay particular attention to:

- improving the efficiency of public investment, in particular with respect to infrastructure investment;
- increasing the country's attractiveness for foreign and domestic investment by, for example, accelerating improvements in the business environment and price competitiveness;
- improving the quality of education and training.

### Education and innovation

**The overall level of education is low, as is spending on education and research and development.** Investment in research and development has remained at low levels in recent years at a marginal 0.3 % of GDP, resulting – among others - in a low percentage of research and development personnel in the workforce (of 0.1 %). This is below the regional average. Public sector spending on education is relatively high at some 5 % of GDP, but the resulting output is one of the weakest in the region. This is probably directly linked to the complex and highly fragmented education system, with competences split at entity level, and in the case of the Federation entity even at cantonal level. This fragmentation together with a lack of coordination impedes the efficient and coordinated use of scarce public funds and results in a lack of common standards for various levels of education, as well as in teacher training and performance evaluation. Participation in pre-school education increased slightly compared to 2014 but the enrolment rate still remains very low at 15 %. Enrolment rates for tertiary education are also low at around 47 %, and are - despite an upward trend - far below the regional average. Completion rates in higher education are also low, averaging at 45 %, implying a high degree of internal inefficiency. The country's illiteracy rate of 2.8 % is one of the highest in the region. A wide skills mismatch is an important impediment for graduates to enter the labour market. As pointed out in a recent EU funded study, both employers and graduates believe that the education institutions do not equip students with key soft skills, such as problem solving, organisational, decision-making, foreign languages, etc., which are important for employability. The educational provision in vocational education and training (VET) does not function well as most VET graduates do not find employment and subsequently enter higher education.

### Physical capital and quality of infrastructure

**The quality of the country's physical capital endowment has remained low.** Private investment, in particular foreign direct investment, and public investment have remained below their long-term averages, with a 5-year average of 17.5 % of GDP, compared to an average of 20 % during a longer term. In particular, public investment was less than 4 % in 2015. Net FDI inflows dropped from 2.6 % in 2014 to 1.4 % in 2015. In view of the need to accelerate the country's catching-up process, this low investment performance is clearly insufficient and a serious reason of concern. Despite political commitments from the authorities to raise investment, public investment usually is a victim of budgetary constraints while private investment is impeded by slow progress in improving the business environment.

**ERP policy guidance:** Set up a common economic space and systematic coordination mechanisms between all government levels. Adopt a country-wide transport strategy and a country-wide energy sector reform strategy in compliance with the country's obligations under

**Transport and energy infrastructures are insufficiently developed.** The lack of coordination and cooperation between government levels to set up properly-functioning energy and transport markets and a single or harmonised legal and regulatory framework blocks the required significant upgrades and the considerable growth opportunities in these sectors. At the same time, the markets for electricity and gas remain fragmented and dominated by key incumbent companies.

the Energy Community Treaty.

**The digitalisation of the economy is relatively low.** The overall fixed broadband penetration rate increased to 17 %. The telecommunications sector policy has not been adopted by the Council of Ministers, blocking potential new entrants' market access. Bosnia and Herzegovina remains the only country in the region without a broadband strategy.

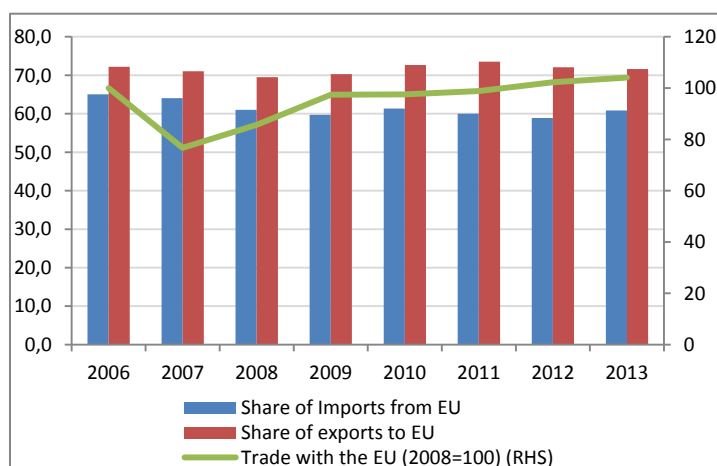
Sectoral and enterprise structures

**The structure of the economy has remained largely unchanged.** The agricultural sector accounts for a relatively high 7 % of GDP and 17 % of employment, reflecting the many small, fragmented and inefficient farm plots. Industry (incl. construction) provides a relatively high 26 % of GDP and 30 % of employment. The service sector is the largest sector in terms of employment and value generation. However, this reflects to a large extent the dominant size of the public sector and the important role of the trading sector. There seems to have been remarkably little change in the sectoral structure of the economy. However, lack of information on the informal sector might mask important changes.

**Small enterprises are a crucial part of the economy.** The latest Statistical Business Register indicates that the majority of enterprises, namely 75 % of all enterprises are micro-enterprises with less than 10 employees, while small enterprises, with 10-49 employees, represent 18 % of all companies. Large companies with more than 250 employees account for only 1 % of enterprises. Micro- and small enterprises are mainly active in trade and to a smaller extent in manufacturing. Overall, companies with less than 50 employees account for 93 % of all companies. Access of small, micro and start-up enterprises to bank lending is difficult, partly due to inefficient credit guarantee schemes. SME support schemes are in place but their implementation is very cumbersome.

Economic integration with the EU and price competitiveness

Figure 5 Bosnia and Herzegovina trade integration with the EU



**Trade integration with the EU is high, with more than 70 % of exports directed towards the EU-28.** During the first 8 months of 2016, 72.2 % of total exports were sent to the EU-28. However, the regional trade structure is very concentrated, as more than half of total exports were directed to only 3 countries, to Germany, Italy and Croatia. Compared to the same period a year before, the EU share dropped slightly, mainly due to strong export growth to non-EU countries, such as Turkey. The

main export products are processed commodities and raw materials. Overall, the country's openness to trade is relatively low when taking into account its economic size, with exports and

imports accounting for some 90 % of GDP. Furthermore, the range of export commodities is not very sophisticated. These two factors point to a limited competitiveness of the economy.

The EU is a major investor in Bosnia and Herzegovina, accounting for 65 % of total FDI stocks, with Austria and Slovenia accounting for the largest shares. Non-tariff barriers to trade with the EU, such as required sanitary standards, remain a significant problem and demand structural and regulatory reforms.

Price competitiveness deteriorated in terms of unit labour costs. The country's currency board regime, with the Euro as its anchor, also resulted in a deterioration of Bosnia and Herzegovina's nominal price competitiveness, as the Bosnian currency appreciated against many currencies of important trading partners, such as the US, Turkey and Russia. However, due to the persistently low inflation, the real effective exchange rate depreciated slightly, counteracting to some extent the negative development on the country's price competitiveness.

## 4. EUROPEAN STANDARDS

### 4.1. Internal market

#### 4.1.1. Free movement of goods

*The free movement of goods ensures that many products can be traded freely across the EU based on common rules and procedures. Where products are governed by national rules, the principle of free movement of goods prevents these from creating unjustified barriers to trade.*

Bosnia and Herzegovina is at an **early stage** of preparation for the free movement of goods. **No progress** was made in this area over the past year. Major steps need to be taken to achieve a fully-functioning system to ensure the free movement of goods.

In the coming year, Bosnia and Herzegovina should in particular:

- further improve coordination between the relevant institutions;
- establish a register of technical regulations in force, and start to repeal country-wide the domestic legislation that conflicts with European standards;
- adopt a coordinated country-wide strategy for quality infrastructure.

#### General principles

Regarding the **general principles**, the framework for the free movement of goods is not in place. Bosnia and Herzegovina has no coherent and country-wide approach, nor **a strategy or action plan for aligning** to the relevant *acquis*. Import licences or permits for certain products remain in place in Bosnia and Herzegovina which could potentially restrict the free movement of goods. No steps were taken to comply with Stabilisation and Association Agreement (SAA) commitments or to repeal conflicting regulations at all levels.

#### Non-harmonised area

No plans or steps have been undertaken to ensure that legislation and administrative practices are in **compliance with Articles 34-36** of the Treaty on the Functioning of the European Union (TFEU). As yet no specific body has been established or empowered with regards to the **obligation to notify regulations**.

#### Harmonised area: Quality infrastructure

Bosnia and Herzegovina has established institutions for standardisation, metrology, accreditation and market surveillance. The legislative framework remains to be fully aligned with the *acquis*. Administrative structures have been set up that operate as independent administrative bodies of the BiH Council of Ministers or as state-level coordination bodies of the entity and Brčko District inspectorates. However, there is no country-wide strategy for quality infrastructure and cross-cutting coordination between the relevant institutions at different levels of government is not ensured.

The Institute for **Standardisation** of Bosnia and Herzegovina (BAS) is a full member of the European Telecommunications Standards Institute (ETSI) and an affiliate member of the European Committee for Standardisation (CEN) and of the European Committee for Electrotechnical Standardisation (CENELEC). BAS has adopted 1223 European standards (ENs) as national standards, bringing the total to 17 768 ENs - 85 % of the ENs required for membership of CEN and CENELEC. These ENs are all adopted only by the 'cover page' method, whereby the national standards body adopts ENs in an EU language version with only a cover page in the national language(s). Conflicting ex-Yugoslav mandatory standards have still not been withdrawn and there is still no register of legislation in force. BAS increased its staff to 40 employees of the 50 envisaged by the rulebook. The appointment of the members of the Standardisation Council is still pending.

The single national **accreditation** body is the BiH Institute for Accreditation (BATA), a full member of the International Organisation for Standardisation (ISO), the European Telecommunications Standards Institute (ETSI) and the International Laboratory Accreditation Cooperation (ILAC) and an associate of the European cooperation for Accreditation (EA). There are 92 **conformity assessment** bodies in Bosnia and Herzegovina: 60 testing laboratories, 1 medical and 9 calibration laboratories, 1 product certification body and 23 inspection bodies. There is no national conformity assessment body accreditation plan. The authorisation of conformity assessment bodies and the application of conformity assessment procedures throughout the country is not ensured, as the *Republika Srpska* entity continues to implement its own legislation separately.

The Institute of **Metrology** of Bosnia and Herzegovina participates in technical committees, European development programmes and cooperation projects with EU metrology institutes. In February 2016, the *Republika Srpska* entity adopted a new law on metrology and the Federation entity adopted amendments to the Federation law on metrology which aim at aligning with the relevant EU *acquis*. Cooperation and coordination with the metrology institutes of the entities needs further improvement and a country-wide development strategy remains to be adopted. The appointment of the members of the Metrology Council has been pending for over 3 years.

The **Market Surveillance** Agency and the inspection bodies of the entities and Brčko District over the reporting period implemented 23 projects as part of proactive surveillance, and 18 cases were initiated on reactive surveillance. As a result of 86 **product safety** inspections, 1 031 unsafe products were withdrawn from the market and destroyed, and businesses have harmonised 37 741 products with safety requirements. Coordination and cooperation between the agency and inspections in the entities and the Brčko District continue to develop through the work of the coordination board, but further improvement is needed. The market surveillance system remains largely based on mandatory standards and pre-market control. Full alignment of the law on market surveillance with the *acquis* has not yet been achieved.

Harmonised area: sectoral legislation.

There are no developments on the '**New and Global Approach**' or **Old Approach product legislation**, or on **procedural measures**. The application of legislation throughout the country



is not assured, as the legislative framework remains fragmented and the *Republika Srpska* entity continues to implement its legislation separately. Prioritisation of legal alignment in accordance with market needs remains to be ensured. The division of competences between administrative levels on **procedural measures** remains unclear. Bosnia and Herzegovina should align with EU REACH legislation and continue strengthening the administrative capacities necessary for an effective implementation of REACH.

On **medical products pricing**, conditions for the refusal of products to be added to the reimbursement list are designed to be aligned with the EU *acquis*. Economic operators involved with **civil explosives** are subject to registration at entity and state level and are required to keep track of sales. However, Bosnia and Herzegovina lacks a comprehensive legal framework on the transport of dangerous goods; norms are not harmonised across the entities, with international agreements or with the EU *acquis*. Smuggling of explosives is only countered through border checks and random traffic controls. National legislation applies general **good laboratory practice** requirements to veterinary medical products, pesticides, food additives, feed additives and biocides. Accreditation in relevant standards is required for laboratories for food and feed controls. Regulation of **fertilisers** is designed to be aligned with the EU *acquis*. The BiH Agency for Drugs and **Medical Devices** remains understaffed.

#### 4.1.2. Movement of persons, services and right of establishment

Bosnia and Herzegovina is at an **early stage** of preparations in the area of movement of persons, services and right of establishment. **Some progress** was made in this field. A legal framework for providing universal postal services across the country still needs to be established.

In the coming year, Bosnia and Herzegovina should, in particular:

- ensure that entity-level legislation fully incorporates the recommendations of the Insurance Agency of Bosnia and Herzegovina before adoption, thus strengthening the agency's role in coordinating legal harmonisation and alignment with the EU *acquis*;
- adopt new banking legislation including a bank resolution framework;
- adopt legislation further aligning with the latest EU *acquis* on accounting and auditing.

The **movement of persons** and the mobility of the labour force within the country remain a concern. New labour laws were adopted in the *Republika Srpska* entity in December and in the Federation entity in April 2016 as well as the related implementing legislation. The absence of harmonisation in employment legislation, employment-based rights and other related taxation issues effectively prevent mobility inside the country.

(see also 4.1.8. — *employment and social policies, public health policy*).

On the **right of establishment**, in February the *Republika Srpska* entity amended the law on Registration of Business Entities to introduce more efficient and less costly own-initiative liquidation procedures for legal entities that have not harmonised their establishment form in line with the company law.

On **freedom to provide services**, 16 **postal service** providers — 3 public and 13 private — have been licensed by the Bosnia and Herzegovina Agency for Postal Traffic. The decision on the costs of issuing licences and the fees for providing postal services, which sets the costs of licences for both public and private operators as a fixed percentage of their respective revenues, is now in force and being implemented. However, there is still no state-level strategy for postal services and no state-level law on postal services to ensure a consistent and *acquis*-aligned regulatory framework and a reserved area remains in place. The lack of harmonisation between

the entities and the state level on the scope of universal and reserved services continues to undermine legal certainty. Administrative capacity at state level remains weak. The Agency for Postal Traffic continued implementing the amended rulebook on licensing postal services.

On the **mutual recognition of professional qualifications**, a roadmap for implementing the EU *acquis* on regulated professions was adopted in December 2015. This sets out the obligations of relevant authorities involved in implementing the *acquis* for doctors, dentists, pharmacists, nurses, midwives, veterinary surgeons and architects. It also makes recommendations for negotiations with the EU and participation in the relevant EU bodies

On **financial services**, in February the Federation entity adopted the law on factoring, aimed at providing SMEs with additional financing options beyond bank loans. Banking agencies in cooperation with the Central Bank carries out stress tests on a quarterly basis, as a result of which in the baseline scenario 4 out of 25 banks were identified as potentially undercapitalised by end-2016. Overall, the banking system was assessed as adequately capitalised. Following a failure to meet the regulatory requirements, the *Republika Srpska* entity liquidated a state-owned bank, and payment of insured deposits began in May.

In the Federation entity the Ombudsman for financial services is now operational, and the implementing legislation governing its work has been adopted.

Bosnia and Herzegovina continued its efforts to create a single economic area for **insurance** services within the country. The Insurance Agency of Bosnia and Herzegovina made recommendations on draft entity-level laws to ensure equal conditions across the country for insurance companies and clients. The *Republika Srpska* entity adopted a new law on third party motor vehicle insurance. The Federation entity adopted amendments to the law on intermediation in private insurance aiming at a gradual and phased liberalisation of the premium system throughout the country. Both entities adopted rulebooks on insurance supervision in September 2015. The entities adopted decisions on insurance company reserves, on the voting members in the protection fund assembly and rulebooks on Ombudsman procedures.

On **capital markets**, in October 2015 the *Republika Srpska* entity amended the law on investment funds which aims at providing more legal certainty to, and supporting further development of, investment funds. However, the entities' legislative frameworks remain to be further aligned with the EU *acquis*. Securities market participants with their head office in one entity still need to obtain a licence to operate in the other entity.

The Federation entity adopted a new **company law** in October (applicable from December) which aims at simplifying the establishment and functioning of businesses, including affiliated companies, and providing a clearer definition of the role of management structures.

Concerning **corporate accounting** and **auditing**, in October the *Republika Srpska* entity adopted the law on accounting and auditing aimed at further aligning with the latest *acquis* on annual and consolidated financial statements and statutory audit. The Federation entity has yet to further align with the *acquis* in this area. The smooth operation of the Committee for Public Oversight of the Chamber of Auditors of the Federation entity needs to be ensured by adopting its financial plans and providing adequate financial resources in the budget.

#### 4.1.3. Free movement of capital

Bosnia and Herzegovina remains **moderately prepared** in the area of free movement of capital. There was **no progress** in this area. Further alignment with the *acquis* is needed to provide for country-wide harmonisation and to create a single economic area.

In the coming year, Bosnia and Herzegovina should in particular:

- improve coordination in designing and implementing legal reforms in the area of foreign direct investment;
- address the remaining shortcomings on anti-money laundering, particularly by resolutely implementing the action plan on this issue.

As regards **movement of capital**, Bosnia and Herzegovina has continued to apply relatively liberal rules on inward capital flows. The legal framework is not harmonised with the *acquis*. In both entities, the legislation limits the amount that non-residents may transfer without bureaucratic burdens.

On foreign direct investment, there remains a lack of coordination across the country in designing and implementing legal reforms. However, the Federation entity adopted a law on foreign investment which entered into force in September 2015 and which matches similar laws both at state level and in the *Republika Srpska* entity. Restrictions on foreign direct investment continue to apply in the media sector, where a 49 % limit on foreign-owned capital remains in place.

The country's small and fragmented capital markets continue to suffer from challenging economic conditions and operate at relatively low levels. At the same time, the securities market remained dominant in terms of capital market growth since both entities nevertheless continued to secure both short-term and long-term financing through local capital markets.

Bosnia and Herzegovina has a **payments' clearing system** and real-time gross settlement operations within the Central Bank. In 2015, the value of transactions in these two categories increased by 5.2 % from 2014.

According to the Financial Action Task Force (FATF) Bosnia and Herzegovina remains a high-risk country with strategic deficiencies in **anti-money laundering/countering the financing of terrorism**. The country provided a written high-level political commitment to address the identified deficiencies and developed an action plan with FATF.

Bosnia and Herzegovina also continued to implement the action plan on removing deficiencies in its anti-money laundering system. Amendments to the law on the prevention of money laundering and terrorism financing were adopted in June 2016. In the same month, amendments to the criminal code of the Federation entity entered into force, changing the definition of the crime of money laundering and financing of terrorist activities. However, not all the supervisory bodies established by the law have so far begun operation.

Bosnia and Herzegovina needs to complete the measures in the action plan without delay, particularly on the registration and financial reporting of the non-governmental sector.

#### 4.1.4. Customs and taxation

Bosnia and Herzegovina is **moderately prepared** on customs and taxation. **No progress** was made in these areas. The customs policy law has not been implemented, and VAT and excise legislation remain to be aligned with the EU *acquis*.

In the coming year, Bosnia and Herzegovina should in particular:

- adopt implementing rules to enable the implementation of the new customs policy law;
- improve cooperation between the Indirect Taxation Authority (ITA) and the tax administrations of the entities, including through joint audits;
- amend the law on excises and align it with the EU *acquis*.

The new **customs** policy law has not been implemented in areas where the adoption of implementing rules remains pending. The new law provides for additional simplified customs procedures, but these require usage of the electronic signature. The law on electronic signature in Bosnia and Herzegovina has been in force since 2006; however, the institutional framework necessary for the secure and successful implementation of the law is still not in place.

Bosnia and Herzegovina remained an observer in the Common Transit Convention. The ITA continued to develop an IT application for the New Computerised Transit System for national use. However, the system cannot be used until the issue relating to the electronic signature has been solved.

A new rulebook on controls of indirect taxes and the post-clearance audit manual remain to be adopted. Registration and follow-up procedures for customs cases over the violation of intellectual property rights decreased from over 200 in 2014 to 75 in 2015.

The customs tariff was updated in line with the 2016 version of the EU Combined Nomenclature. The implementation of the regional convention on Pan-Euro-Mediterranean Preferential Rules is still pending.

Bosnia and Herzegovina ratified its participation in Fiscalis 2020 in November and Customs 2020 in December.

Preparations for fully implementing Asycuda World in the form of the establishment of a new customs declaration processing system have been finalised. The system supports the implementation of the current customs policy law and is functional throughout the country.

In the area of **taxation**, the law on VAT remains to be aligned with the EU *acquis*. e-VAT (a system enabling electronic VAT reporting) is still not implemented. The small brewery taxation scheme is still in force and effectively discriminates against imported beer imports.

The law on excise duties remains to be aligned with the EU *acquis*.

Both the *Republika Srpska* and Federation entities adopted new laws on corporate income tax and enforcement of them started in January and March 2016, respectively. The ITA's administrative and operational capacity remains to be strengthened. The tax administrations in Bosnia and Herzegovina (Indirect Taxation Authority of BiH, Tax Administration of the Federation of Bosnia and Herzegovina, Tax Administration of *Republika Srpska* and Tax Administration of the Brčko District) signed a Memorandum of Understanding on data exchange and coordination in June 2016 with the aim to improve the collection of direct and indirect taxes including through data exchange and joint audits. This should lead to improved cooperation between the ITA and the entities' tax administrations. The entities also need to step up their efforts to improve mutual cooperation and exchange of information in the area of direct taxation, as well as to strengthen the administrative capacity of their tax administrations.

#### 4.1.5. Competition

Bosnia and Herzegovina has **some level of preparation** in the area of competition. **No progress** has been achieved in this area. The country is relatively advanced in aligning with and implementing the rules on antitrust and mergers. However, further efforts are needed to improve legislative alignment and enforcement on State aid.

In the coming year Bosnia and Herzegovina should in particular:

- ensure the Competition Council functions more efficiently;
- further align and implement the State aid legislation and ensure efficient functioning of the State Aid Council;

→ ensure existing aid schemes are brought into line with the SAA obligations.

### Antitrust and merger

The **legislative framework** is broadly in line with the *acquis* and the SAA.

The law on competition is largely aligned with Article 101 of the TFEU on restrictive agreements and Article 102 on abuses of dominant position. It provides for an *ex ante* control of the effects on competition of mergers above certain turnover thresholds, in line with the principles of the EU Merger Regulation. Secondary legislation providing further substantive rules and guidance on how competition rules should be applied is broadly in place and complies with the relevant EU *acquis*.

As regards the **institutional framework**, the Competition Council is responsible for implementing the law on competition. It is composed of six members appointed from among legal and economic experts. They are assisted by 26 staff members. The Competition Council functioning is still hampered by the cumbersome nomination procedure for the chairperson, tight procedural deadlines and the ethnicity-based veto rights of CC members.

The Competition Council may act upon a complaint or notification, or on its own initiative. When carrying out an investigation, it may issue requests for information and carry out unannounced on-site inspections. It may impose fines and remedies in case of breach of competition rules. It applies a leniency policy for fines in cartel cases where companies provide information. The Competition Council may prohibit or authorise mergers, the latter with or without conditions. The Competition Council may also provide opinion on draft legislation that may affect competition. The Competition Council decisions may be appealed before the Court of Bosnia and Herzegovina, as administrative court.

On **enforcement capacity**, the Competition Council staff has 26 staff members, which is adequate but greater specialisation and a further increase in investigative capacity is necessary. Regarding **implementation**, the activity of the Competition Council has been stable and significant over the period 2013- 2015, with 16 decisions concluding to anticompetitive practices. All of them imposed fines, for a not insignificant total amount of EUR 650 000. The Competition Council needs to step up its enforcement activities, in particular on cartels, by conducting more on-site inspections, imposing remedies more often in merger cases or promoting more intensively its leniency programme. On appeal, the Competition Council decisions are generally upheld by the courts, but the courts' capacity to handle complex competition cases must be reinforced. In 2013-2015, the Competition Council issued 21 opinions on draft legislation with potential adverse impact on competition

### State aid

The **legislative framework** is partially in line with the *acquis* and with the provisions of the SAA.

The law on the state aid system is only partially aligned with the EU *acquis*. The decisions on the purpose, criteria and conditions for granting State aid, which should ensure further alignment with secondary legislation, are still not adopted in the Brčko District and at state level. A regional aid map needs to be drawn up.

As regards the **institutional framework**, the State Aid Council is responsible for ensuring the state aid system law is applied consistently. The Council is composed of eight members, appointed by the BiH Council of Ministers and by the governments of the Federation and, *Republika Srpska* entities and of Brčko District. It is assisted by a secretariat providing

expertise, technical and legal assistance and which is not part of a ministry. Its efficient functioning is not ensured as the *Republika Srpska* entity is withholding its budget share.

The state aid system law provides for obliging the State aid grantor to notify all State aid measures to the State Aid Council before the measures are put in place. It does not include a standstill clause required under EU rules or a possibility to issue a negative decision. The State Aid Council can order recovery of an illegal aid, with interest, when the non-notified aid is deemed incompatible with State aid rules. It can launch investigations and carry out subsequent assessments of State aid granted if there are sufficient indications that the aid is used unlawfully.

The **enforcement capacity** of the State Aid Council is insufficient. Its secretariat is not adequately staffed: only five of the nine posts planned have been filled and its financing is inadequate because the *Republika Srpska* entity has not paid its full contribution. It remains to be seen how effectively the legislation is being implemented. The State Aid Council issued 15 decisions over the reporting period (against 9 in 2014), all of which were positive or found no aid. A significant number of State aid measures are put in place before they are notified to and approved by the State Aid Council. Further efforts are therefore needed to ensure that all aid measures are notified to the State Aid Council and approved before being granted. Alignment of existing State aid schemes with obligations arising from the SAA and EU State aid rules has not yet started, even though the process should have been completed by July 2012. Intensive training and awareness-raising about the State aid rules continued at all levels. The transparency of all State aid granted remains to be ensured.

#### Liberalisation

The law on competition and the law on state aid are applicable to public undertakings and undertakings with special or exclusive rights. The rules on financing of services of general economic interest are not fully aligned with the State aid *acquis*. There are no monopolies of a commercial character within the meaning of Article 37 TFEU.

#### *4.1.6. Public procurement*

Bosnia and Herzegovina has **some level of preparation** in this area. **Some progress** has been achieved in the field of public procurement in the last year with the adoption of new rulebooks on conditions and usage of e-auctions, a rulebook on monitoring public procurement procedures as well as adoption of a new strategy and action plan for development of the public procurement system on Bosnia and Herzegovina in 2016-2020. Further efforts are needed to harmonise the legislation with the EU *acquis* in general, and in particular on public-private partnerships and concessions. Procurement is particularly vulnerable to corruption and more efforts are needed to prevent this during the procurement cycle.

In the coming year, Bosnia and Herzegovina should in particular:

- further align the public procurement legislation with the 2014 EU *acquis*;
- further strengthen the monitoring role of the Public Procurement Agency by implementing the new rulebook on monitoring, and make the procurement process more transparent by improving the use of the e-procurement system;
- establish a specialised procurement function within contracting authorities.

#### Institutional set-up and legal alignment

In terms of the institutional set up and **legal framework**, the 2014 public procurement law is broadly in line with the EU legislation from 2004. The law ensures respect for the principles of value for money, free competition, transparency and equal treatment. However, the country

still needs to align with the EU legislation of 2014 in this area. The principle of non-discrimination is not fully applied as Bosnia and Herzegovina maintains a system of domestic preferences which will be gradually phased out by 2020. New rulebooks on conditions and usage of e-auctions as well as a rulebook on monitoring public procurement procedures have been adopted while adoption of a rulebook on training of public procurement officers is pending.

Bosnia and Herzegovina needs to further align with the EU *acquis*, including on concessions and public private partnerships. The legal framework for the concessions system is still fragmented and formal channels for cooperation between the concessions commissions at different levels need to be created.

The **Public Procurement Agency** of Bosnia and Herzegovina (PPA) is mandated to initiate, implement and monitor public procurement reform in all sectors. The PPA needs to further increase its capacity to ensure it can carry out all its responsibilities. A new strategy for development of the public procurement system in 2016-2020 was adopted in October.

#### Implementation and enforcement capacity

The estimated value of contracts concluded following **public procurement** procedures was 5.02 % of GDP in 2015, a decrease compared to 8.14 % in 2014. The total number of tender procedures as well as the number of concluded contracts is on the rise. Among them, the most commonly used procedure was direct agreement in 86 % of cases.

The PPA needs to be further strengthened, including through training, to improve the **monitoring** of procurement procedures. The PPA maintains the central procurement portal where tender and contract notices and other important information and guidance are published. An e-auction module has been introduced, but overall e-procurement is still at a very early stage. An increasing number of contracting authorities has reported to PPA and the collected statistics are published by the PPA in the annual report providing a solid tool for monitoring the use of procurement procedures, including the less competitive ones. However, the PPA's monitoring role is limited and should be strengthened to enable the identification of potential weaknesses and irregularities.

Regarding the contracting authorities' capacity to implement and enforce **public procurement processes**, the 2014 public procurement law's provisions on more detailed planning, preparation and publication of public procurement activities remain to be applied. Specialised procurement functions still need to be established in each contracting authority and provided with public procurement officials who have the relevant skills and capabilities. There has been no improvement in implementation of the provisions on **integrity and conflict of interest** in public procurement procedures. Training of all stakeholders on conflicts of interest is required, in line with the anti-corruption strategy, in order to anticipate risks in public procurement.

#### Efficient remedies system

The **right to legal remedy** is stipulated in the constitution and in the law on public procurement. The legislation on review procedures is broadly in line with the EU *acquis* on remedies, except for the lack of competitive and transparent procedures or reviews required by the *acquis* on public private partnerships and works concessions. The decisions of the Procurement Review Body (PRB) can be challenged in the Court of Bosnia and Herzegovina. The submission of an objection suspends the procurement procedure.

In 2015, the PRB received 2011 complaints (a 77 % increase compared to 2014) of which it resolved 85 %. A further several hundred cases with the estimated value below BAM 800 000 are pending parliament's decision regarding competences of the relevant institution to review

them following the creation of two branch offices. Over the same period, the Court of Bosnia and Herzegovina delivered 115 judgments in cases brought against PRB decisions, ruling against it in 58 cases.

The PRB has been enlarged to 17 members and three offices, but due to lack of coordination between the central office and the two new branch offices it has had difficulty implementing its mandate. Its **implementation capacity**, especially to deal with the complexity and high number of procurement-related appeals, needs to be strengthened and harmonised between the three PRB offices. The publication of almost 500 decisions by the PRB and by the Court of Bosnia and Herzegovina in 2015 had contributed to the transparency of the procurement process. However, no decisions were published in 2016.

#### 4.1.7. Intellectual property law

Bosnia and Herzegovina is **moderately prepared** in the area of intellectual property law. **No progress** was made on adopting a strategy on enforcing intellectual property rights or on strengthening the capacity and coordination of enforcement institutions.

In the coming year, Bosnia and Herzegovina should, in particular:

- adopt a strategy on enforcing intellectual property rights;
- strengthen the capacity and coordination of enforcement institutions.

The Institute for Intellectual Property continues to function well, although concerns about its administrative capacity persist. Three Information-Education Centres have been established within the institute to strengthen its information and educational role, although they are not operational yet due to budgetary constraints.

On **copyright and neighbouring rights**, 37 copyright works and related rights were entered into the institute's records, and certificates of deposit and registration were issued accordingly.

In the area of **industrial property rights**, the International Convention for the Protection of New Varieties of Plants (the UPOV Convention) and the European Patent Convention remain to be ratified. Since October 2015 the Institute for Intellectual Property is using WIPO/IPAS<sup>3</sup> software to automate trademark processes. A new database for registering European and domestic patents has also been developed with the help of the European Patent Office.

Regarding **enforcement**, the ITA received 61 requests for customs measures and issued 38 decisions on temporary retention and seizure of goods. The State Investigation and Protection Agency temporarily seized 6 387 sound and video carriers. The *Republika Srpska* Market Inspection Agency seized goods worth around EUR 16 500 due to lack of proof of origin. The Brčko District market inspectorate carried out 68 inspections and temporarily seized goods valued at around EUR 8 200.

To ensure the protection of intellectual property rights, Bosnia and Herzegovina needs to strengthen the capacity of enforcement institutions and cooperation between them. Setting up an inter-ministerial body to coordinate the enforcement of IPR would be an appropriate measure in the medium term. An enforcement strategy remains to be adopted. A reliable system for collecting and analysing data and for data exchange between the various enforcement institutions is still lacking.

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<sup>3</sup> World Intellectual Property Organisation/Industrial Property Automation System.



#### 4.1.8. Employment and social policies, public health policy

Preparations remain at an **early stage**. There has been **some progress** in this area. While unemployment fell slightly, it is still largely structural and remains high overall. Unemployment among women and young people remain high. There has been some progress on employment policy and public health. New labour laws were adopted in line with last year's recommendation.

In the coming year, Bosnia and Herzegovina should in particular:

→ develop autonomous social dialogue, modernise health and safety laws and harmonise them between the entities;

→ urgently implement active labour measures to address high unemployment, notably youth unemployment, and provide effective support to job seekers;

→ implement public health reforms and provide for cooperation between the entities.

On **employment policy**, new labour laws were adopted in the *Republika Srpska* entity in December and in the Federation entity in March. Implementing legislation was also adopted.

Labour market participation marginally increased in 2015 to 44.1 %, with both male and female participation rates increasing slightly. The employment rate also rose somewhat to 32.2 % in 2016, while female employment dropped marginally from 23.2 % to 22.4 %. Job creation gained some momentum and the overall unemployment rate dropped to 25.4 % in 2016. This is mainly a result of the decrease of the male unemployment rate to 22.5 % in 2016 while the female unemployment rate decreased only marginally to 30.0 % in 2016. Overall, about 85 % of unemployment remains long-term.

Active labour market measures including training, internships, self-employment and public works intended to support the employment of vulnerable groups such as persons with disabilities and long-time unemployed people, have not been effectively implemented and unemployment rates among the population targeted remains high. Additional capacity and financing are needed to stimulate people to search actively for jobs. Passive labour market measures remain dominant.

The *Republika Srpska* entity government adopted an annual employment action plan while implementation of the *Republika Srpska* employment strategy for 2016-2020 started.

As regards **social policies**, social contributions are not harmonised and continue to differ between the entities, the Brčko district and cantons. In the field of **health and safety at work**, state-level legislation on working hours, obligatory holidays for mobile workers and tachographs in road transport was amended in March to bringing it into line with the relevant EU *acquis*.

On **social dialogue**, there is still no progress towards establishing the State Economic and Social Council due to the continued lack of state-level legal provisions on recognising the social partners. Following the adoption of labour laws in both entities, social partners were more active in negotiating collective agreements. The threshold for representativeness of trade unions was lowered in the newly adopted labour codes. In compliance with the new labour law, a new general bipartite collective agreement was signed in February by the Union of Employers of the Federation entity and the Confederation of Independent Trade Unions of BiH. In the *Republika Srpska* entity new general collective bipartite agreement has not been negotiated yet but five special collective agreements were signed and entered into force in August. However, social dialogue remains weak at all levels.

The legislative framework on **social protection** needs better implementation. The new social protection legislation and the implementation of existing legislation vary between the entities and Brčko District. There are no systematic measures designed to integrate the most vulnerable persons into the labour market or to actively look for a job and to reduce long-term dependency on the social assistance system. Vulnerable persons continue to face problems with low access to training due to the lack of enabling services, such as social service centres and employment bureaus. In the Federation entity, the situation differs also between cantons. Due to the financial constraints at all levels of government, the social protection benefits prescribed by social protection laws are not fully implemented in practice, as some benefits are not being paid or amounts are reduced in line with the available funding.

**Social inclusion** policies are still not harmonised across the entities and between cantons and neither is the provision of social protection services for disadvantaged people, such as persons with disabilities and the elderly.

**Social protection** rights and benefits are predominantly determined based on status. War veterans benefit from a large proportion of total expenditure on social assistance. Inequalities in the provision of social benefits between the entities remain an issue of concern. Additionally, people moving between entities and cantons face obstacles in accessing social protection and assistance, an issue that is especially affecting returnees. Amendments to the federation law on the fundamentals of social protection, protection of civilian victims of war and protection of families with children were adopted in June. They transfer responsibility for regulating the monthly allowance in times of austerity from the Federation Parliament to the Federation Government. The rights of persons with disabilities who are placed in social protection institutions are still not adequately protected. Participation of women in the workforce is low and there is still maternity-related discrimination in employment.

On **public health policy**, Bosnia and Herzegovina signed the Council of Europe Convention on the counterfeiting of medical products in December. The Agency for Healthcare Quality and Accreditation revised the accreditation standards for 'baby-friendly hospitals' and accredited four such hospitals. Universal immunisation coverage of children (18-29 months) in line with EU standards has still not been reached. Primary free-of-charge healthcare for children is available only if the cantonal health institutes contracted this service with local primary health institutions — a measure which is not equally implemented in practice. The *Republika Srpska* entity established a Council for healthcare in April.

Bosnia and Herzegovina nominated national contact persons for three of the forums under the Tessa platforms dealing with prevention and control of **communicable diseases**: preparedness and response to public health threats, detection of public health threats, and microbiology. The *Republika Srpska* entity adopted an annual work plan for prevention of communicable diseases and a set of by-laws regulating standards for drinking water in September 2015.

On **alcohol and drugs**, in July 2016 the *Republika Srpska* entity adopted a strategy for controlling drugs and preventing drug abuse for 2016-2021.

In the field of **blood, tissues and cells** the Federation entity issued a by-law in March regulating facilities' spatial standards, equipment, and staff. The by-law includes procedures for verifying health institutions laboratories' for conducting organ transplants. The *Republika Srpska* entity established a Council for transfusion in April and adopted by-laws regulating conditions for blood donation in December.

The *Republika Srpska* entity has not yet adopted its **mental health** strategy for 2016-2020.

On **pharmaceuticals**, in September 2015 the Federation entity adopted a decision on the procedure for recognising the fulfilment of preconditions for production and wholesale of

medicines. In December the *Republika Srpska* entity adopted a set of by-laws regulating the spatial standards, equipment and staff of pharmaceutical facilities and of facilities for producing medical devices.

Cancer screening policies are not systematically in place in the country.

#### 4.1.9. Education and research

Preparations on education and research and innovation policy are at an **early stage**. There was **some progress** in these sectors. Bosnia and Herzegovina actively participated in different cultural programmes as well as research networks and activities.

In the coming year, Bosnia and Herzegovina should in particular:

→ strengthen the capacity of state-level education agencies to develop EU standards and increase the level of quality assurance in education;

→ establish an effective coordination mechanism in the Federation entity to improve cooperation between bodies responsible for quality assurance across the country;

→ step up efforts to strengthen its research and innovation capacity.

There was some progress in **education**. A state-level policy document setting priorities for developing higher education in Bosnia and Herzegovina for 2016-2026 was adopted in March. The *Republika Srpska* entity adopted its education development strategy for 2016-2021 in April, setting priorities for further education reform as well as next steps for teacher training and professional development.

Coordination between the country's education ministries improved. Two meetings of the Conference of Education Ministers were held during the reporting period. Two cantons adopted laws on adult education. The State Agency for Pre-school, Primary and Secondary Education adopted the common core curricula for cross-curricular areas. The national pre-school enrolment rate for children aged 3-6 rose by 8.16 % compared to the previous school year.

Bosnia and Herzegovina continues to participate actively in the Western Balkans Platform on Education and Training and hosted the 2016 Ministerial meeting in Sarajevo. The country continues to participate in the external dimension of the Erasmus+ programme and its Western Balkans Youth Window, as well as in policy support networks and electronic platforms. However, the lack of effective coordination at state level remains an issue of concern and it may put at risk the country's full participation in the EU's education programme.

Implementation of the action plan for implementing the 'baseline qualifications framework' has not started yet due to the lack of the state-level intersectorial commission responsible for implementing the action plan. An effective coordination mechanism has not been established in the Federation and the two existing coordination bodies are still acting in parallel.

Coordination between bodies responsible for quality assurance is weak at the level of pre-school, primary and secondary education. In higher education, coordination and cooperation between the state-level Agency for Development of Higher Education and Quality Assurance and the *Republika Srpska* Agency for Accreditation should be improved. Further efforts should be made to establish national education statistics. Cooperation between education institutions and the business sector still needs to be improved. The relevance of education to the labour market remains weak. The education sector, especially in higher education, remains a high-risk area for corruption and political interference.

In the field of **culture**, the Creative Europe Desk generated great interest among cultural stakeholders across the country. Both Creative Europe offices, in Sarajevo and Banja Luka, organised workshops and information days across the country.

There was limited progress in the field of **research and innovation**. The BiH Council for Science was established in December as an advisory and technical body in the area of science and technology. The country's investment in research and innovation remained low.

#### 4.1.10. WTO issues

Bosnia and Herzegovina's preparation for EU accession is at an **early stage** in this area. **Some progress** was made in the negotiations for accession to the World Trade Organisation.

Concerning bilateral market access for goods and services, Bosnia and Herzegovina still needs to conclude its negotiations with Brazil, Ukraine and the Russian Federation. The country's current legislation still needs to be revised in order to comply with WTO requirements. The country should consider applying for accession to the Wassenaar Arrangement, which can facilitate preparations to implement the *acquis* for dual-use items export control.

## 4.2. Sectoral policies

### 4.2.1. Industry and SMEs

Bosnia and Herzegovina remains at an **early stage** in the area of policy on industry and SMEs. **Some progress** was made in this field.

In the coming year, Bosnia and Herzegovina should in particular:

- address the lack of a single economic space, including through harmonised and coordinated country-wide industrial and SME policies, in line with Reform Agenda priorities;
- address the outstanding business environment challenges by lowering the costs of business entry and exit procedures, and implementing the law on electronic signatures, online filing of taxes, and support measures for start-ups and export-oriented enterprises.

In January the Federation entity adopted an action plan for **industrial policy** for 2016-2019 harmonised with the Reform Agenda priorities. In October 2015 the Federation entity further amended the law on fostering foreign investment and in November 2015 approved a plan to privatise 16 companies.

Regarding **SME policy**, some progress was made towards establishing a country-wide network for reporting on implementation of the Small Business Act. In February the Council of Ministers adopted the report on Small Business Act implementation in 2015. It also assigned the coordination role to the Ministry of Foreign Trade and Economic Relations, which appointed a new national coordinator in April. An agreement with the EU on participation in the EU Programme for the Competitiveness of Enterprises and Small and Medium-Sized Enterprises (COSME) was signed in June 2016. Bosnia and Herzegovina will be able to access COSME funding once the ratification process is completed.

The institutional set-up for SME development and SME policy coordination remains weak and fragmented across state- and entity levels or below. This constitutes a major constraint on aligning industrial and SME policies and underlines the continuing need for a coordinated country-wide SME strategy. In March 2016 the *Republika Srpska* entity adopted a 2016-2020 strategy for SME development at entity level, and in September 2016 the Federation entity similarly adopted an action plan for SME support for 2016-2018.

Bosnia and Herzegovina's overall ranking in the World Bank *Doing Business 2016* report slightly improved, mainly on the basis of obtaining electricity permits for new businesses. The

Federation entity adopted a new company law in October which aims at improving corporate governance, and *Republika Srpska* adopted amendments to the law on registration of business entities in June. In March the *Republika Srpska* entity adopted a new law on bankruptcy in order to speed up bankruptcy procedures and debt settlement, and in June it adopted amendments to the law on tax procedures. The Federation entity started establishing ‘one stop-shops’ for investors which will be aligned with a similar system in the *Republika Srpska* entity. Despite some progress the business environment remains difficult: business registration procedures remain cumbersome and costly, and the requirement for a company to register in both entities if it has a commercial presence has not been addressed.

Business support services and SME support remain limited. In January the Federation entity adopted an action plan for support to infrastructure, business incubators, clusters and start-ups. The Federation entity also collected an initial listing of parafiscal charges to prepare a registry of parafiscal revenues in the first quarter of 2016.

The certification of municipalities with business-friendly environments continues in both entities; to date, 10 municipalities have been certified in the *Republika Srpska* entity and 5 in the Federation entity.

#### 4.2.2. Agriculture and fisheries

Preparations in these areas are at an **early stage**. **Some progress** was achieved on food safety, veterinary and phytosanitary policies.

In the coming year, Bosnia and Herzegovina should in particular:

- design and adopt a countrywide strategic plan for rural development and agree to establish the national structures for obtaining pre-accession assistance to the agricultural sector through the Instrument for Pre-accession Assistance for Rural Development;
- further align its official veterinary and phytosanitary control systems with European standards;
- further upgrade its administrative capacity, in particular inspection services and laboratories.

In the area of **agriculture and rural development policy**, Bosnia and Herzegovina has yet to prepare a state-level strategic plan for rural development. An updated state-level harmonisation programme for agriculture, food and rural development still needs to be adopted. State-level legislation on wine and on organic production has yet to be adopted. An agreement to establish the institutional structures that would enable the country to benefit from the Instrument for Pre-accession Assistance for Rural Development is still pending. The administrative capacity and coordination within the agriculture and rural development sector still need to be improved.

The effectiveness and EU compliance of support measures remain insufficient to increase the sector's productivity and competitiveness. There is still no agreement on the legal framework for conducting an agricultural census. Agricultural statistics and the agricultural information system are yet to be established and consolidated country-wide. The national agricultural information strategy is not yet adopted. The land registration systems are yet to be harmonised throughout the country, and the land management requires strengthening.

On **food safety**, in September 2015 four Bosnia and Herzegovina dairy establishments were authorised to export ultra-heat treated milk and certain dairy products to the EU and the country has since increased the number of approved establishments to eight. Some progress has been made on implementing Bosnia and Herzegovina's action plan on the production and processing of dairy products for export to the EU. However, certain inefficiencies have yet to be remedied. In this context, new state-level veterinary and food safety laws and amendments to the national

agriculture and rural development law are yet to be adopted. The country's official food and feed controls system remains to be made fully compliant with the *acquis* and duly implemented. The exchange of information and coordination within the control chain need further improvements to make it efficient and enable the country to meet EU requirements and standards for export of other goods of animal origin to the EU market. The implementation of the Hygiene Package has yet to take place in a full and harmonised way across the country.

Institutional and administrative capacity, particularly those of the inspection services, require further upgrading to enable the import control system and internal market controls to be fully implemented in accordance with EU legislation. Food business operators still need further education and training on specific EU safety and quality requirements.

Bosnia and Herzegovina continued to implement the food safety monitoring plan. The country's crisis management plan and operative emergency measures remain to be adopted. Further implementing legislation was adopted to strengthen the country's risk assessment system and harmonise the maintenance of food safety databases.

Bosnia and Herzegovina continued to fully participate in the European Commission's rapid alert system for food and feed, implementing appropriate inspections and reporting back to the Commission on the results. In total, 7 notifications were received through the system and 3 notifications were submitted to the system, including those related to imported products. There was no risk to consumer health and safety in these cases.

The capacity of laboratories continued to be strengthened and the number of accredited laboratory methods for diagnostics was increased, thereby improving the official food and feed controls. However, a central database for the official food and feed control system has yet to become fully operational. A state-level strategy for laboratory testing of samples, as required by the official food and feed controls system, still needs to be developed.

On **veterinary** issues, Bosnia and Herzegovina continued with the control, prevention and eradication of communicable animal diseases. It implemented animal control measures, including those against brucellosis and tuberculosis in cattle. The country successfully completed the 5-year programme of control and eradication of rabies, so it has been rabies-free for the last 2 years. New multiannual operational programmes for controlling and eradicating rabies and brucellosis for 2016-2022 need to be adopted. The animal disease notification and outbreak information management system still requires further upgrades to become fully functional. Laboratories' capacity was further improved in terms of equipment and an increased number of accredited laboratory methods for diagnosing animal diseases.

The country's residue monitoring plan continued to be implemented. Shortcomings in the animal identification, registration and movement control system, including the central database, do not allow the authorities to efficiently plan and implement relevant animal health measures. A country-wide strategic framework for managing animal by-products has yet to be established in line with the *acquis*.

Further implementing legislation adopted in the **phytosanitary** sector in January improved the registration of plant protection products. A manual and guidelines developed in April for phytosanitary inspectors harmonised their standard operating procedures and controls as regards both the internal market and at border crossings. After the approved export of potatoes to the EU in July 2015, the special surveillance of potatoes for quarantine pests continued. The registration of relevant producers, importers, exporters and distributors in a single phyto-registry continues. The work of official diagnostic laboratories and controls at border inspection points are broadly in line with the *acquis*. Nevertheless, accreditations of laboratories need further improvements. Institutional and administrative capacity still need

further strengthening, in particular those of phytosanitary inspectors for the internal market official controls. The network of Plant Health Protection Administration regional offices has yet to become fully operational. The registration of new varieties in the country's variety list needs to progress to enable greater trading potential. The principles of integrated pest management have to be implemented in a harmonised manner across the country.

Agricultural producers need further training on EU requirements and standards for using plant protection products and applying maximum residue limits.

Bosnia and Herzegovina continued improving the implementing legislation on **genetically modified organisms** and issued 16 decisions approving the placing of genetically modified feed on the Bosnia and Herzegovina market. The BiH Council for genetically modified organisms continued to act in its advisory and monitoring role. The registry of genetically modified food and feed is fully operational. The process is guided by the principles of control and transparency and provides for proper traceability and labelling of these products. Further harmonisation of the legislation in this field is required to further upgrade operating procedures country-wide.

Policies in the **fisheries** sector need to be harmonised across the country. Bosnia and Herzegovina needs to step up efforts to implement the *acquis* in this sector in a harmonised manner to increase the potential for exporting fish and fishery products to the EU.

#### 4.2.3. Environment and climate change

Bosnia and Herzegovina is at an **early stage of preparation/has some level of preparation** in this area. **Some progress** has been achieved in further aligning policies and legislation with the *acquis*, in particular in the water and waste sectors. However, significant efforts are needed on implementation and enforcement.

In the coming year, Bosnia and Herzegovina should in particular:

- adopt a country-wide environment approximation strategy and accordingly enhance the legal framework, strengthen administrative capacity and monitoring systems and improve inter-institutional coordination among all authorities on environmental protection;
- formalise the procedures for appointment and the functions of the National Focal Point for Bosnia and Herzegovina for the implementation of environmental conventions;
- ratify the Paris Agreement under the UN Framework Convention on Climate Change and start implementing its contribution to it; implement the Low Emissions Development and Adaptation to Climate Change Strategy.

### **Environment**

**In the area of horizontal legislation**, there is still no national policy and strategy on the environment. There are just a few specific schemes on climate change, biodiversity, landscape protection and radioactive waste management, as well as a number of sectoral strategies at entity and Brčko District level. Draft country-wide strategic documents, developed with EU assistance and fostering harmonised approximation with the EU environmental *acquis* have yet to be adopted. They include environmental approximation strategy and its implementing documents, specific implementation plans for selected priority environmental directives and environmental policy documents. Alignment with the EU *acquis* faces major obstacles due to the complex political and administrative structure of the country, lack of awareness at political level, understaffing and lack of funding. There are no specific laws on environmental inspections at the level of entities, Brčko District and cantons. Inspections are regulated by the general laws on inspections and related implementing legislation in relevant areas and

performed by the necessary administrative structures. Most implementation plans at entity level on environmental impact assessment (EIA) and strategic environmental assessment (SEA) are still not sufficient. The UNECE Protocol on Strategic Environmental Assessment and the Basel Convention on hazardous waste have yet to be adopted, as has an environmental monitoring data management and reporting strategy. Public participation remains to be improved in both entities. Bosnia and Herzegovina acceded to the Aarhus Convention in 2008 and established until 2013 three Aarhus Centres. The official nomination of the National Focal Point for implementation of the Aarhus Convention is still pending. The legislation regulating public access to environmental information and public participation in decision-making process is not in full compliance with EU *acquis*. Bosnia and Herzegovina has not transposed yet a number of horizontal environmental directives such as on environmental liability, INSPIRE<sup>4</sup> and environmental crime.

Legislative alignment with the *acquis on air quality* is at an early stage. Ambient air quality laws in both entities set zones and agglomerations but further regulation of national emission ceilings is required, as well as emission registries. The air monitoring system was improved with 4 more monitoring stations, although a well-functioning country-wide air monitoring network still needs to be established. The country has yet to align with the EU *acquis* on the reduction in the sulphur content of certain liquid fuels (heavy fuel oil limiting value for sulphur content being 1.00 %) and did not transpose the provisions of the Directive 1999/32/EC and subsequent amendments relevant for gas oil, including marine gas oils, in terms of limiting values at 0.10 % by mass. Legislation on emissions of volatile organic compounds (VOC) has not been adopted yet. Air quality plans for areas where pollutant levels exceed limit values remain to be adopted.

For **waste management** a country-wide strategy has yet to be developed. Strategies at entity level for municipal, industrial and hazardous wastes are in preparation. Strategic planning of related investment, setting up national and regional enforcement authorities and awareness-raising activities have started. In the Federation entity the management of municipal waste is regulated in detail by cantonal laws. The Federation entity is implementing the 2008-2018 waste management strategy and the 2012-2017 waste management plan. Amendments to the RS law on waste management were adopted in December, introducing provisions on packaging and packaging waste management. Alignment with EU legislation on sewage sludge, batteries, packaging, polychlorinated biphenyls (PCB) / persistent organic pollutants (PCT) and end-of-life vehicles is at a very early stage. Further efforts are needed on alignment with EU *acquis* provisions on landfill directive and on closing or rehabilitating non-compliant landfills. Legislation on the shipment of waste is harmonised with the Basel Convention.

On **water quality**, the country still lacks a consistent and harmonised country-wide strategy and investment plans on water management that would include implementing legislation and monitoring. The Federation entity is implementing its water management strategy for 2010-2022. The *Republika Srpska* entity adopted its strategy for integrated water management for 2015-2024 in March. Alignment with the *acquis* on water quality is well advanced at entity level. Action plans for implementing the Directives on drinking water and floods at entity level have been developed. Investment in infrastructure has brought some improvements in access to drinking water and wastewater discharges. The Sava river basin management plans are yet to be adopted. An action plan for flood protection and river management in Bosnia and

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<sup>4</sup> Directive 2007/2/EC of March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE)



Herzegovina for 2014-2017 is being implemented. Preparation of flood hazard and risk mapping for the country is ongoing.

Alignment with the *acquis* in the field of **nature protection**, in particular the Habitats and Birds Directive, is at an early stage. Nature protection laws remain to be adopted, as do the list of potential Natura 2000 sites and implementing legislation. The planning of hydropower projects requires compliance with EU environmental legislation including Birds and Habitats Directives and the Environmental Impact Assessment Directive. The revised strategy and action plan for biological diversity in Bosnia and Herzegovina for 2015-2020 was adopted in April in line with the requirements under the UN Convention on Biological Diversity. Activities started on establishing structures for implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

Alignment with the EU *acquis* on **industrial pollution control and risk management** is at an early stage. A national emissions reduction plan, developed in line with the Large Combustion Plant Directive, was adopted in December 2015 and submitted to the Energy Community Secretariat.

On **chemicals**, a national plan for implementing the Stockholm Convention on Persistent Organic Pollutants was adopted in March 2016. The *Republika Srpska* entity adopted a number of regulations and amendments in order to further align with EU standards. The alignment of the entities' legislation with the REACH Regulation<sup>5</sup> is uneven. Bosnia and Herzegovina should continue strengthening the administrative capacities necessary for its effective implementation. The effective implementation of the CLP regulation<sup>6</sup> is pending on measures to be published in 2018. The transposition of Asbestos Directive and the Directive on protection of animals used for scientific purposes (2010/63) has not started yet.

Bosnia and Herzegovina is already a Party to the Rotterdam Convention<sup>7</sup>, but further efforts are required to fully implement the Convention.

Significant further efforts are needed to align with the EU *acquis* on environmental **noise**.

Regarding **civil protection**, Bosnia and Herzegovina is currently preparing to gain access to the EU Civil Protection Mechanism. The competent authorities and administrative capacity at the state level for disaster risk management are the Coordination Body for Protection and Rescue and the Ministry of Security. There are also civil protection authorities at entity and district level. At the local level there are civil protection services within the municipalities and municipal civil protection headquarters with mayors as commanders of the headquarters. An operational emergency communication centre is in place but not yet linked to the Common Emergency Communication and Information System.

## **Climate change**

The level of alignment is limited. Implementation of the 2013 national climate change adaptation and low emission development strategy for Bosnia and Herzegovina, consistent with the EU 2030 framework on climate and energy policies and well integrated into all relevant sectors, should be a priority.

As for the **UN Framework Convention on Climate Change (UNFCCC)**, the First Biennial Report submitted in 2015 covered the period 2010-2011. The Third National Report is in its

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<sup>5</sup> Regulation concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)

<sup>6</sup> Regulation on the classification, labelling and packaging of substances and mixtures (CLP)

<sup>7</sup> Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

final stage and its submission is expected by the end of this year. It will contain Green House Gas (GHG) inventory reports for 2002-2009 and 2012-2013, whereas the Second Report, currently under preparation as well, will contain inventory data for 2014. Bosnia and Herzegovina signed the Paris Agreement in April 2016 and should now give priority to its ratification and the implementation of Bosnia and Herzegovina contribution to it.

Regarding **transparency of climate action**, the responsibility for compiling GHG inventory reports lies with Hydro-meteorology services of the Federation and *Republika Srpska* entities, respectively. This area should be regulated in line with the **EU monitoring, reporting and verification**. Further efforts are required to align with the climate *acquis* including the **emissions trading, Fuel Quality Directive, ozone depleting substance, fluorinated gases, carbon capture and storage** directive and other relevant legislation. The administrative capacity of the ministries involved need to be strengthened at all levels, particularly in support of the implementation of INDC.<sup>8</sup>

#### 4.2.4. Transport policy

Bosnia and Herzegovina has reached **some level of preparation** in this area. **Some progress** was made over the past year, including the adoption of a framework transport strategy and action plan. More efforts are needed to strengthen the financial and technical capacity of the authorities in all transport sectors.

In the coming year Bosnia and Herzegovina should in particular:

- strengthen the regulatory framework and its coordination and administrative capacity to help ensure the country will continue to benefit from the connectivity agenda;
- establish fully operational accident investigation bodies for air and waterborne transport;
- redouble the efforts in view to conclude the negotiations with Croatia on all border crossing points.

As regards the **general transport *acquis***, a state-level framework transport policy document for the period 2015-2030 is in place. In July Bosnia and Herzegovina adopted the country-wide Framework transport strategy and action plan, based on related entity strategies. Bosnia and Herzegovina has no specific law on investigations in traffic accidents but addressed related obligations in the law on aviation and law on railways. A fully operational investigation body exists since 2015 only for railways. There is no legislation on waterborne accidents investigations. The investigations are performed at present by the port authorities. Bosnia and Herzegovina has implemented the summer-time arrangements properly. It should make further efforts to complete the legislative alignment with the *acquis* on public services obligations and to put into place the precise calculation methodology for awarding public service contracts in the field of road transport. For all modes of transport there is a need to strengthen the administrative capacity.

**On road transport**, Bosnia and Herzegovina has aligned with the *acquis* on road traffic safety but faces serious shortcomings in implementation. A country-wide strategy on road traffic safety remains to be adopted. Legislation on transport of dangerous goods only exists at entity level, thus creating problems in intra-entity and international transport. A company, institution or other legal body responsible for conducting the conformity assessment of the equipment law on the carriage of dangerous goods has not been appointed yet. The country has to continue aligning with the social and safety *acquis* in this area and develop some enforcement capacity,

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<sup>8</sup> Intended Nationally Determined Contribution

in particular for targeting the reduction in fatalities and increasing roadside checks of commercial vehicles. On the enforcement of social legislation, further improvements are needed in roadside checks due to the serious lack of human, technical and financial resources for inspections. Legislation on market access to goods and passenger transport, including the international market for coach and bus services, remains to be further improved. Bosnia and Herzegovina has neither sufficient capacity nor resources to provide for the legislative and administrative implementation of intelligent transport systems.

Bosnia and Herzegovina has partly aligned its legislation with the *acquis* on **rail transport**. The separation of train operations from infrastructure management has progressed. The independence of infrastructure managers to make decisions has not been fully achieved. The issue of private rail companies cannot be clearly addressed since the incumbent rail companies are partially privatised, without a common view on what is actually considered as subject to privatisation.

There is a functioning independent Railways Regulatory Body as the Bosnia and Herzegovina safety and regulatory authority. The railway market is not yet opened, primarily due to safety concerns. Only the certified undertakings have access to the network. The 'rail network statements' by the two infrastructure managers are not published. Bosnia and Herzegovina has implemented legislation on railway safety and fully applies the Convention concerning International Carriage by Rail (COTIF). Licensing needs further improvement in both regulatory and procedural terms. On railway interoperability, the technical specifications for interoperability and COTIF regulations are transposed by the Bosnia and Herzegovina Railway Regulatory Board as railway regulations.

On **maritime transport** there is no alignment with the EU *acquis*. Bosnia and Herzegovina lacks ports and a fleet, and has a coastline of 27 km. Bosnia and Herzegovina ratified the Maritime Labour Convention in 2010 which entered into force on 20 August 2013. Bosnia and Herzegovina should continue its efforts to become party to all basic conventions of the International Maritime Organization and to follow up on its membership application to the Paris Memorandum of Understanding. Bosnia and Herzegovina participates in the EU Strategy for the Adriatic-Ionian Region.

In the area of **inland waterway transport**, alignment is needed with the relevant EU legislation and a state-level authority for inland waterways needs to be established. Bosnia and Herzegovina participates in the EU strategy for the development of the Danube Region and is a signatory to the main international agreements on inland waterways as well as a number of bilateral agreements with neighbouring countries, such as the Sava River Commission Agreement. The development of the Sava river is based on the Bosnia and Herzegovina transport master plan of 2001 and the Study on Market and Demand for River Transport in Bosnia and Herzegovina of 2008. However it has been considerably slowed down by the delayed rehabilitation of the Sava River navigation route. Bosnia and Herzegovina has not adopted legislation on merchant shipping. Navigation falls under the authority of the entities, which have adopted legislation on maritime and inland navigation.

In the area of **aviation**, Bosnia and Herzegovina has achieved a good level of alignment with the *acquis*. While considerable progress was made on implementing the first transitional phase of the ECAA Agreement, Bosnia and Herzegovina still needs to transpose some parts of the *acquis*. On 'single European sky' (SES) legislation, the country completed the transposition and implementation at local level of the SES I legislation and partially transposed the SES II *acquis*. Its legislation is partially aligned with EU legislation on aviation safety, whereas a working arrangement with EASA covers all aspects of the *acquis* in civil aviation safety and environmental protection of products, organisations and personnel.

On **combined transport**, the legal framework is not aligned. The country has a transport master plan from 2001 and a multimodal transport study from 2008. But there is no possibility to establish functional transport chains before certain infrastructure bottlenecks are removed. A number of inland multimodal nodes were envisaged to feed the Corridor V, which links the ports, specifically by railway connection. The Bosnia and Herzegovina economy neither generates nor receives substantial shipments in multimodal traffic, for which it is primarily a transit country.

#### 4.2.5. Energy

Bosnia and Herzegovina remains at an **early stage of preparations** in this area. **Some progress** was made over the past year. Bosnia and Herzegovina adopted a national renewable energy action plan and a national emissions reduction plan. The country needs to invest significant efforts to meet its international commitments stemming from the Energy Community (EnC).

In the coming year, as a matter of urgency, Bosnia and Herzegovina should in particular:

→ adopt a country-wide energy strategy and strengthen coordination and cooperation at all levels of governance;

→ adopt a legal framework for electricity in compliance with the Third Energy Package; adopt a legal framework for gas in compliance with the Third Energy Package, so that the EnC sanctions for serious and persistent breaches can be lifted;

→ fully transpose and implement the EU *acquis* on energy efficiency, including on energy end-use efficiency and energy services, and adopt and submit the national energy efficiency action plan to the EnC Secretariat.

Bosnia and Herzegovina has yet to adopt a concrete and comprehensive country-wide energy strategy. The Federation entity initiated the development of its energy strategy to ensure an equal starting point with the *Republika Srpska* entity towards developing a countrywide strategy. In the absence of strategic planning at state-level, the country is failing to adequately address issues of **security of supply**, diversification of supply sources and efficient usage of indigenous resources. The country's active membership at the Security Coordination Centre, a Belgrade-based company of system operators of Bosnia and Herzegovina, Montenegro and Serbia established in 2015, has improved the level of security of electricity supply.

Entity-level legislative frameworks relevant for the oil sector do not allow for cooperation or a harmonised approach, thus preventing the development of legislation and the establishment of a body on compulsory **oil stocks** and petroleum products at state-level. There are no oil stocks currently held in the country. Bosnia and Herzegovina has some storage capacity at different locations within the country and in the Croatian port of Ploče but due to the lack of a country-wide approach neither facility is used for storage purposes. Bosnia and Herzegovina is a member of ENTSO-E, represented by its independent system operator.

The long-term transmission network development plan for 2015-2024 approved by the State Electricity Regulatory Commission in August 2016 identifies priority **electricity transmission interconnections** with neighbouring countries. Two 400 kV electricity transmission interconnections with Croatia, and with Serbia and Montenegro respectively (the 'Transbalkans corridor') are included in the list of projects of EnC interest of 2013. There is no progress on electricity interconnection with Croatia, and the Transbalkans corridor is progressing slowly, with no progress in Bosnia and Herzegovina. Progress on two **gas interconnections** with Croatia, also listed as projects of EnC interest in 2013, is stalled due to lack of political agreement and a country-wide energy strategy. The development of a **power market between**

**Bosnia and Herzegovina and its neighbours** is hampered by the lack of a state-level legal framework and a fragmented, incomplete and unharmonised entity-level framework. The gas market depends on a single source of supply and is dominated by fully bundled key incumbent companies.

Bosnia and Herzegovina has not aligned its legislative framework for gas and electricity with the Third Energy Package, thus hindering the establishment and functioning of an **internal energy market**. The draft law on electricity transmission, regulator and system operation prepared in 2016 with assistance of the EnC Secretariat has not yet been submitted for adoption. Bosnia and Herzegovina has not established an appropriate **market environment**. Market actors are identified within the limits of the current legislative framework for electricity, but the fragmented and non-compliant legislation in the gas sector does not make it possible to identify them adequately or afford them a consistent status. The current model of legal and functional **unbundling** of the company for transmission of electricity from generation and supply is not in line with any of the unbundling models under the EU *acquis*. Neither the entities nor the Brčko District have legally unbundled distribution system operators from supply operators. There is no single or harmonised legal and regulatory framework in Bosnia and Herzegovina for tendering new generation capacity. In May, the EnC Secretariat referred a case for lack of transposition of the Third Energy Package to the Ministerial Council.

The legal framework for electricity at state-level ensures the compliant operation of a balancing market but not of organised trading platforms or access to power exchange. The market still operates on the basis of bilateral contracts between dominant power utilities and registered traders. The retail electricity market is still divided along the boundaries of the service territories of the three major power utilities. Most customers - except for several large commercial users - remain supplied by incumbent utilities. The regulatory frameworks allow regulation of generation prices for supply of households and small consumers through regulated universal service tariffs not taking into account the electricity market price, resulting in a complete absence of switching of suppliers.

Due to continued lack of alignment with the *acquis* in the gas sector the country remains in serious and persistent breach of its commitments as a signatory of the EnC Treaty. The gas market is foreclosed and all consumers are supplied at a regulated price by incumbent companies without legal possibilities to switch suppliers. Price regulation and adjustment for electricity and gas is partly non-transparent. There are no plans to phase out existing cross subsidies. Third party access to gas pipelines in both entities is not in compliance with the *acquis*. No regulatory authority with competences for gas exists at state level. The state level and the entities' energy regulatory authorities are adequately staffed and financed, but exposed to political pressure, particularly in the selection of new board members. Bosnia and Herzegovina's regulatory legal set-up does not comply with the requirements of the Third Energy Package. Following a commitment to adopt the relevant energy legislation at state and entity level in compliance with the Third Energy package, the EnC Ministerial Council decided in October 2016 to temporarily suspend any sanction until end of March 2017.

Regarding **renewable energy**, the country submitted in April to the EnC Secretariat its national renewable energy action plan (NREAP). The case initiated against the country was closed. There is no state-level legal framework on renewable energy. The legislation at entity level is not compliant with the EU *acquis*. The capacities are limited in respective ministries at State and entities level and adequate as regards regulatory authorities.

Bosnia and Herzegovina committed to a binding target of 40 % renewable energy in gross final energy consumption in 2020. In 2014, according to the energy balance published by

EUROSTAT, Bosnia and Herzegovina achieved a 42.3 % share of energy from renewable sources overachieving the 40 % target for 2020 due to revision of biomass data.

Support schemes for promoting generation of electricity from renewable energy sources (RES) are established at entity level. There are also incentives for using biofuels in transport. The current capacity of the transmission system to manage RES input is sufficient. Hydropower planning is carried out at entity level. Such development should be in conformity with the relevant EU legislation on environment and the assessment of potential new projects should take into account the impact on areas of high nature interest. There is no system in place at state level to deliver certificates of origin. The systems at entity level are not compliant with the EU *acquis*.

In terms of new RES investments, administrative procedures for permitting authorisation and licensing are cumbersome. The relevant authorities should simplify the procedures and create a more favourable environment for RES investments. The transmission grid capacity for connection of renewable energy facility is sufficient for the current production level but has to be increased in case of a rise in applications for RES connections.

Regarding **energy efficiency**, the country does not have a national energy efficiency action plan in line with the EnC requirements; a working group for the preparation of an energy efficiency action plan was (re-)established in March 2016. The federation law on energy efficiency is pending approval in the House of Peoples since 2014, preventing the development of the country's action plan. This is subject to an open infringement case initiated by the EnC Secretariat. In Republika Srpska, a new labelling regulation entered into force in April 2016 and it published a report on the implementation of the EEAP in June 2016. Energy efficiency bodies, acting also as energy efficiency funds, exist in both entities to ensure the promotion of energy efficiency initiatives. Bosnia and Herzegovina is not fully aligned with the EU *acquis* on energy efficiency nor on the energy performance of buildings, and still needs to adopt all relevant implementing regulations (e.g. regulation on inspection of heating and air conditioning systems, energy performance of buildings' calculation methodology and software).

On **nuclear energy, nuclear safety and radiation protection**, Bosnia and Herzegovina has no nuclear power production sites in its territory nor plans to build any. In November the State Regulatory Agency for Radiation and Nuclear Safety Law adopted four regulations on managing radioactive waste and protection, safety and training and medical protection from ion radiation. Bosnia and Herzegovina has ratified most of the international treaties, conventions and protocols in this area. In terms of meeting international commitments on data submission, the infrastructure available to the agency needs to be improved and coordination and reporting from all relevant parties needs to be improved. Bosnia and Herzegovina is not a member of the European Community Urgent Radiological Information Exchange system (ECURIE). Monitoring of radon is conducted only ad hoc, and data collection is neither systematic nor centralised. The lack of cooperation between the two authorised laboratories, and their systematic approach, is an issue that needs to be addressed.

#### 4.2.6. Information society and media

Preparations in the field of the information society and media remain at an **early stage**. **Backsliding** continued.

In the coming year, Bosnia and Herzegovina should in particular:

→ adopt and implement a fee collection model that would ensure the financial stability and political independence of the public broadcasting system;

→ finalise the digital switchover;

→ secure the political, financial and operational independence of the Communication Regulatory Agency (CRA).

Regarding **electronic communications and information and communications technologies**, the electronic communications law is still based on the 1998 EU regulatory framework and needs to be further brought into line with the EU *acquis*. The institutional framework does not ensure the political independence or adequate financial and operational independence of the CRA, which undermines certainty for the sector and raises concerns over its efficiency. No progress has been made towards introducing the European emergency number 112.

The CRA continued to implement competitive safeguards and the last phase of rebalancing of the fixed telephony retail tariffs. Besides the three incumbent operators, 13 alternative operators provide voice services in fixed telephony. For mobile telephony, there are three licensed incumbent operators and five providers of mobile services. Competition is developing in the fixed broadband market. The overall fixed broadband penetration rate increased to 17 %. The Director of the CRA was appointed in April. The prices for regional roaming services further decreased on 1 July 2016 following the 2014 agreement with the former Yugoslav Republic of Macedonia, Montenegro and Serbia.

However, effective implementation of market regulation remains a concern. The telecommunications sector policy has not been adopted by the Council of Ministers, thus preventing new entrants' access to the market. Bosnia and Herzegovina remains the only country in the region that does not have a broadband strategy. CRA continues to struggle with its political, institutional, and financial independence which affects its operations and fulfilment of its mandate. In July the Council of Ministers adopted a proposal by the Ministry of Transport and Communications aimed at implementing a new procedure for deciding on the use of the CRA's accumulated surplus income. Such a decision would further disregard the CRA's powers and threatens to further damage its financial independence

On **information society services**, the e-commerce and e-signature laws at state level remain unimplemented due to the absence of a supervisory body for accreditation. Administrative capacity in the Ministry of Transport and Communications remains insufficient.

As regards **audiovisual policy**, the digital equipment for the first phase of the digitalisation process was installed in the *Republika Srpska* entity in 2016. The CRA issued broadcasting licences to the three public service broadcasters by March 2016. However, broadcasters are yet to establish a network operator, as required by the legislation, as a legal entity that would manage the digital switchover for both public and commercial broadcasters. The process is jeopardised by the non-existence of the corporation which was supposed to coordinate technical aspects of digitalisation under the relevant law.

The authorities have yet to address the issue of the lack of financial stability and sustainability of the public broadcasting system, as the RTV fee collection rates continued to drop. Opposing political demands of the ruling political parties sidelined the discussion on adopting a new, more effective and implementable model of RTV fee collection that would strengthen the public broadcasting system, securing its political independence and financial stability.

#### 4.2.7. Financial control

Bosnia and Herzegovina is at an **early stage** of its preparations in the area of financial control. **Some progress** was recorded with the adoption of the law on financial management and control in the Federation entity in April and with ensuring better coordination through regular meetings of the Central Harmonisation Units and Supreme Audit Institutions Coordination

Boards. Further efforts should be made with adoption of the outstanding PIFC strategies and ensuring a coherent public internal financial control (PIFC) legal framework in the country.

In the coming year Bosnia and Herzegovina should in particular:

→ adopt and start implementing PIFC strategies at State level and in the *Republika Srpska* entity and ensure systematic monitoring and reporting of all PIFC strategies;

→ adopt the legal framework on financial management and control in the *Republika Srpska* entity;

→ ensure adequate staffing of the Central Harmonisation Units.

#### Public internal financial control

The **strategic framework** is not yet in place for the whole country. The Federation entity and the Brčko District have adopted PIFC strategies last year, but the revised strategic framework at the state level and in the *Republika Srpska* entity still needs to be adopted. Only the Federation entity has started to implement the renewed strategy paper of 2015, but monitoring and reporting on the implementation is weak.

The **Central Harmonisation Units** (CHUs) have been established at state and entity levels but not yet in the Brčko District. The CHUs' staffing is well below the authorised staffing levels, in particular at entity level where there are seven staff altogether in both CHUs. The three CHUs reconvened the CHU Coordination Board in February after a five year pause. The Board now meets regularly. The CHUs prepare and submit consolidated annual reports to their respective governments. The CHU at the state level adopted the rulebook on annual reporting on the system of financial management and control in the Bosnia and Herzegovina institutions in December. The annual reports of the CHUs at the state and *Republika Srpska* entity levels cover both financial management and the control framework and internal audit.

The concept of **financial management and control** is still at an early stage of development, and the legal framework is not yet in place for the whole country. At the state level this area is regulated by the law on budgets and at the Federation entity in the law on financial management and control, which was adopted in April. The *Republika Srpska* entity is currently preparing a law that would address this area. Delegation and managerial accountability arrangements, the distribution of management information, and the risk management and financial management of public enterprises are not applied in practice.

The legal framework for **internal audit** is now in place at all levels except in the Brčko District and is largely consistent with international standards. The criteria for establishing internal audit units have been fixed at all levels, but they are not consistent with each other. Internal audit capacity remains weak due to lack of staffing and appropriate training and certification.



## External audit

Regarding the **constitutional and legal framework**, none of the four Supreme Audit Institutions (SAIs) — for Bosnia and Herzegovina, the two entities and the Brčko District — are anchored in the respective constitutions or the Brčko District's Statute. Their functional, operational and financial independence is addressed by the respective laws on external audit at the state and entities level and in the Brčko District. These are in line with the standards of the International Organisation of Supreme Audit Institutions (INTOSAI). The recent inclusion of the *Republika Srpska* SAI in the treasury system risks limiting the independence of its financial operations. The ban on new recruitment by the Federation Government has limited the functional and operational independence of the Federation SAI.

Concerning **institutional capacity**, the SAIs at state level and *Republika Srpska* entity level have sufficient staff. However, the SAIs of the Brčko District and especially of the Federation entity lack capacity to cover the wide scope of external audit, which is disproportionately bigger in the case of the Federation entity than at the other levels.

The cooperation among the SAIs in the Coordination Board has improved and the meetings have become more regular and frequent. As concerns the **quality of audit work**, the four SAIs aim to ensure that financial and performance audits and quality control conform to international standards and procedures. The head of each SAI monitors the execution of the annual audit plan and submits annual activity reports to the respective parliament. The Coordination Board of SAIs in Bosnia and Herzegovina adopted an IT development plan for 2016-2020. Increased use of information technology and sampling methodologies has improved the efficiency of audit procedures.

Concerning the **impact of audit work**, the annual reports are submitted to the legislatures regularly. They are published online and receive wide media and public attention. The time allowed for the parliamentary committees to assess and discuss the reports is shorter than optimal but they are usually discussed in the presence of the SAIs. The follow-up by auditees to recommendations is between 50 % and 60 % at all levels. The implementation of audit recommendations is formally monitored by the SAIs at the time of the next audit. The SAIs and CHUs should strengthen their cooperation to improve the internal control environment.

## Protection of the EU's financial interests

Legislation is not **aligned** with the *acquis*. Fraud prevention is addressed under the national anti-corruption strategies. There is no formally appointed national **anti-fraud coordination service** or related network, but this role has been taken by the State Investigation and Protection Agency. It ensures **cooperation with the European Commission** and provides support to the European Commission investigators during on-the-spot checks.

## Protection of euro against counterfeiting

The country is addressing counterfeiting-related issues under its strategy for fighting organised crime. The country is a party to the 1929 International Convention for the Suppression of Counterfeiting Currency since 2009. The legislation is not yet **aligned** with the *acquis*. Regulations that define counterfeiting or identify the competent authorities and procedures to deal with counterfeit money are flawed. Medals and tokens similar to euro coins are not yet regulated. **Technical analysis** of counterfeit money, including euro banknotes and coins, is performed by the Central Bank, in the two departments (total of five employees in both departments). In addition, the entities and some cantonal ministries of interior, Agency for Forensic Examinations court experts also perform technical analysis of counterfeit banknotes. No **cooperation agreements** have been concluded yet with the Commission or the European

Central Bank. Bosnia and Herzegovina participates in the regional Balkan Network for Euro Protection initiative.

#### 4.2.8. Statistics

Preparations in the area of statistics remain at an **early stage** for many sectors. There has been **some progress** over the past year. Results of the population and housing census, conducted in October 2013 were published on 30 June 2016. Some progress was achieved in the area of business statistics. An agricultural census has not been conducted as the legal framework has not been agreed.

In the coming year, Bosnia and Herzegovina should, in particular:

→ further apply the European System of National and Regional Accounts (ESA) 2010, in particular regarding national accounts and government finance statistics;

→ further improve cooperation, coordination and decision-making processes to develop the national statistical system in key statistical areas;

→ finalise the classification of statistical regions according to NUTS and provide GDP *per capita* data harmonised at NUTS II level, in line with the SAA obligations.

In terms of the **statistical infrastructure**, the law on statistics of Bosnia and Herzegovina remains to be aligned with the principles of the European statistics Code of Practice. The director of the Bosnia and Herzegovina Agency for Statistics (BHAS) and the deputy directors have been appointed. Coordination in the national statistical system between BHAS and other producers and cooperation with the providers of statistics remains to be strengthened as well as cooperation between BHAS and the entity offices, particularly in view of applying European methodology in a harmonised manner. The exchange of data between BHAS and the Indirect Taxation Authority (ITA) remains inadequate and requires further improvement. BHAS is only partially using Eurostat's electronic Dataflow Administration and Management Information System (EDAMIS) to send data to Eurostat.

Bosnia and Herzegovina has yet to provide *per capita* GDP figures harmonised at the NUTS II level, in line with SAA provisions. Provisional NUTS level II regions are defined until level III regions would be defined by Bosnia and Herzegovina.

On **macro-economic statistics**, there is limited progress in applying ESA 2010 in national accounts. While annual and quarterly national accounts are produced on a regular basis, sector accounts remain unavailable, supply and use tables are not compiled regularly, nor are input-output tables and regional accounts produced. A decision is required on the sector classification of general government. Fiscal notifications in line with ESA 2010 and financial accounts are not compiled. Government finance statistics (GFS) are not aligned with ESA methodology. Accrual accounting is applied for expenditures only. A harmonised index of consumer prices (HICP) remains to be compiled. The Balance of Payments according to the last manual (BPM6) is being produced but is still not transmitted to Eurostat. Pilot data on international trade in services statistics for 2014 was compiled for the first time in line with EU *acquis* and transmitted to Eurostat in November 2015. External trade statistics are being produced monthly and provided to Eurostat. However, additional improvements in terms of data quality are required.

While some **business statistics** are produced in line with the EU *acquis*, further development of this area is required. BHAS is extending the coverage of the Regulation on structural business statistics and, data for four annexes are submitted to Eurostat. Some progress was made on short-term business statistics but further improvement of industry, construction and

services statistics remains necessary. The statistical business register (SBR) requires further development, as data received from relevant administrative sources remains insufficient. Foreign Affiliates Statistics (FATS) has been produced for 2013 by BHAS for inward - and by the Central Bank for outward statistics, and further efforts should be undertaken to achieve full compliance with FATS regulations. Regarding tourism statistics, Bosnia and Herzegovina is currently producing only accommodation statistics. Transport statistics remain at an early stage of preparation. Research and development statistics are compiled for four sectors (business, higher education, public budgets and NGOs). The Community Innovation Survey (CIS) is on conducted on a regular basis. The Information and Communication Technology (ICT) survey for enterprises and households (for reference year 2015) is being conducted in 2016 but the data are not yet submitted to Eurostat.

A major development in the area of **social statistics** was the publication of the results of the population and housing census on 30 June 2016. According to the final assessment of the International Monitoring Operation (IMO) of October 2016, the census was conducted in compliance with international standards and recommendations. The labour force survey (LFS) is implemented on an annual but not yet on a quarterly basis. Labour cost statistics are being compiled and provided to Eurostat. Basic statistics on education, such as number of pupils and teachers in pre-school, primary, secondary and higher education, are produced on an annual basis, but significant development of this area is required, especially for expenditure data. The European system of integrated social protection statistics is under development. The EU Income and Living Conditions (SILC) survey is not carried out. Structure of Earnings statistics and statistics on job vacancies are not produced. National Health Accounts are produced annually and submitted to Eurostat. A Memorandum of Understanding between BHAS and the Ministry of Security of Bosnia and Herzegovina to clearly determine the role of each institution in producing migration and asylum statistics has still to be concluded. Further significant improvements are required in the area of crime statistics.

The lack of a recent agriculture census is a major limitation for **agricultural statistics**. Relevant legislation for an agricultural census remains to be adopted. Consequently, a statistical framework to conduct statistical surveys and analysis in agriculture is not in place. Bosnia and Herzegovina is producing only a very limited number of statistical indicators in the area of agriculture, together with some experimental estimates.

Annual **energy statistics** are available for all energy sources produced, except for renewable energy. Short term statistics are available for electricity, gas and coal. Energy balances are produced for all energy sources, except for renewable energy.

In **environmental statistics**, waste statistics are compiled on an annual basis, but without data on waste treatment facilities. Water statistics are compiled on an annual basis, but compliance remains low. Environmental accounts are available on a very limited basis.

#### **4.3. Justice, freedom and security**

Bosnia and Herzegovina has **some level of preparation** in this area. **Some progress** was made, with the adoption of a strategy on integrated border management (IBM) and a new legislative framework on migration and asylum. However, the country needs still to meet international standards on anti-money laundering and countering the financing of terrorism. Further efforts are necessary on coordination and implementation.

In the coming year Bosnia and Herzegovina should, in particular:

→ further improve capacity for countering terrorism through better cooperation and coordination and exchange of criminal intelligence, prevention of radicalisation and deradicalisation programmes;

→ further improve the implementation of IBM policy, especially by strengthening the Joint Risk Analysis Centre, border control capacity and migration management capacities, particularly in dealing with vulnerable groups;

→ ensure that policies to reduce drug demand are implemented effectively and that drugs seized are destroyed.

*(See also the specific recommendations on the fight against organised crime in section 2.3.)*

#### 4.3.1. Visa, border management, asylum and migration

### Legal and irregular migration

#### Institutional set-up and legal alignment

In November 2015 Bosnia and Herzegovina adopted a new law on foreigners to further harmonise its legal framework with EU *acquis*, particularly on temporary residence for seasonal workers, business managers and experts. According to the new law, the maximum detention time in an immigration centre cannot exceed 18 months. Most of the implementing rules related to migration were adopted, notably on the procedures on the entry and stay of foreigners, functioning of the immigration centres and taking biometrics from foreigners.

In March the country adopted a **strategy on migration and asylum and an action plan** for the 2016-2020 period, aiming to improve its strategic framework on migration management.

A comprehensive Housing Policy that includes provisions for social inclusion of IDPs and returnees is still pending.

#### Implementation and enforcement capacity

The **Immigration Department** of the Bosnia and Herzegovina Ministry of Security is in charge of implementing and coordinating the overall migration policy. The Department closely cooperates with relevant domestic institutions and agencies. Its administrative capacity (15 employees) is insufficient (20 % of the posts remain vacant). The staff receives regular **training**.

The **Immigration Centre** has a capacity of 120 individuals, which is adequate for the current influx of migrants. Staff are regularly trained on international regulations and standards as regards the treatment of migrants hosted in the centre.

The centre has separate sections for **vulnerable groups** of migrants. Moreover, capacities have been increased through cooperation with NGOs over hosting vulnerable groups in safe houses. The centres also have in place measures to prevent infiltration by people **smugglers**.

Current legislation and cooperation agreements with foreign donors enable effective **voluntary and forced return** of irregular immigrants to countries of origin. Their effective implementation remains to be fully ensured. Bosnia and Herzegovina has ratified **readmission agreements** with EU and third countries, including with Turkey and Albania, as well as implementation protocols with 13 EU Member States. The implementation of these agreements is overall smooth. In 2015 EU Member States issued 5 380 return decisions to Bosnia and Herzegovina citizens; the return rate was 80.6 %, well above the EU average of 42.2 %. Regional cooperation on the return of extra-regional irregular migrants to their countries of origin should be further strengthened.

Overall there remains a need to strengthen mechanisms for collecting, sharing and analysing data on migration. **Statistics** show an increasing trend of people coming to Bosnia and Herzegovina from the high-migratory-risk countries. In 2015 the number was 293 943 individuals, compared with 230 974 in 2014 and 209 490 in 2013, mostly from Turkey and

Albania but also from China, India and Afghanistan. 179 people were intercepted while illegally crossing the border in 2015, compared with 189 in 2014 and 228 in 2013. In the first six months of 2016, the Border Police intercepted 97 individuals while illegally crossing the state border, which represents a 30 % increase compared to the same period of 2015.

According to the country's statistical data, 44 third-country nationals were returned to Bosnia and Herzegovina in 2015 under various readmission agreements, compared with 58 in 2014. In 2015 the country's authorities returned 103 foreign citizens, compared with 131 in 2014. The voluntary return programme resulted in 179 foreigners being returned from the country in 2015, a 6 % increase on the 169 that were returned in 2014. The Immigration Centre hosted 193 foreigners in 2015, an 11.5 % decrease on the 2014 figure of 218.

## **Asylum**

### Institutional set-up and legal alignment

A **new law on asylum** entered into force in February 2016 with a view to further harmonise the country's asylum policy with international standards and the EU *acquis*, notably on rights of asylum applicants and beneficiaries of international protection to work, education, social and medical welfare, reunification of families and the 'non-refoulement' principle. Most of the implementation rules have been adopted.

The **Asylum Department** of the Bosnia and Herzegovina Ministry of Security is in charge of implementation of the asylum policy. The Department cooperates with other relevant institutions, including the Immigration Department, the border police and the Service for Foreigners' Affairs. The Department handles the first instance decisions on granting or denying asylum applicants the status of international protection.

### Implementation and enforcement capacity

The Asylum Department is still short of **staff**. Employees attend regular training sessions. The services of **interpreters** are used mainly through outsourcing with translation agencies,

The **asylum process** is laid down in law and has been so far implemented satisfactorily. Identification of asylum applicants includes taking and storing **biometric data** in a database at the Asylum Department. So far there has been no backlog. No case of refoulement has been reported.

In 2015, there were in total 42 **applications for asylum** filed by 46 individuals. There were nine more pending cases for nine individuals carried over from 2014, so the Asylum Department considered a total of 51 applications by 55 individuals in 2015. A total of five people were granted the status of subsidiary protection, 10 applications by 10 individuals were rejected, and 23 applications by 24 individuals were aborted as the applicants left or attempted to leave the country or failed to show up for an interview. 13 requests by 16 individuals remained pending at the end of 2015. In the first six months of 2016 there were 16 new asylum applications filed by 20 individuals.

The **infrastructure** and **accommodation capacities** are adequate for the current inflow of asylum applicants. The **Asylum Centre** has a capacity of 150 beds and can be expanded to 300 beds in the event of a sudden influx. The centre is managed by the Asylum Department of the Ministry of Security and its operations are mostly financed through the state budget. The authorities have developed legal and institutional means to manage eventual sudden influxes, but the current resources remain below what needed to fulfil the task. The country has no agreement with the **European Asylum Support Office**. The Strategy and Action Plan on Migrations and Asylum 2016-2020, adopted in March, refers to the need to strengthen reception capacity in the country and increase regional and international cooperation

## Visa policy

On **visa policy**, in 2015 120 visas were issued at the border, a 107 % increase on the 2014 figure of 58. In the first six months of 2016, 20 visas were issued at the border, a 37.5 % decrease on the 32 visas issued in the same period of 2015.

Implementation of the visa-free regime with the EU continued. To counter cases of abuse of the visa-free regime by the nationals of Bosnia and Herzegovina in EU Member States and Schengen associated countries, the country continued to take measures to address the phenomenon, as recommended in the Commission's reports on post-visa-liberalisation monitoring. In 2015 a decrease was registered in the number of unfounded asylum applications lodged by the citizens of Bosnia and Herzegovina in the EU Member States and Schengen associated countries.

Implementing the strategy for reintegrating returnees remained a challenge. Obstacles to lasting return and local integration include: difficulties with economic reintegration; access to healthcare, social protection and pensions, and the employment of minority returnees.

## Schengen and external borders

### Institutional set-up and legal alignment

The **legal framework** for border control is to some extent harmonised with the EU *acquis* and is implemented smoothly. Since 2014, the border police has in place a team to constantly monitor changes in the EU *acquis* and align with those changes whenever possible.

A new **integrated border management strategy**, which is largely in line with the EU's IBM concept, and a 2015-2018 framework action plan entered into force in January 2016. An annual action plan for 2016 was adopted in March to improve coordination of all IBM agencies by combining actions, including regarding customs control and cross-border crime, that could be financed through their individual budgets. The IBM strategy should be brought fully in line with the EU IBM concept.

### Implementation and enforcement capacity

The border police remained understaffed. In June 2016 there were 523 (around 20 %) vacant positions out of the 2 646 included in the organisation chart. Specialised training is regularly provided to improve the quality of border checks and other operations in the field.

**Implementation of the IBM strategy** is hampered by the fact that the Joint Risk Analysis Centre (JRAC) has limited human resources and weak coordination capacity. This is because some of the liaison officers that should be designated by participating agencies on a 24/7 basis have not yet been hired. Moreover, the outstanding issue of permits for access to relevant databases interrupts the regular information exchange process and impedes timely reaction in the field. Additional improvements are required to the JRAC's connection with the local risk analysis centres in participating agencies and to the information exchange process.

Further improvements are needed on **infrastructure and equipment** at border crossing points, including border surveillance and information technology system. Budget limitations are resulting in a lack of specialised equipment for more appropriate border controls.

**Inter-agency cooperation**, such as that between the border police and customs at the border crossing points, is satisfactory, but improvements are needed on information exchange.

The **Central Investigation Office** is an investigative component of the border police that is assigned police powers that can be applied throughout the whole country. It often cooperates with local police forces on arrests and detention away from the border itself. The Office's **operational capacity** is limited due to the lack of equipment and staff. The Office also has

insufficient equipment, but has adequate expertise for detecting forged documents and access to its databases.

On **international cooperation**, the country is a signatory to the Convention on Police Cooperation in Southeast Europe, the Operational and Strategic Agreement with Europol, and a number of agreements with neighbouring countries, including on joint patrols, joint cooperation centres and local border traffic. The Joint Centre for Police Cooperation in Trebinje functions, but with limited capacity.

Local border traffic agreements are implemented with Croatia, Montenegro and Serbia. The projects on closing illegal border crossings with Croatia and Montenegro were finalised. The agreement with Serbia is in the final stage of implementation. The border demarcation agreement with Montenegro entered into force in April 2016. The border police works closely with Frontex and Interpol through active engagement in international police operations and other events. A working arrangement with Frontex is in place.

As part of the fight against corruption, the border police implements its **Rulebook on internal reporting, corruption and protection of whistle-blowers**. Disciplinary proceedings were started against seven police officers in 2015. Video surveillance systems, complaint boxes at every border crossing point and a phone line for citizens to report corruption are also used to fight corruption at border crossing points. However, the track record in this respect needs to be further developed.

#### *4.3.2. Anti-money laundering*

Bosnia and Herzegovina still needs to meet international standards of the Financial Action Task Force (FATF) on anti-money laundering / countering the financing of terrorism (see also 4.1.3).

The number of criminal reports has increased. In total, 22 reports were submitted, three verdicts were confirmed and two verdicts of guilt were rendered.

The Financial Intelligence Department has 39 employees (around 90 % of its intended capacity). It organised three training sessions for people with reporting obligations under the new law. Memoranda of understanding with 12 foreign financial intelligence units made continued electronic exchanges of information possible with all other members of the Egmont Group. The Financial Intelligence Department exchanged information with 32 countries. It submitted four reports on money laundering, but no reports were submitted on the financing of terrorism. In 2015 there were 31 cases of money laundering in the reporting period, and 113 persons were reported.

#### *4.3.3. Drugs*

Bosnia and Herzegovina remained a country of drugs transit and storage. Production of drugs is small-scale and mostly limited to marijuana cultivation. Domestic demand for drugs increased slightly, especially for polydrugs. There is no national strategy or action plan for drug suppression. The *Republika Srpska* National Assembly adopted a 2016-2021 strategy for supervision and suppression of narcotic drugs in July. Legislation to prevent and suppress the abuse of narcotic drugs and establish a focal point for drug issues at national level has yet to be adopted. The Bosnia and Herzegovina Commission for Suppression of Abuse of Narcotic Drugs was reappointed in December, but is not functioning. The Commission for Drugs Destruction was appointed, but no destruction of drugs took place.

Operational activities continued to be coordinated on a case-by-case basis. Cooperation with the European Monitoring Centre for Drugs and Drug Addiction continued. The number of reported crimes related to drug abuse increased. In total 1 546 criminal reports were submitted. 947 indictments were confirmed, and 866 verdicts of guilt were rendered. Most cases related to

illicit production and trafficking in narcotic drugs and to possession and enabling of use of narcotic drugs.

#### 4.3.4. Police

An effective institutional framework at state level is still lacking. The system for electronic data exchange of police and prosecution registries is not functioning in the Federation entity. The general lack of coordination and cooperation between law enforcement agencies hampers the ability of the police to deliver a full range of services. In December 2015 and March 2016, respectively, the State Investigation and Protection Agency signed agreements on mutual assistance and operational cooperation with the police in the cantons, the Federation and *Republika Srpska* entities, and the Brčko District. A memorandum of understanding to improve police cooperation in crisis situations was signed between the Federation of Bosnia and Herzegovina and five cantons in October 2015. The *Republika Srpska* Ministry of the Interior and the Chief Prosecutor signed a Protocol to establish a forum for cooperation between district prosecutors' offices and public security centres in April.

New law on police internal affairs was adopted in the *Republika Srpska* entity in June. Legislation was adopted in three cantons (Sarajevo, Tuzla and Goražde) to secure a greater level of financial and operational independence for police forces, thus reducing the risk of undue political influence. While the legislation provides for independent and transparent oversight of the police, including public complaints mechanisms, its implementation in practice is often flawed.

More efforts are needed to limit: undue influence, particularly in the appointment and dismissal of senior police officials; ambiguous rules; and a general lack of cooperation and coordination between police agencies and bodies.

A regulation setting out access rights to data and databases needs to be adopted. Staffing in various law enforcement bodies and agencies still needs to be strengthened.

#### 4.3.5. Fighting organised crime

##### Institutional set-up and legal alignment

A 2014-2016 **strategy on combating organised crime** is in place. However, there is no efficient mechanism to oversee implementation of the high number of action plans by the various law enforcement agencies across the country, which would secure consistency in implementation and harmonized approach in tackling the organized crime.

Under the 2013-2016 strategy for controlling small arms and light weapons activities continued on the possession and carrying of weapons by civilians. The 2015 joint minimum standards on the possession and carrying of weapons by civilians began to be incorporated into respective legislation across the country. Five cantons and the *Republika Srpska* entity have already enacted the new laws in this field. Fighting organised crime and corruption remains fundamental to countering criminal infiltration of the political, legal and economic systems.

Minimum standards for asset seizures have yet to be consistently incorporated into the legislation across the country. The legislation on the confiscation of criminal assets is partially aligned with the *acquis*. Further alignment is required at state, *Republika Srpska* entity and Brčko District levels.

The legal framework on **human trafficking** still has yet to be harmonised with the *acquis*. The Federation criminal code has not yet been fully harmonised with the state-level legal framework, thus, creating problems for law enforcement and judicial authorities in daily activities. Other levels of authority took measures to further harmonise their legal frameworks



with the *acquis*. Institutions continued to implement rulebooks regulating proper treatment and protection of both domestic and foreign victims of human trafficking and witnesses in human trafficking cases.

Bosnia and Herzegovina continues to be a country of origin, transit and destination for **human trafficking**. Implementation of the 2016-2019 action plan on fighting human trafficking is ongoing. A comprehensive, multidisciplinary and victim-oriented approach to trafficking still needs to be developed and identification of victims needs to be improved. The country still lacks a comprehensive system to identify the overall trends and challenges in addressing human trafficking.

An **agreement on operational and strategic cooperation with Europol** was signed between the Bosnia and Herzegovina Minister of Security and the Europol Director in August 2016.

Bosnia and Herzegovina still lacks a comprehensive overall strategic approach to address **cybercrime and cyber security**.

#### *Implementation and enforcement capacity*

There have been 30 first instance convictions for **organised crime**. In the same period, 43 organised crime investigations against 238 suspects were ordered, while 84 persons were indicted in 19 indictments for organized crime. Some large-scale operations took place, including in cooperation with EU Member States. In 2015 criminal assets worth EUR 1 015 365 were subject to confiscation orders in a total of 116 cases.

The Federation entity still faces serious delays in implementing legislation on seizures because the agency responsible for managing seized assets is not yet fully operational.

The number of potential victims of **human trafficking** detected in 2015 decreased to 35, down from 49 potential victims detected in 2014. Almost half of the detected potential victims were minors, and more than three quarters of them were women. In the first half of 2016, six potential victims of trafficking were detected. The trafficking was mainly aimed at labour exploitation, sexual exploitation, forced begging and forced marriages.

Institutions for fighting **human trafficking** continued their cooperation and coordination. A 2016-2019 action plan for fighting human trafficking started to be implemented as of 1 January 2016. Regional monitoring teams continued to meet regularly. The Task Force for Fighting Human Trafficking and Irregular Immigration continued to coordinate activities between law enforcement and prosecution, especially on processing and proactive protection. Joint investigations continued but the capacities of prosecutors and law enforcement officers need to be further improved.

The State Prosecutor's Office continued to implement international cooperation agreements signed with several EU Member States. The State Investigation and Protection Agency intensified financial investigations into human trafficking cases but its capacity requires further improvement. Police academies continued to provide training on human trafficking policy, the EU *acquis* and best EU practices.

Identification, prosecution and protection require significant improvements, especially for evidentiary proceedings in court trials. Practitioners also need further training. The coordination role of the Task Force for Fighting Human Trafficking needs to be strengthened. Existing IT systems need to become fully operational to support multidisciplinary risk analysis-based and victim-oriented fighting of human trafficking.

#### 4.3.6. *Fight against terrorism*

##### *Institutional set-up and legal alignment*

The framework action plan to accompany the 2015 – 2020 strategy on the prevention and **fight against terrorism** was adopted by the BiH Council of Ministers in October 2016.

In the **fight against terrorism** Bosnia and Herzegovina has been seriously affected by the phenomenon of foreign terrorist fighters and radicalisation. According to official data, 188 men, 61 women, and 81 children with Bosnia and Herzegovina citizenship are believed to have travelled to Syria and Iraq from Bosnia and Herzegovina and from the Bosnian diaspora between December 2012 and December 2015. Pockets of radicalisation have been identified across the country, in particular in the Wahhabi community.

##### *Implementation and enforcement capacity*

Provisions in the state criminal code on sanctions against foreign terrorist fighters started to be used in criminal proceedings. Seven people were arrested on suspicion of having taken part in the fighting in Syria and two individuals were arrested at the border crossing, preventing them from departing to foreign battlefields.

In 2015, 12 people were indicted for the criminal offence of organising a terrorist group, while four people were indicted for the criminal offence of publicly encouraging terrorist activities in conjunction with the criminal offence of illegal forming and joining foreign para-military and para-police formations. The Bosnia and Herzegovina Court handed down three first-instance verdicts for the crime of terrorism against three people. Cases of hate speech need to be addressed more forcefully.

The capacities of the counter-**terrorism** task force still need to be further strengthened. The task force's operational component is still awaiting rules for its financing and confirmation of the formal status of its members. The counter-terrorism capacity of the Bosnia and Herzegovina's Prosecutor's Office increased as eight new prosecutors joined the office.

The phenomenon of foreign fighters terrorist requires a dedicated approach by the intelligence and law enforcement community and a consistent judicial policy towards offenders. Efforts need to be intensified to identify, prevent and disrupt the flow of foreign terrorist fighters travelling to conflict areas such as Iraq and Syria. Deradicalisation and prevention of radicalisation programmes have yet to be developed and introduced.

#### 4.3.7. *Judicial cooperation in civil and criminal matters*

Concerning judicial cooperation in civil matters, Bosnia and Herzegovina has not yet acceded to several instruments developed within the framework of the Hague conference on private international law, such as the Convention of 19 October 1996 on jurisdiction, applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of children, and the Protocol of 23 November 2007 on the law applicable to maintenance obligations.

A cooperation agreement with Eurojust has yet to be concluded. Issues on the implementation of data protection legislation in prosecutors' offices in Bosnia and Herzegovina have so far prevented Eurojust from opening negotiations on such a cooperation agreement. Bosnia and Herzegovina was involved in 30 cases registered at Eurojust. Bosnia and Herzegovina participated in 7 coordination meetings and 2 joint investigation teams.

The Bosnia and Herzegovina Court received seven new requests to provide international legal aid in criminal matters in the reporting period and completed 10 cases in total.

The international judicial cooperation legislative framework is in place and functional, yet not always efficient. The relevant department within the Bosnia and Herzegovina Ministry of Justice, which is responsible for implementation of the legislation and adherence to the conventions, is understaffed. Moreover, there is a lack of harmonised case law throughout the country and therefore, inconsistent implementation of international standards by judges due to the fragmentation of the judicial system. Legislation on international legal assistance and bilateral regional cooperation agreements need to be amended to introduce direct court-to-court cooperation to improve the efficiency of judicial cooperation.

## **ANNEX I – RELATIONS BETWEEN THE EU AND BOSNIA AND HERZEGOVINA**

Bosnia and Herzegovina participates to the Stabilisation and Association Process and is a potential candidate for EU membership. The country submitted its application for EU membership in February 2016. Following the recognition of meaningful progress in the implementation of the Reform Agenda, in September 2016 the EU Council invited the European Commission to submit its opinion on Bosnia and Herzegovina's application for EU membership.

The country's constitution was drawn up as part of the internationally agreed 1995 Dayton/Paris Peace Agreement (DPA). It established a complex political structure that provides for governments at State, entity and district levels. The State level comprises a tripartite rotating Presidency, a Council of Ministers (executive branch) and a bicameral Parliamentary Assembly consisting of a House of Representatives (lower chamber) and a House of Peoples (upper chamber). The judicial branch established by the DPA consists of a State-level Constitutional Court. The High Judicial and Prosecutorial Council, as well as a State Court and Prosecutor's Office, were established later.

An international presence under UN auspices— the Office of the High Representative (OHR) — has been in place in Bosnia and Herzegovina since 1995. The Peace Implementation Council Steering Board has set objectives and conditions to be met for the closure of the OHR. In particular, a resolution of the issue of state property and other levels of government and of defence property is still outstanding. This is linked to the implementation of the Constitutional Court's decision regulating property distribution.

### **Stabilisation and Association Agreement**

The Stabilisation and Association Agreement between Bosnia and Herzegovina and the EU entered into force on 1 June 2015, thus replacing the Interim Agreement (IA) which had been in force since July 2008. Bosnia and Herzegovina initialled in July 2016 a protocol for the technical adaptation of the SAA to take into account its bilateral traditional trade with Croatia. The signing of the protocol, triggering its provisional application, is pending. The suspension of the Autonomous Trade Measures will be lifted once the protocol on the adaptation of the SAA is signed.

The EU provides guidance to the country's authorities on reform priorities on the country's EU membership path. Political and economic dialogue took place between the EU and Bosnia and

Herzegovina in the framework of the SAA/IA structures. Under the 7<sup>th</sup> IA cycle, four meetings of sub-committees and – after 1 June 2016 – two technical consultations took place as planned. The first Stabilisation and Association Council meeting under the SAA in December 2015 followed by the first meeting of the SAA Committee established the necessary institutional structures for the future cycles of sub-committees. The first SAA cycle was launched in 2016 with two sub-committees meetings.

The Stabilisation and Association Parliamentary Committee (SAPC) was established in November 2015 as part of the Stabilisation and Association Agreement bodies. However, it failed to adopt its Rules of Procedures due to insistence of some delegates from Bosnia and Herzegovina for the inclusion of a voting mechanism provision which would not comply with European standards. The European Parliament adopted a Resolution on the Commission report on Bosnia and Herzegovina in April.

A **Reform Agenda** adopted by the country authorities in July 2015 aimed at tackling the difficult socio-economic situation, advancing the judicial and public administration reforms, as well as further advancing the country on its EU membership path continued to be implemented throughout 2016 at state and entity level with encouraging initial results.

The **Structured Dialogue on Justice** continued to address the outstanding institutional issues related to the functioning the judiciary. In particular, the ministerial meetings in the framework of the Structured Dialogue which were held in October, December, February and July provided guidance on the reform of the state-level judiciary.

As regards the **common foreign and security policy (CFSP)**, Bosnia and Herzegovina aligned itself, when invited, with 20 out of 26 relevant EU declarations and Council decisions (77 % alignment). Bosnia and Herzegovina did not align itself with Council decisions introducing EU restrictive measures in the context of Russia's illegal annexation of Crimea and events in eastern Ukraine. A Framework Agreement on the participation of Bosnia and Herzegovina in EU crisis management operations is in place since September 2015.

EU has continued to deploy considerable resources in Bosnia and Herzegovina under the common foreign and security policy and the common security and defence policy. The enhanced presence of the combined Office of the EU Special Representative and the EU Delegation in Bosnia and Herzegovina has continued to be instrumental in communicating EU priorities to citizens and in implementing the objectives of the EU agenda in key areas. The EUFOR *Althea* military operation deployed with over 600 troops in-theatre and additional over-the-horizon reserves. EUFOR troops focused on capacity building and training of the armed forces of Bosnia and Herzegovina in line with the strategic intent expressed by the defence leadership to develop operational capabilities of dual use in support of civil authorities for removing physical remnants of war or disaster relief and deployment in peace support operations overseas. At the same time, EUFOR retained deterrence capacity to support a safe and secure environment. The UN Security Council has extended EUFOR's mandate until November 2016.

**Visa liberalisation** for citizens of Bosnia and Herzegovina travelling to the Schengen area has been in force since December 2010. As part of the monitoring mechanism in place since visa liberalisation, the Commission has been regularly assessing the progress made by the country in implementing reforms introduced under the visa roadmap, including with regard to corruption. The monitoring activities also include an alert mechanism to prevent abuses, coordinated by Frontex. The Commission has regularly submitted its post-visa liberalisation monitoring reports to the European Parliament and Council.

A **readmission agreement** between the European Union and Bosnia and Herzegovina has been in force since 2008.

The EU Delegation to Bosnia and Herzegovina is responsible for implementing **financial assistance** as well as ensuring coordination of assistance with the Member States. The country's authorities have yet to establish the structure necessary for indirect management of EU funds. Implementation of the 2008-13 national IPA programmes continued. A new framework programme under IPA II, covering for 2014-2017 period and providing for some EUR 160 million as well as over EUR 40 million for further flood recovery measures was adopted in December 2014 and is being implemented. In the absence of countrywide strategies in many sectors, the IPA II Country Strategy Paper is restricted to the period 2014-17, as compared to the full period for IPA II 2014-20 and the following sectors: democracy and governance; rule of law and fundamental rights; competitiveness and innovation, local development strategies; education, employment and social policies. The establishment of countrywide sector strategies remains a key requirement for Bosnia and Herzegovina to benefit fully from IPA funding.

Bosnia and Herzegovina participates in the following **EU programmes**: Horizon 2020, Creative Europe (which brings together the former Culture and MEDIA programmes), Fiscalis 2020 and Customs 2020. The Country has joined the Europe for Citizens and the COSME programme as well and has started its participation in the programmes as of 2016. The ratification of COSME is pending.

## ANNEX II – STATISTICAL ANNEX

### STATISTICAL DATA (as of 5.10.2016) Bosnia and Herzegovina

Basic data	Note	2003	2011	2012	2013	2014	2015
Population (thousand)	1)	3 833e	3 840e	3 836e	3 832e	3 827e	3 819e
Total area of the country (km <sup>2</sup> )		51 209	51 209	51 209	51 209	51 209	:

National accounts	Note	2003	2011	2012	2013	2014	2015
Gross domestic product (GDP) (million national currency)		14 728	26 210	26 193	26 743	27 304	28 540
Gross domestic product (GDP) (million euro)		7 530	13 400	13 391	13 672	13 959	14 591
GDP (euro per capita)		2 000	3 500	3 500	3 600	3 600	3 800
GDP (in Purchasing Power Standards (PPS) per capita)		:	7 300	7 700	7 900	8 000	8 300
GDP (in Purchasing Power Standards (PPS) per capita, relative to the EU average (EU-28 = 100))		:	28	29	29	29	29
Real GDP growth rate: change on previous year of GDP volume (%)		3.9	1.0	-1.2	2.5	1.1	:
Employment growth (national accounts data), relative to the previous year (%)		:	:	:	:	:	:
Labour productivity growth: growth in GDP (constant prices) per person employed, relative to the previous year (%)		:	:	:	:	:	:
Unit labour cost growth, relative to the previous year (%)		:	:	:	:	:	:
**3 year change (T/T-3) in the nominal unit labour cost growth index (2005 = 100)		:	:	:	:	:	:
Labour productivity per person employed: GDP (in PPS) per person employed relative to EU average (EU-27 = 100)		:	:	:	:	:	:
Gross value added by main sectors							
Agriculture, forestry and fisheries (%)		:	8.1	7.4	8.0	7.1	:
Industry (%)		:	21.5	21.1	21.6	21.3	:
Construction (%)		:	4.9	4.7	4.5	4.7	:

Services (%)		:	65.6	66.8	65.9	66.9	:
Final consumption expenditure, as a share of GDP (%)	2)	:	105.1	104.9	102.8	:	:
Gross fixed capital formation, as a share of GDP (%)	2)	:	17.9	17.5	16.8	:	:
Changes in inventories, as a share of GDP (%)	2)	:	0.2	0.5	0.2	:	:
Exports of goods and services, relative to GDP (%)	2)	:	29.9	29.1	30.0	:	:
Imports of goods and services, relative to GDP (%)	2)	:	53.2	52.0	49.8	:	:
Gross fixed capital formation by the general government sector, as a percentage of GDP (%)		:	:	:	:	:	:

<b>Business</b>	Note	2003	2011	2012	2013	2014	2015
Industrial production volume index (2010 = 100)		:	102.3	98.6	103.8	103.9	107.1
Number of active enterprises (number)		:	:	:	:	:	:
Birth rate: number of enterprise births in the reference period (t) divided by the number of enterprises active in t (%)		:	:	:	:	:	:
Death rate: number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t (%)		:	:	:	:	:	:
People employed in SMEs as a share of all persons employed (within the non-financial business economy) (%)	3)	:	:	66.4	66.0	69.1b	:
Value added by SMEs (in the non-financial business economy) (EUR million)	3)	:	:	3 715	3 513	4 406b	:
Total value added (in the non-financial business economy) (EUR million)	3)	:	:	6 023	5 847	6 738b	:

<b>Inflation rate and house prices</b>	Note	2003	2011	2012	2013	2014	2015
Consumer price index (CPI), change relative to the previous year (%)	4)	0.6	3.7b	2.0	-0.2s	-0.9	-1.0
**Annual change in the deflated house price index (2010 = 100)		:	:	:	:	:	:

<b>Balance of payments</b>	Note	2003	2011	2012	2013	2014	2015
Balance of payments: current account total (million euro)	5)	-1 439	-1 270	-1 160	-723	-1 029	-833
Balance of payments current account: trade balance (million euro)	5)	-3 671	-4 131	-4 091	-3 741	-4 142	-3 793
Balance of payments current account: net services (million euro)	5)	297	944	945	949	979	1 061
Balance of payments current account: net income (million euro)	5)	473	108	104	179	104	69
Balance of payments current account: net current transfers (million euro)	5)	1 462	1 810	1 881	1 889	2 030	1 830
of which government transfers (million euro)	5)	298	45	55	62	100	66
**3 year backward moving average of the current account balance relative to GDP (%)	5)	-16.5	-7.3	-8.1	-7.8	-7.1	-6.1
**Five year change in share of world exports of goods and services (%)		:	:	:	:	:	:
Net inward foreign direct investment (FDI) (million euro)	5)	338.0	344.6	258.8	174.6	386.1	221.2
Foreign direct investment (FDI) abroad (million euro)	5)	0.0	-4.1	46.4	64.4	6.2	42.8
of which FDI of the reporting economy in the EU-28 countries (million euro)		:	:	:	:	:	:
Foreign direct investment (FDI) in the reporting economy (million euro)	5)	338.0	340.4	305.2	239.1	392.2	264.0
of which FDI of the EU-28 countries in the reporting economy (million euro)	5)	:	196.5	153.3	122.9	225.8	184.7
***Net international investment position, relative to GDP (%)	5)	:	-53.0	-55.9	-55.4	-55.4	-53.5
Year on year rate of change in gross inflow of remittances (in national currency) from migrant workers (%)	5)	:	1.2	4.2	3.8	6.4	2.9

<b>Public finance</b>	Note	2003	2011	2012	2013	2014	2015
***General government deficit / surplus, relative to GDP (%)		0.7	-1.2	-2.0	-2.2	-2.0	0.7
***General government gross debt relative to GDP (%)		27.6	32.8	36.6	37.7	41.6	41.9

Total government revenues, as a percentage of GDP (%)		40.9	43.3	43.8	42.7	43.8	43.2
Total government expenditure, as a percentage of GDP (%)		40.2	44.6	45.8	44.8	45.8	42.6

<b>Financial indicators</b>	Note	2003	2011	2012	2013	2014	2015
Gross foreign debt of the whole economy, relative to GDP (%)		:	:	:	:	:	:
Gross foreign debt of the whole economy, relative to total exports (%)		:	:	:	:	:	:
Money supply: M1 (banknotes, coins, overnight deposits, million euro)	6)	1 592	3 163b	3 141	3 423	3 738	4 183
Money supply: M2 (M1 plus deposits with maturity up to two years, million euro)	6)	2 810	7 372	7 624	8 229	8 830	9 534
Money supply: M3 (M2 plus marketable instruments, million euro)		:	:	:	:	:	:
Total credit by monetary financial institutions to residents (consolidated) (million euro)	6)	2 619	7 619	7 947	8 194	8 423	8 624
**Annual change in financial sector liabilities (%)		9.9	1.3b	1.4	4.8	5.2	4.6
**Private credit flow, consolidated, relative to GDP (%)	7)	5.7	2.2	1.5	1.3	0.9	1.4
**Private debt, consolidated, relative to GDP (%)	7)	34.0	52.8	54.3	54.5	54.4	54.1
Interest rates: day-to-day money rate, per annum (%)		:	:	:	:	:	:
Lending interest rate (one year), per annum (%)	8)	10.87	7.43	7.20	7.23	6.32	5.74
Deposit interest rate (one year), per annum (%)	9)	1.16	0.12	0.14	0.12	0.09	0.09
Euro exchange rates: average of period (1 euro = ... national currency)		1.956	1.956	1.956	1.956	1.956	1.956
Trade-weighted effective exchange rate index (2010 = 100)	10)	:	100.4	99.6	97.8	98.1	97.3
**3 year change (T/T-3) in the trade-weighted effective exchange rate index, 42 countries (2005 = 100)		:	:	:	:	:	:
Value of reserve assets (including gold) (million euro)	11)	1 428	3 284b	3 328	3 614	4 001	4 400

<b>External trade in goods</b>	Note	2003	2011	2012	2013	2014	2015
Value of imports: all goods, all partners (million euro)		:	7 938	7 799	7 756	8 283	8 105
Value of exports: all goods, all partners (million euro)		:	4 204	4 018	4 285	4 439	4 595
Trade balance: all goods, all partners (million euro)		:	-3 734	-3 781	-3 472	-3 844	-3 510
Terms of trade (export price index / import price index * 100) (number)	12)	:	99p	97p	98p	100p	102p
Share of exports to EU-28 countries in value of total exports (%)		:	70.3	72.7	73.5	72.1	71.6
Share of imports from EU-28 countries in value of total imports (%)		:	59.7	61.4	60.0	58.9	60.8

<b>Demography</b>	Note	2003	2011	2012	2013	2014	2015
Crude rate of natural change of population (natural growth rate): number of births minus deaths (per thousand inhabitants)		0.9	-0.9	-0.9p	-1.3p	-1.5p	:
Infant mortality rate deaths of children under one year of age (per thousand live births)		7.7	:	5.4	:	:	:
Life expectancy at birth: male (years)		:	:	:	:	:	:
Life expectancy at birth: female (years)		:	:	:	:	:	:

<b>Labour market</b>	Note	2003	2011	2012	2013	2014	2015
Economic activity rate for persons aged 20–64: proportion of the population aged 20–64 that is economically active (%)		:	58.3	58.7	58.7	59.2	59.2
*Employment rate for persons aged 20–64: proportion of the population aged 20–64 that are in employment (%)		:	42.5	42.5	42.8	43.2	43.2
Male employment rate for persons aged 20–64 (%)		:	53.7	54.2	53.3	54.6	53.9
Female employment rate for persons aged 20–64 (%)		:	31.4	31.1	32.2	31.9	32.4
Employment rate for persons aged 55–64: proportion of the population aged 55–64 that are in employment (%)		:	27.0	27.2	27.7	28.5	28.2
Employment by main sectors							
Agriculture, forestry and fisheries (%)	13)	:	:	20.6	18.9	17.1	17.9
Industry (%)	13)	:	:	21.5	22.2	22.1	22.0



Construction (%)	13)	:	:	8.9	7.7	7.9	7.5
Services (%)	13)	:	:	48.9	51	52.7	52.4
People employed in the public sector as a share of total employment, persons aged 20–64 (%)	14)	:	32.5	30.0	32.7	31.9	31.2
People employed in the private sector as a share of total employment, persons aged 20–64 (%)	14)	:	62.1	65.3	62.5	63.1	63.2
Unemployment rate: proportion of the labour force that is unemployed (%)	15)	41.6	27.6	28.2	27.6	27.6	27.9
Male unemployment rate (%)		:	26.1	26.5	26.7	25.3	25.9
Female unemployment rate (%)		:	30.0	30.8	29.1	31.2	30.9
Youth unemployment rate: proportion of the labour force aged 15–24 that is unemployed (%)		:	57.9	63.1	59.1	62.7	62.3
Long-term unemployment rate: proportion of the labour force that has been unemployed for 12 months or more (%)		:	22.3	23.1	22.9	23.4	22.8
Unemployment rate for persons (aged 25–64) having completed at most lower secondary education (ISCED 0–2) (%)		:	29.1	26.8	28.0	31.6	27.7
Unemployment rate for persons (aged 25–64) having completed tertiary education (ISCED 5 & 6) (%)		:	13.5	15.5	15.7	17.2	16.4

<b>Social cohesion</b>	Note	2003	2011	2012	2013	2014	2015
Average nominal monthly wages and salaries (national currency)	16)	484	816	826	827	830	830
Index of real wages and salaries (index of nominal wages and salaries divided by the inflation index) (2000 = 100)		:	:	:	:	:	:
GINI coefficient		:	33.4	:	:	:	:
Poverty gap (%)		:	:	:	:	:	:
*Early leavers from education and training: proportion of the population aged 18–24 with at most lower secondary education who are not in further education or training (%)		:	29.9	30.3	25.9	25.2	26.3

<b>Standard of living</b>	Note	2003	2011	2012	2013	2014	2015
Number of passenger cars relative to population size (number per thousand population)		:	191.4	196.0	202.5	209.3	217.0
Number of mobile phone subscriptions relative to population size (number per thousand population)		271.6e	825.8e	873.2e	910.4e	920.7	887.0
Mobile broadband penetration (per 100 inhabitants)		:	:	:	:	:	:
Fixed broadband penetration (per 100 inhabitants)		:	:	:	:	:	:

<b>Infrastructure</b>	Note	2003	2011	2012	2013	2014	2015
Density of railway network (lines in operation per thousand km <sup>2</sup> )		18.2	20.1	20.1	20.1	20.1	20.1
Length of motorways (kilometres)		:	35	48	50	128	128

<b>Innovation and research</b>	Note	2003	2011	2012	2013	2014	2015
Public expenditure on education relative to GDP (%)		:	:	:	:	:	:
*Gross domestic expenditure on R&D relative to GDP (%)		:	:	0.27	0.33	0.30	:
Government budget appropriations or outlays on R&D (GBAORD), as a percentage of GDP (%)		:	:	:	:	0.05	:
Percentage of households who have internet access at home (%)		:	29.8	:	:	:	:

<b>Environment</b>	Note	2003	2011	2012	2013	2014	2015
*Index of greenhouse gas emissions, CO <sub>2</sub> equivalent (1990 = 100)		:	:	:	:	:	:
Energy intensity of the economy (kg of oil equivalent per 1 000 euro GDP at 2010 constant prices)		:	:	:	:	:	:
Electricity generated from renewable sources relative to gross electricity consumption (%)		:	:	:	:	44.5	:
Road share of inland freight transport (based on tonne-km) (%)		:	64.0	65.9	68.1	70.3	72.5

<b>Energy</b>	Note	2003	2011	2012	2013	2014	2015
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Primary production of all energy products (thousand TOE)		3 483	4 618	4 515	4 617	6 046	:
Primary production of crude oil (thousand TOE)		:	:	:	:	:	:
Primary production of hard coal and lignite (thousand TOE)		2 914	4 061	3 973	3 816	3 768	:
Primary production of natural gas (thousand TOE)		0	0	0	0	0	:
Net imports of all energy products (thousand TOE)		-96	653	647	379	1 670	:
Gross inland energy consumption (thousand TOE)		3 380	5 392	5 112	5 012	7 794	:
Electricity generation (thousand GWh)		11.3	15.3	14.1	17.5	16.2	:

<b>Agriculture</b>	Note	2003	2011	2012	2013	2014	2015
Agricultural production volume index of goods and services (at producer prices) (previous year = 100)		:	:	:	:	:	:
Utilised agricultural area (thousand hectares)	17)	1 722	1 675	1 680	1 670	1 712b	1 728
Livestock numbers: live bovine animals (thousand heads, end of period)		:	455	446	447	444	455e
Livestock numbers: live swine (thousand heads, end of period)	18)	:	577	539	530	533	564e
Livestock numbers: live sheep and live goats (thousand heads, end of period)		:	1 086	1 070	1 089	1 099	1 093e
Production and utilisation of milk on the farm (total whole milk) (thousand tonnes)		:	688	674	688	686	720e
Harvested crop production: cereals (including rice) (thousand tonnes)		793	1 119	906	1 224	1 081	1 138
Harvested crop production: sugar beet (thousand tonnes)		0	0	0	0	0	0
Harvested crop production: vegetables (thousand tonnes)	19)	204	287	265	319	238	290

: = not available

b = break in series

e = estimate

p = provisional

s = Eurostat estimate

\* = Europe 2020 indicator

\*\* = Macroeconomic Imbalance Procedure (MIP) indicator

\*\*\* = The government deficit and debt data of enlargement countries are published on an "as is" basis and without any assurance as regards their quality and adherence to ESA rules.

#### Footnotes

- 1) Mid-year population.
- 2) GDP calculated by the expenditure approach is higher than GDP calculated by the production approach.
- 3) 2013 and 2013: excluding natural persons (entrepreneurs).
- 4) 2003: retail price index.
- 5) 2011–15: based on IMF balance of payments manual, sixth edition.
- 6) 2011–15: based on IMF monetary and financial statistics manual, 2000.
- 7) Data for MFIs. 2013–15: based on the quarterly GDP estimate (production approach) until the official annual GDP statistics are published by the BH Agency of Statistics.
- 8) Short-term lending rates in national currency to non-financial corporations (weighted average).
- 9) Demand deposit rates in national currency of households (weighted average).
- 10) Real effective exchange rate.
- 11) 2003: excluding gold.
- 12) Based on Paasche export and import unit value indices in BAM (2010 = 100).
- 13) The analysis of employment by sector does not sum to 100% because Section U is not included.
- 14) The analysis of employment between public and private sector does not sum to 100% as some types of ownership are excluded.
- 15) 2003: not calculated using the ILO methodology; taken from the Bureau for Employment; excluding data from Brčko District.
- 16) Net salary. 2003: excluding data from Brčko District.
- 17) 2003 and 2011–14: the utilised agricultural area consists of arable land, kitchen garden, permanent crops and permanent grassland as cadastral data (not as UAA). 2014–15: including fallow land.
- 18) 2011: related to the government decision (all levels in Bosnia and Herzegovina) about repurchase of all quantities of pig meat on the market by large industrial processors.
- 19) 2003: including dried pulses.

